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Presidential Documents

Title 3—

The President

Proclamation 7561 of May 16, 2002

To Designate the Republic of Côte d'Ivoire as a Beneficiary Sub-Saharan African Country

By the President of the United States of America

A Proclamation

Section 506A(a)(1) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a ''beneficiary sub-Saharan African country.''

Section 112(b)(3)(B) of the AGOA (19 U.S.C. 3721(b)(3)(B)) provides special rules for certain apparel articles imported from ''lesser developed beneficiary sub-Saharan African countries.''

Proclamation 7350 of October 2, 2000, and Proclamation 7400 of January 17, 2001, designated certain countries listed in section 107 of the AGOA as beneficiary sub-Saharan African countries and identified which designated beneficiary sub-Saharan African countries would be considered lesser developed beneficiary sub-Saharan African countries under section 112(b)(3)(B) of the AGOA.

Pursuant to section 506A(a)(1) of the 1974 Act, and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate the Republic of Côte d'Ivoire (Côte d'Ivoire) as a beneficiary sub-Saharan African country.

Côte d'Ivoire satisfies the criteria for treatment as a ''lesser developed beneficiary sub-Saharan country'' under section 112(b)(3)(B) of the AGOA.

Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including sections 506A and 604 of the 1974 Act, and section 111 of the AGOA, do proclaim that:

(1) Côte d'Ivoire is designated as a beneficiary sub-Saharan African country.

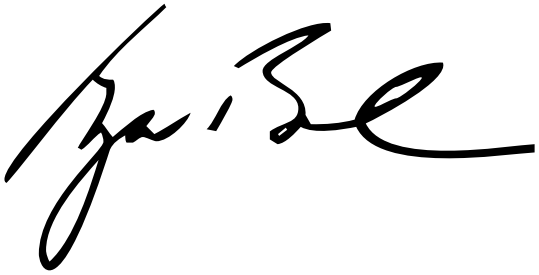
(2) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries ''Republic of Côte d'Ivoire.''

(3) For purposes of section 112(b)(3)(B) of the AGOA, Côte d'Ivoire shall be considered a lesser developed beneficiary sub-Saharan African country.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with this proclamation are superseded to the extent of such inconsistency.

(5) The modifications of the HTS made by this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth 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 7562 of May 16, 2002

Armed Forces Day, 2002

By the President of the United States of America

A Proclamation

The words of President Dwight D. Eisenhower written in 1953 remain true today: ''It is fitting and proper that we devote one day each year to paying special tribute to those whose constancy and courage constitute one of the bulwarks guarding the freedom of this nation and the peace of the free world.'' On Armed Forces Day, our grateful Nation salutes the brave men and women who protect our country, defend freedom, and help make our world a better place.

During these extraordinary times, we are reminded that our achievements in peace and war stand upon the service and sacrifice of those in uniform. Today, we have troops fighting overseas to defeat terrorism. These brave men and women follow in the footsteps of previous generations who, since our Nation's founding, have stepped forward to defend our homeland and secure liberty for our country and our friends and allies. The members of our military exemplify the true spirit of patriotism—a love of country expressed through a commitment to serve our Nation and defend our freedom. Their selfless dedication and determination are an inspiration to every American.

In difficult times, America has called on members of our Armed Forces to protect the democratic ideals on which our country was founded, and they have never let our country down. As we confront the challenges of this new era, we will continue to rely on our military's extraordinary skill, sense of honor, devotion to duty, and courageous commitment to service.

More than 50 years ago, President Harry S. Truman helped establish a day for Americans to join together and thank our military members for their service to our country. In 1949, Secretary of Defense Louis Johnson announced the establishment of Armed Forces Day to replace separate Army, Navy, Marine Corps, and Air Force Days. A year later, President Truman issued a Presidential Proclamation, observing that the day ''marks the first combined demonstration by America's defense team of its progress, under the National Security Act, towards the goal of readiness for any eventuality. It is the first parade of preparedness by the unified forces of our land, sea, and air defense.''

The theme of this year's celebration is ''United For Freedom.'' During this celebration, I encourage Americans to show the world that we are unified as a people and ready to defend our way of life, our freedoms, and our homeland. As President and Commander in Chief, I urge all our citizens to join me in expressing appreciation for the dedication and selfless service of the members of our extraordinary Armed Forces.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Commander in Chief of the Armed Forces of the United States, continuing the precedent of my ten immediate predecessors in this Office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, Navy, Marine Corps, and Air Force, and the Secretary of Transportation on behalf of

the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for soliciting the participation and cooperation of civil authorities and private citizens.

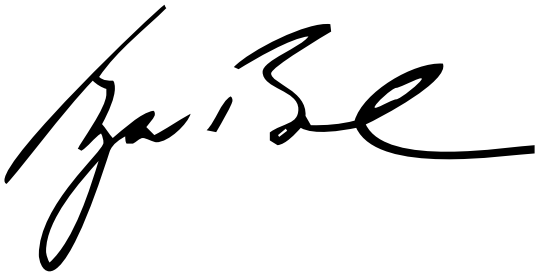
I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States.

I also invite national and local veterans, civic, and community service organizations to join in the observance of Armed Forces Day each year.

I call upon all Americans not only to display the flag of the United States at their homes on Armed Forces Day, but also to learn about our system of defense and about the men and women who sustain it by attending and participating in the local observances of the day.

Proclamation 6693 of May 21, 1994, is hereby superseded.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth 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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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2608

RIN 3209–AA23

Testimony by OGE Employees Relating to Official Information and Production of Official Records in Legal Proceedings

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is adopting as final a proposed rule, with certain minor changes based primarily on comments received, that sets forth procedures that requesters have to follow when making demands on or requests to an OGE employee to produce official records and information, and provide testimony relating to official information, in connection with a legal proceeding in which OGE is not a party. This final rule establishes procedures to respond to such demands and requests in an orderly and consistent manner. The rule, among other benefits, will promote uniformity in decisions, protect confidential information, provide guidance to requesters, and reduce the potential for both inappropriate disclosures of official information and wasteful allocation of agency resources.

EFFECTIVE DATE: June 20, 2002.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037.

SUPPLEMENTARY INFORMATION:

Background

The Office of Government Ethics occasionally receives subpoenas and requests for OGE employees to provide evidence in litigation or other legal proceedings in which OGE is not a party. Typically, these subpoenas and requests are for OGE records that are not available to the public under the Freedom of Information Act (FOIA). Also, OGE sometimes receives subpoenas and requests for OGE employees to appear as witnesses in litigation in conjunction with a request for nonpublic records. Requesters have sought information, for example, on a particular filer of a financial disclosure report, a particular nominee or incumbent or former employee and for any ethics advice that OGE may have given to that individual, or concerning the nature of ethical advice that OGE gave to another agency and how OGE arrived at that advice.

Responding to such demands and requests sometimes results in a significant disruption in an OGE employee's work schedule. The result is that employees may be diverted from performing their official duties in order to respond to requests from parties in litigation. In order to address this problem, many agencies over the years have issued ''*Touhy*'' regulations that are similar to this final regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Such a regulation was upheld by the United States Supreme Court in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

In *Touhy*, the Supreme Court held that a Department of Justice (DOJ) official, acting on order of the Attorney General, could not be held in contempt for declining to produce records in response to a subpoena. The employee's refusal was based upon a DOJ regulation that prohibited disclosure of agency files, documents, records, or information without the express approval of the Attorney General. The Court upheld the validity of the DOJ regulation, reasoning that it was appropriate for the Attorney General to prescribe regulations not inconsistent with law for the custody, use, and preservation of records, papers, and property pertaining to DOJ.

On September 24, 2001, OGE published in the **Federal Register** its own proposed *Touhy* regulation, for codification in a new part 2608 of 5 CFR. See 66 FR 48824–48828, which provided for a 60-day public comment period. The Office of Government Ethics received suggestions on the rule as proposed from two commenters. As noted below in the summary of this final rule, we are adopting several minor changes in this final rule from the rule as proposed, based primarily on those comments. Moreover, in order to clarify the application of this rule, OGE has decided to revise the proposed part heading to make express that it applies to testimony by OGE employees ''relating to official information'' (as opposed to private matters), as well as to the production of official records in legal proceedings. In addition, OGE has determined to add a reference to 31 U.S.C. 9701 to the new part 2608 authority citation. This statute authorizes agencies to issue regulations providing for fair and cost-based fees and charges.

Briefly summarized, this final rule prohibits disclosure of nonpublic official records or testimony by OGE employees unless there is compliance with the rule (§§ 2608.201 and 2608.203). Based on a suggestion of one of the commenters, OGE is dropping the word ''recorded'' before the term ''interviews'' in the list of types of testimony covered by this regulation. The rule identifies the factors that OGE will consider in making determinations in response to such requests and what information requesters must provide (§§ 2608.202 and 2608.203). In response to a comment, OGE has added ''otherwise protected information'' to the types of sensitive information enumerated in paragraph (i) of § 2608.202; on its own initiative, OGE is adding the term ''demand,'' in addition to request, to the text of paragraph (d) of that section. The rule also specifies when the request should be submitted (§ 2608.203), the time period for review (§ 2608.205), potential fees (§ 2608.301), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of an OGE employee as a witness (§§ 2608.207 and 2608.208). As suggested by one of the commenters, OGE is deleting proposed subparagraph (c)(2) of § 2608.207, which concerned denial of authorization by the General Counsel for fact testimony if contrary to the best interest of OGE or the United States, as unnecessary given the overall requirement for authorization for such testimony in paragraph (c). The Office of Government Ethics is adopting in this

final rule two other changes suggested by the commenters. First, OGE is adding the phrase ''when necessary'' to the procedure provided in § 2608.209 for informing the court or other competent authority and seeking a stay when a decision is not made prior to the time a response is required. This modification from the section as proposed recognizes that at times there can be informal resolution of such matters short of seeking a stay. The second change is that OGE is adding the phrase ''unless otherwise advised by the General Counsel'' to the procedure provided in § 2608.210 for personal appearance of an OGE employee when a stay of a demand (or, as now added by OGE, a request) is denied. This change likewise recognizes that such denials can sometimes be resolved instead by written response (see the section's last sentence) or otherwise.

The charges for witnesses are the same as those provided by the Federal courts; and the fees related to production of records are the same as those charged under FOIA. The charges for time spent by an employee to prepare for testimony and for certification of records by OGE are authorized under 31 U.S.C. 9701, which permits an agency to charge for services or things of value that are provided by the agency.

This final rule applies to a broad range of matters in any legal proceeding in which OGE is not a named party. It also applies to former and current OGE employees (as well as OGE consultants and advisers). Former OGE employees are prohibited from testifying about specific matters for which they had responsibility during their active employment unless permitted to testify as provided in the rule. They would not be barred from appearing to testify about general matters unconnected with the specific matters for which they had responsibility.

This final regulation will ensure a more efficient use of OGE resources, minimize the possibility of involving OGE in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas, and maintain the impartiality of OGE in matters that are in dispute between other parties. It will also serve OGE's interest in protecting sensitive, confidential, and privileged information and records that are generated in response to the requirements in the ethics laws and regulations.

This final OGE rule is internal (not branchwide), and is essentially procedural, not substantive. It does not create a right to obtain official records or the official testimony of an OGE employee nor would it create any additional right or privilege not already available to OGE to deny any demand or request therefor. However, any failure to comply with the procedures in this rule would be a basis for denying a demand or request submitted to OGE.

Matters of Regulatory Procedure

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6), this final rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only the procedures to be followed in the production or disclosure of official OGE materials and information in litigation where OGE is not a party. Accordingly, OGE has determined that a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Executive Order 12866

In issuing this regulation, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this final regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Office of Government Ethics expects the collection of information that is called for by the regulation would involve fewer than ten persons each year.

Congressional Review Act

The Office of Government Ethics has determined that this rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has submitted a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects in 5 CFR Part 2608

Administrative practice and procedure, Conflict of interests, Courts, Government employees, Penalties, Records, Subpoenas, Testimony.

Approved: May 14, 2002.

Amy L. Comstock,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics hereby adds a new part 2608 to 5 CFR chapter XVI to read as follows:

PART 2608—TESTIMONY BY OGE EMPLOYEES RELATING TO OFFICIAL INFORMATION AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

Subpart A—General Provisions

Sec.
2608.101 Scope and purpose.
2608.102 Applicability.
2608.103 Definitions.

Subpart B—Requests for Testimony and Production of Documents

2608.201 General prohibition.
2608.202 Factors OGE will consider.
2608.203 Filing requirements for demands or requests for documents or testimony.
2608.204 Service of subpoenas or requests.
2608.205 Processing demands or requests.
2608.206 Final determination.
2608.207 Restrictions that apply to testimony.
2608.208 Restrictions that apply to released records.
2608.209 Procedure when a decision is not made prior to the time a response is required.
2608.210 Procedure in the event of an adverse ruling.

Subpart C—Schedule of Fees

2608.301 Fees.

Subpart D—Penalties

2608.401 Penalties.

Authority: 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 31 U.S.C. 9701; 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

Subpart A—General Provisions

§ 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OGE.

(c) In providing for these requirements, OGE does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OGE. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2608.102 Applicability.

This part applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which OGE is not a named party. However, it does not apply to:

(a) Demands upon or requests for an OGE employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OGE;

(b) Demands upon or requests for a former OGE employee to testify as to matters in which the former employee was not directly or materially involved while at the OGE;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

§ 2608.103 Definitions.

The following definitions apply to this part:

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OGE employee that is issued in a legal proceeding.

General Counsel means the General Counsel of OGE or a person to whom the General Counsel has delegated authority under this part.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

OGE means the U.S. Office of Government Ethics.

OGE employee or employee means:

(1)(i) Any current or former officer or employee of OGE;

(ii) Any other individual hired through contractual agreement by or on behalf of OGE or who has performed or is performing services under such an agreement for OGE; and

(iii) Any individual who served or is serving in any consulting or advisory capacity to OGE, whether formal or informal.

(2) Provided, that this definition does not include persons who are no longer employed by OGE and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with OGE.

Records or official records and information mean:

(1) All documents and materials which are OGE agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OGE files; and

(3) All other information or materials acquired by an OGE employee in the performance of his or her official duties or because of his or her official status.

Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Requests for Testimony and Production of Documents

§ 2608.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the General Counsel.

§ 2608.202 Factors OGE will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) OGE has an interest in the decision that may be rendered in the legal proceeding;

(d) Allowing such testimony or production of records would assist or hinder OGE in performing its statutory duties or use OGE resources where responding to the demand or request will interfere with the ability of OGE employees to do their work;

(e) Allowing such testimony or production of records would be in the best interest of OGE or the United States;

(f) The records or testimony can be obtained from other sources;

(g) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(h) Disclosure would violate a statute, Executive order or regulation;

(i) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, otherwise protected information, or information which would otherwise be inappropriate for release;

(j) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings, or compromise constitutional rights;

(k) Disclosure would result in OGE appearing to favor one litigant over another;

(l) Disclosure relates to documents that were produced by another agency;

(m) A substantial Government interest is implicated;

(n) The demand or request is within the authority of the party making it; and

(o) The demand or request is sufficiently specific to be answered.

§ 2608.203 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to an OGE employee for official records and information or testimony:

(a) Your request must be in writing and must be submitted to the General Counsel. If you serve a subpoena on OGE or an OGE employee before submitting a written request and receiving a final determination, OGE will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on OGE to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an OGE employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each OGE employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The Office of Government Ethics reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 45 days before the date that records or testimony is required. Requests submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

§ 2608.204 Service of subpoenas or requests.

Subpoenas or requests for official records or information or testimony must be served on the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

§ 2608.205 Processing demands or requests.

(a) After service of a demand or request to testify, the General Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) The Office of Government Ethics will process requests in the order in which they are received. Absent exigent or unusual circumstances, OGE will respond within 45 days from the date that we receive it. The time for response will depend upon the scope of the request.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of OGE or the United States or for other good cause.

§ 2608.206 Final determination.

The General Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the court or other authority of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of an OGE employee.

§ 2608.207 Restrictions that apply to testimony.

(a) The General Counsel may impose conditions or restrictions on the testimony of OGE employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The Office of Government Ethics may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information; or

(2) For a current OGE employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of OGE unless testimony is being given on behalf of the United States (see also § 2635.805 of this chapter).

§ 2608.208 Restrictions that apply to released records.

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, OGE may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original OGE records may be presented for examination in response to a demand or request, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official OGE records, nor are they to be marked or altered. In lieu of the original records, certified copies will be presented for evidentiary purposes (see 28 U.S.C. 1733).

§ 2608.209 Procedure when a decision is not made prior to the time a response is required.

If a response to a demand or request is required before the General Counsel can make the determination referred to

in § 2608.201, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand or request is being reviewed, and seek a stay of the demand or request pending a final determination.

§ 2608.210 Procedure in the event of an adverse ruling.

If the court or other competent authority fails to stay the demand or request, the employee upon whom the demand or request is made, unless otherwise advised by the General Counsel, will appear at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand or request, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). A written response may be offered to a request, or to a demand, if permitted by the court or other competent authority.

Subpart C—Schedule of Fees

§ 2608.301 Fees.

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to OGE.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by OGE in its Freedom of Information Act and Ethics in Government Act fee regulations at 5 CFR part 2604, subparts E and G.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) *Payment of fees.* You must pay witness fees for current OGE employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OGE employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) *Certification (authentication) of copies of records.* The Office of Government Ethics may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from OGE at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $15.00 for each document certified.

(f) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(g) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

Subpart D—Penalties

§ 2608.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by OGE or as ordered by a Federal court after OGE has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former OGE employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current OGE employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 02–12552 Filed 5–20–02; 8:45 am]

BILLING CODE 6345–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 966

[No. 2002–19]

RIN 3069–AB10

Federal Home Loan Bank Consolidated Obligations—Definition of the Term ''Non-Mortgage Assets''

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation on Federal Home Loan Bank (Bank) consolidated obligations in order to redefine the term ''non-mortgage assets,'' as used in the provision on Bank leverage limits. The effect of this amendment would be to allow a Bank to qualify more easily to maintain a 25-to-1 assets-to-capital leverage ratio instead of the general 21-to-1 ratio. In addition, the rule makes several technical changes to the definition of ''non-mortgage assets.''

EFFECTIVE DATE: This rule will become effective on June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Scott L. Smith, Acting Director, Office of Policy, Research and Analysis (202) 408–2991; Charlotte A. Reid, Special Counsel, Office of General Counsel (202) 408–2510; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On March 7, 2002, the Finance Board published for notice and comment a proposed rule to amend § 966.3(a) of the Finance Board's regulations, which sets forth the assets-to-capital leverage limit that will apply to each Bank until: (1) That Bank's capital structure plan required under part 933 of the regulations becomes effective; and (2) the Bank is in compliance with the new leverage limit set forth in § 932.2 of the regulations.[1] Under § 966.3(a)(1), each Bank generally is required to maintain a leverage ratio not in excess of 21-to-1. However, § 966.3(a)(2) provides that a Bank may maintain a leverage ratio of up to 25-to-1 if the amount of its ''non-mortgage assets'' (after deducting deposits and capital held by the Bank) does not exceed 11 percent of the Bank's total assets. Thus, this rule is in a transitory stage because as the Banks' capital plans are approved and implemented, this leverage requirement will yield to the new leverage limit in § 932.2 of the Finance Board regulations.

Under § 966.3(a)(2), ''non-mortgage assets'' are defined to include a Bank's total assets after deduction of core mission activity (CMA) assets described in § 940.3 of the regulations and assets described in sections II.B.8 through II.B.11 of the Federal Home Loan Bank System Financial Management Policy

[1] See 12 CFR 931.9(b)(1) (governing transition from old to new leverage limit; see also 66 FR 8262, 8280 (Jan. 30, 2001) (transition discussed in preamble to rule adopting new capital regulations).

(FMP),[2] which include: mortgage-backed securities (MBS) or collateralized mortgage obligations (CMOs) issued by U.S. government-sponsored enterprises; AAA-rated MBS or CMOs issued by private entities; AAA-rated asset-backed securities backed by manufactured housing loans or home equity loans; and certain obligations of state and local housing finance agencies rated AA or higher.

While serving as a vehicle to transition the Banks from this leverage requirement to their new capital structures and the new leverage limit set forth in § 932.2 of the Finance Board regulations, the final rule amends § 966.3(a)(2) to: (1) Exclude from the scope of the definition of ''non-mortgage assets'' United States government-insured single family and multifamily mortgages acquired by Banks as part of their acquired member asset (AMA) programs established under part 955 of the regulations; and (2) clarify the definition by eliminating the CMA and FMP cross-references and replacing them with direct descriptions of the assets in question. This clarification will provide the Banks with an unambiguous standard for assets that are to be excluded from the definition of non-mortgage assets in leverage limit calculations.

The Finance Board received four comment letters, all of which were favorable comments, on the proposed rule. The comments are discussed below. Accordingly, the final rule adopts the proposed rule with only one clarification as discussed below.

II. Analysis of Comment Letters and Changes Made in the Final Rule

The Finance Board received four comment letters from Banks. All of the commenters supported the rule change. Two commenters suggested that the list of excluded assets contain certain additional items. Additionally, one commenter recommended that the Finance Board add a provision to codify a Finance Board regulatory interpretation (2001–RI–02) that the Banks may, at their option, calculate the non-mortgage asset ratio on a monthly average. Upon consideration of the comments, the Finance Board has determined that, with one exception, the recommendations would not substantively improve the rule, especially in light of the transitional nature of the rule. Ultimately, of course, the issue is best served by the Banks' new capital structures. In the unlikely event that a question arises in the interim concerning whether an asset may be excluded from the definition of non-mortgage assets, the Finance Board believes that the analysis may best be undertaken on a case-by-case basis.

One Bank requested that the definition of the government-insured or -guaranteed loans be broadened to include government insured or guaranteed multi-family residential mortgage loans in the list of excluded assets. The Finance Board agrees with the comment that all government-insured (or guaranteed) residential mortgage loans—single family and multi-family—should be excluded from non-mortgage assets, and has amended the final rule to reflect that change. As proposed, the final rule also amends § 966.3(a)(2) to eliminate any cross-reference to CMA assets and in its place adds ''acquired member assets, including all United States government-insured or guaranteed whole single-family and multi-family residential mortgage loans'' to the list of assets to be subtracted from a Bank's total assets to obtain the amount of ''non-mortgage assets'' on a Bank's balance sheet for purposes of the leverage limit calculation under this rule.

In addition to the above-described revision, as proposed, the final rule also eliminates the reference in § 966.3(a)(2) to ''assets described in sections II.B.8 through II.B.11 of the FMP'' and replaces that reference with an explicit enumeration of the assets to be subtracted from a Bank's total assets in calculating the percentage of non-mortgage assets. By including all relevant information in the published regulatory text, the definition of non-mortgage assets is made clearer and more transparent, without any substantive change.

The Finance Board received several recommendations for additions to the enumerated list of excluded assets. One Bank requested that standby bond purchase agreements for state housing finance agency bonds be excluded from non-mortgage assets, stating that to do so would be consistent with the exclusion of standby letters of credit. The Finance Board has considered the suggestion and determined that the rule should not be amended to include such contracts. Such bonds may be counted as mortgage assets for purposes of this rule only at such time as the purchase is executed.

Another Bank requested that the accrued interest carried on a Bank's books with respect to assets enumerated in § 966.3(a)(2) be added to that list as a stand-alone category of excluded assets. Upon consideration, the Finance Board rejects this suggestion. While accrued interest may be related to an asset, it is shown as a separate line item on a balance sheet. Once an interest payment is made it is removed from the balance sheet and flows through the income statement. An outstanding interest payment due is not the equivalent of a Bank advancing funds to a member. Thus, the Finance Board has determined that the interest due is not a ''mortgage asset'' for purposes of the final rule. Additionally, the Finance Board is not persuaded that principal amounts carried as receivables on a balance sheet should be granted separate asset status for purposes of this rule.

The Bank also suggested that the list of excluded assets should be broadened to include any adjustments made to the book value of the asset categories stated in § 966.3(a)(2) resulting from the application of SFAS No. 133 under Generally Accepted Accounting Principles (GAAP), and the book value of derivative assets that hedge similar provisions embedded in advances, such as a cap on the floating rate of an advance. The commenter correctly noted that under SFAS No. 133 the Bank includes in the book value of assets hedged with derivatives any fair value gains or losses on those assets. The Finance Board does not believe that the rule should be amended to take such values into account. Nevertheless, the Finance Board has determined that a Bank may value an asset under GAAP, as appropriate, for purposes of this final rule.

Finally, one Bank suggested it would be beneficial to codify in the final rule the Finance Board's regulatory interpretation (2001-RI–02) that the Banks may, at their option, calculate the non-mortgage asset ratio on a monthly average basis. Again, the rule is a transitional provision with a limited shelf life. The Finance Board does not believe that amending the rule is necessary at this late stage in the transition process. Accordingly, the final rule does not incorporate the requested amendment.

As stated, the final rule is a transitional mechanism. In the interim, in the unlikely event that any of these issues arise, the Finance Board is prepared to address such matters on a case-by-case basis in a regulatory interpretation or other appropriate regulatory adjudication.

[2] The FMP is a Finance Board policy that governs Banks' investments and other issues of financial management. The policy currently is being phased out as the Banks transition to their new capital structures in compmliance with the Finance Board's new regulations on Bank capital. *See* 12 CFR parts 930–933.

III. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 966

Federal home loan banks, Securities.

Accordingly, the Finance Board hereby amends title 12, chapter IX, Code of Federal Regulations as follows:

PART 966—CONSOLIDATED OBLIGATIONS

1. The authority citation for part 966 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, and 1431.

2. Revise § 966.3(a)(2) to read as follows:

§ 966.3 Leverage limit and credit rating requirements.

(a) * * *

(2) The aggregate amount of assets of any Bank may be up to 25 times the total paid-in capital stock, retained earnings, and reserves of that Bank, provided that non-mortgage assets, after deducting the amount of deposits and capital, do not exceed 11 percent of such total assets. For the purposes of this section, the amount of non-mortgage assets equals total assets after deduction of:

(i) Advances;

(ii) Acquired member assets, including all United States government-insured or guaranteed whole single-family or multi-family residential mortgage loans;

(iii) Standby letters of credit;

(iv) Intermediary derivative contracts;

(v) Debt or equity investments:

(A) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

(*1*) Housing;

(*2*) Economic development;

(*3*) Community services;

(*4*) Permanent jobs; or

(*5*) Area revitalization or stabilization;

(B) In the case of mortgage-or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(C) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(vi) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(vii) SBIC debentures, the short term tranche of SBIC securities, or other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq*);

(viii) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308);

(ix) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

(x) Securities representing an interest in pools of mortgages (MBS) issued, guaranteed, or fully insured by the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or the Federal National Mortgage Association (Fannie Mae), or Collateralized Mortgage Obligations (CMOs), including Real Estate Mortgage Investment Conduits (REMICs), backed by such securities;

(xi) Other MBS, CMOs, and REMICs rated in the highest rating category by a NRSRO;

(xii) Asset-backed securities collateralized by manufactured housing loans or home equity loans and rated in the highest rating category by a NRSRO; and

(xiii) Marketable direct obligations of state or local government units or agencies, rated in one of the two highest rating categories by a NRSRO, where the purchase of such obligations by a Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community development.

* * * * *

Dated: May 8, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–12637 Filed 5–20–02; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM211; Special Conditions No. 25–200–SC]

Special Conditions: Airbus Industrie, Model A340–500/–600 Airplanes; Ground Loads and Conditions for Center Landing Gear With Four Wheels and Braking Capability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus Industrie Model A340–500 and –600 airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is associated with the landing gear, in the form of a four-wheeled center landing gear, installed under the fuselage, which functions like a main landing gear in all respects, including the ability to brake. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: May 10, 2002.

FOR FURTHER INFORMATION CONTACT: Tim Backman, FAA, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1996, Airbus Industrie applied for an amendment to

U.S. type certificate (TC) A43NM to include the new models A340–500 and –600. These models are derivatives of the A340–300, which is approved under the same TC.

The Model A340–500 fuselage is a 6-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 553 engines, each rated at 53,000 pounds of thrust. The airplane has interior seating arrangements for up to 375 passengers, with a maximum takeoff weight (MTOW) of 820,000 pounds. The Model 340–500 is intended for long-range operations and has additional fuel capacity over that of the Model A340–600.

The Model A340–600 fuselage is a 20-frame stretch of the Model A340–300 and is powered by 4 Rolls Royce Trent 556 engines, each rated at 56,000 pounds of thrust. The airplane has interior seating arrangements for up to 440 passengers, with a MTOW of 804,500 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Airbus Industrie must show that the Model A340–500 and –600 airplanes meet the applicable provisions of the regulations incorporated by reference in TC A43NM or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A43NM are 14 CFR part 25 effective February 1, 1965, including Amendments 25–1 through 25–63 and Amendments 25–64, 25–65, 25–66, and 25–77, with certain exceptions that are not relevant to these proposed special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model A340–500 and –600 airplanes must be shown to comply with Amendments 25–1 through 25–91,with certain FAA-allowed reversions for specific part 25 regulations to the part 25 amendment levels of the original type certification basis.

Airbus has also chosen to comply with part 25 as amended by Amendments 25–92, –93, –94, –95, –97, –98, and –104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Industrie Model A340–500 and –600 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Industrie Model A340–500 and –600 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

Novel or Unusual Design Features

The Airbus Model A340–500 and –600 airplanes will incorporate the following novel or unusual design feature: a four-wheel center landing gear with braking ability.

Discussion

The basic A340 included a two-wheel center landing gear which did not have brakes. The purpose of the center landing gear was to assist the main landing gear during ground handling conditions for heavy airplane weights. This center landing gear was not intended for energy absorption during landing, even if it could participate in the impact under certain conditions. Therefore, to provide additional taxi, takeoff, and landing criteria for this arrangement, Special Conditions 25–ANM–69 were issued.

The Model A340–500 and –600 airplanes have a four-wheel center landing gear which functions in all respects like a main landing gear, including braking capabilities. Because the speeds and weights of the Model A340–500 and –600 airplanes are greater than that of the basic A340, redesign of the center landing gear was necessary. As a result, the current rules, applying to the original two-wheel center landing gear, are inadequate.

Discussion of Comments

Notice of proposed special conditions No. 25–02–03–SC for the Airbus Industrie Model A340–500 and –600 airplanes was published in the **Federal Register** on March 20, 2002 (67 FR 12903). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus Model A340–500 and –600 airplanes. Should Airbus Industries apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Airbus Model A340–500 and A340–600 airplanes is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features of the center landing gear on the Model A340–500 and A340–600 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A340–500 and A340–600 airplanes.

The following special conditions are issued in lieu of the previously issued special conditions, ''Ground Load Conditions for Center Landing Gear,'' recorded as item 10 of Special Conditions: Airbus Industrie Model A340 Series Airplanes [Docket No. NM–75, Special Conditions No. 25–ANM–69]:

1. *Ground Load Conditions for Center Landing Gear.* Notwithstanding § 25.477, the requirements of § 25.473

and §§ 25.479 through 25.485 apply, except as noted:

(a) In addition to the requirements of § 25.473, ''Landing load conditions and assumptions,'' and § 25.479, ''Level landing conditions,'' landing should be considered on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent at main landing gear stations. The maximum loads determined from these two conditions must be applied to each main landing gear and to the center landing gear.

(b) In addition to the requirements of § 25.483, ''One gear landing conditions,'' the condition represented by Figure 1 also applies:

BILLING CODE 4910–13–P

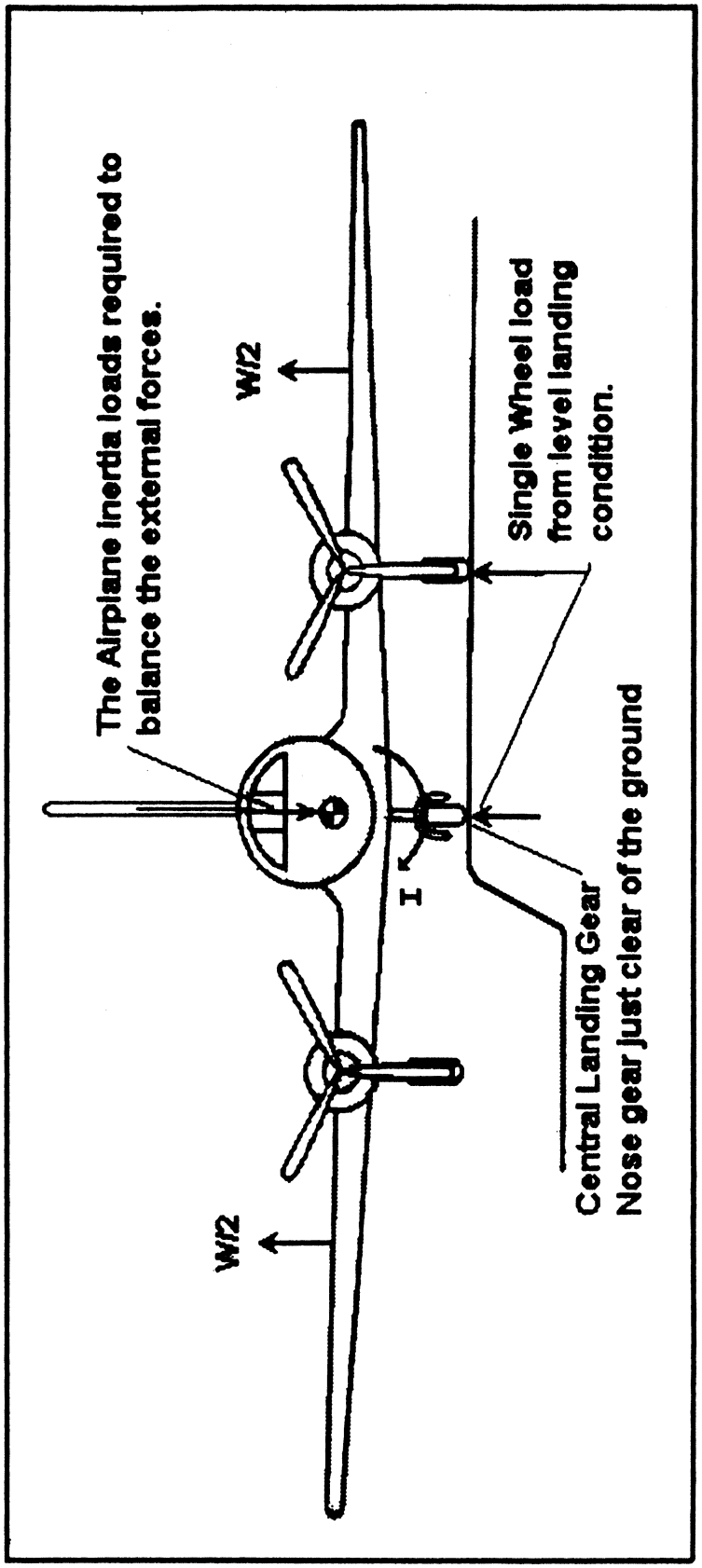


Figure 1. Center gear landing Condition

BILLING CODE 4910–13–C

(c) In lieu of the requirements of § 25.485, ''Side load conditions,'' the following apply:

(1) The airplane is considered to be in the level attitude with only the main and center wheels contacting the ground.

(2) Vertical reactions of one-half of the maximum vertical reaction obtained at each main and center gear in the level landing conditions should be considered. The vertical loads must be combined with side loads as follows: for the main gear, 0.8 of the vertical reaction (on one side) acting inward and 0.6 of the vertical reaction (on the other side) acting outward; for the center gear, 0.7 of the vertical reaction acting in the same direction as main gear side loads. These loads are assumed to be applied at the ground contact point and to be resisted by the inertia of the airplane. The drag loads may be assumed to be zero.

(d) In addition to § 25.489, ''Ground handling conditions,'' the airplane should be considered to be on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent at main landing gear stations. The ground reactions must be distributed to the individual landing gear units in a rational or conservative manner.

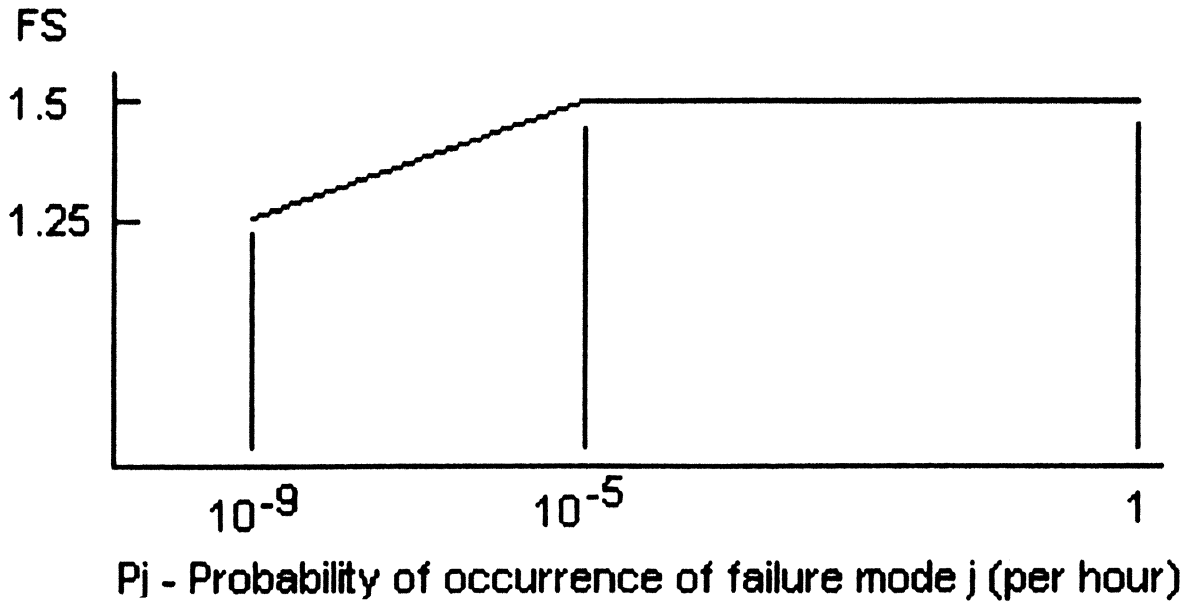
(e) In addition to the requirements of § 25.493(d), ''Braked roll conditions,'' the sudden application of maximum braking effort must be defined taking into account the behavior of the braking system. Failure conditions of the braking system not shown to be extremely improbable must be analyzed in accordance with the following criteria:

(1) At the time of occurrence. A realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure are ultimate loads to be considered for design. The factor of safety (F.S.) is defined in Figure 2 as follows:

Figure 2

Factor of safety at the time of occurrence



(ii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph (e)(1)(i).

(iii) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(2) Consideration of certain failure conditions may be required by other sections of part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(3) Warning considerations. For system failure detection and warning, the system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service

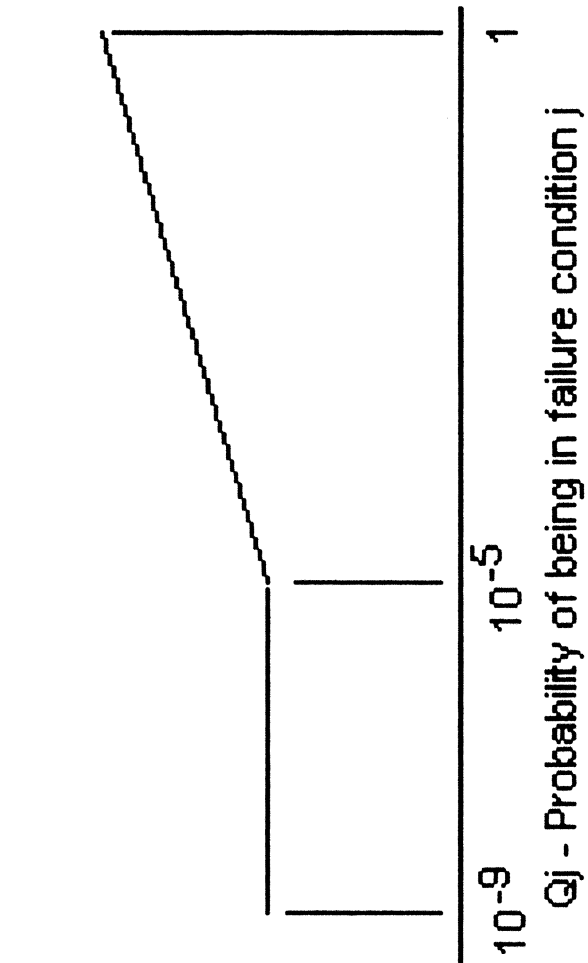
history shows that inspections will provide an adequate level of safety.

(4) Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met for the dispatched condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing Qj as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figure 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per hour. Figure 3 follows:

BILLING CODE 4910–13–P

Figure 3

Factor of safety for continuation of flight



$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours).

P_j = Probability of occurrence of failure mode j (per hour).

BILLING CODE 4910–13–C

(f) In lieu of the requirements of § 25.495, ''Turning,'' the following apply:

(1) The airplane is assumed to execute a steady turn by nose gear steering, or by application of sufficient differential power, so that the limit load factors applied at the center of gravity are 1.0 vertically and 0.5 laterally.

(2) The airplane must be designed for the condition prescribed in paragraph (f)(1), taking into account:

(i) The effects of tire characteristics on the sharing of lateral loads on each tire of the landing gear system, and

(ii) The effect of airframe and landing gear flexibility on the sharing of loads on the different legs of the landing gear system.

(g) In lieu of the requirements of § 25.503, ''Pivoting,'' the following apply:

(1) The main and center gear units and supporting structure must be designed for the scrubbing or torsion loads, or both, induced by pivoting during ground maneuvers produced by:

(i) Towing at the nose gear, no brakes applied, and

(ii) Application of symmetrical or unsymmetrical forward thrust to aid pivoting and with or without braking by pilot action on the pedals.

(2) The airplane is assumed to be in static equilibrium, with the loads being applied at the ground contact points.

(3) The limit vertical load factor must be 1.0, and:

(i) For wheels with locked brakes applied by pilot action on the pedals, the coefficient of friction must be 0.8.

(ii) For wheels with brakes not applied, the ground tire reactions must be based on reliable tire data.

(4) The failure conditions must be analyzed in accordance with paragraph (e) of these Special Conditions.

(h) In lieu of paragraph (b) of § 25.723 ''Shock absorption tests,'' the center landing gear should not fail in a test demonstrating its reserve energy absorption capacity at design landing weight, assuming airplane lift no greater than the airplane weight acting during a 12-feet-per-second airplane landing impact, taking into account both main and center gear acting during the impact. Landing should be considered on a level runway or a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations, whichever is the most critical.

Issued in Renton, Washington, on May 10, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12608 Filed 5–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T. D. 02–27]

New User Fee Airport

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the establishment of a new user fee airport in Dallas, Texas. A user fee airport is one which, while not qualifying for designation as an international or landing rights airport, has been approved by the Commissioner of Customs to receive, for a fee, the services of a Customs officer for the processing of aircraft entering the United States and their passengers and cargo.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Bruner, Mission Support, Office of Field Operations, (202) 927–2290.

SUPPLEMENTARY INFORMATION:

Background

Part 122, Customs Regulations (19 CFR part 122), sets forth regulations that are applicable to all international air commerce relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft.

Under § 1644a, Title 19, United States Code (19 U.S.C. 1644a), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States, and for merchandise carried on the aircraft. These airports are referred to as international airports, and the location and name of each are listed in § 122.13, Customs Regulations (19 CFR 122.13). In accordance with § 122.33, Customs Regulations (19 CFR 122.33), the first landing of every civil aircraft entering the United States from a foreign area must be at one of these international airports, unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of merchandise, collect duties and enforce the customs laws and regulations.

Other than making an emergency or forced landing, if a civil aircraft desires to land at an airport not designated by Customs as an international airport, the pilot may request permission to land at a specific airport. If permission is granted, Customs will assign personnel to that airport for the aircraft. The airport where the aircraft is permitted to land is called a landing rights airport (19 CFR 122.14).

Section 236 of Pub. L. 98–573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask Customs for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of Customs business at the airport is insufficient to justify the availability of Customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of Customs services is not paid for out of the Customs appropriations from the general treasury of the United States. Instead, the services of Customs officers are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the Customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing Customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the Customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport of that airport's authority agrees to pay Customs a flat fee annually

and the users of the airport are to reimburse that airport/airport authority. The airport/airport authority agrees to set and periodically to review its charges to ensure that they are in accord with the airport's expenses.

Pursuant to Treasury Department Order No. 165, Revised (Treasury Decision 53564), all the rights, privileges, powers and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws, or by any other laws administered by Customs, are transferred to the Commissioner of Customs. Accordingly, the authority granted to the Secretary of the Treasury to designate user fee airports and to determine appropriate fees is delegated to the Commissioner of Customs.

Under this authority, Customs has determined that certain conditions must be met before an airport can be designated as a user fee airport. At least one full-time Customs officer must be requested, and the airport must be responsible for providing Customs with satisfactory office space, equipment and supplies, at no cost to the Federal Government.

Thirty-six airports are currently listed in § 122.15, Customs Regulations, as user fee airports. This document revises the list of user fee airports. It adds McKinney Municipal Airport, in Dallas, Texas, to this listing of designated user fee airports.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely updates the list of user fee airports designated by the Commissioner of Customs in accordance with 19 U.S.C. 58b and neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553 (b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs Duties and Inspection, Freight.

Amendment to the Regulations

Part 122, Customs Regulations (19 CFR part 122) is amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

2. The listing of user fee airports in § 122.15(b) is amended by adding, in alphabetical order, in the ''Location'' column, ''Dallas, Texas'' and by adding on the same line, in the ''Name'' column, ''McKinney Municipal Airport''.

Robert C. Bonner,

Commissioner of Customs.

Approved: May 16, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–12645 Filed 5–20–02; 8:45 am]

BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AB01

Revised Medical Criteria for Determination of Disability, Musculoskeletal System and Related Criteria; Correction

AGENCY: Social Security Administration.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations that were published in the **Federal Register** of Monday, November 19, 2001 (66 FR 58010). The regulations revised the criteria in our Listing of Impairments (the listings) that we use to evaluate musculoskeletal impairments in adults and children.

DATES: Effective on February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1769 or TTY (410) 966–5609.

For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at www.ssa.gov.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections affect disability determinations and decisions we make for individuals under title II and title XVI of the Social Security Act. In addition, to the extent that Medicare and Medicaid eligibility are based on entitlement to benefits under title II and eligibility for benefits under title XVI, these corrections would also affect the Medicare and Medicaid programs.

Need for Correction

As published, the final regulations inadvertently did not update the cross-references in listings 111.07A and 111.08A of part B of the listings to reflect the new musculoskeletal listings criteria. The cross-references in current listings 111.07A and 111.08A are to listings 101.03 or 111.06. To reflect the revised musculoskeletal listings, the correct cross-references should be to listings 101.02 or 111.06.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Accordingly, 20 CFR part 404, Subpart P, is corrected by making the following correcting amendments:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Revise the introductory text and paragraph A. in listings 111.07 and 111.08 of Part B of appendix 1 of Subpart P of part 404 to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments {Amended}

* * * * *

Part B

* * * * *

111.01 Category of Impairments, Neurological

* * * * *

111.07 *Cerebral Palsy.* With:

A. Motor dysfunction meeting the requirements of 101.02 or 111.06; or

* * * * *

111.08 *Meningomyelocele (and related disorders).* With one of the following despite prescribed treatment:

A. Motor dysfunction meeting the requirements of 101.02 or 111.06; or

* * * * *

Georgia E. Myers,

SSA Regulations Officer.

[FR Doc. 02–12553 Filed 5–20–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20, 58, 170, 171, 174, and 179

[Docket No. 99N–5556]

RIN 0910–AB94

Food Additives: Food Contact Substance Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations regarding the premarket notification process for food contact substances (FCSs) established by the Food and Drug Administration Modernization Act (FDAMA) of 1997. The notification process is the primary method for authorizing new uses of food additives that are FCSs. FDA is codifying regulations that identify the circumstances under which a food additive petition (FAP) will be required to authorize the use of an FCS; specify the information required in a notification for an FCS; describe the administration of the notification process; and establish the procedure by which the agency may deem a notification to be no longer effective.

DATES: This rule is effective June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

In 1997, FDAMA amended section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 348) to establish a premarket notification process as the primary method for authorizing new uses of food additives that are FCSs. In the proposed rule, published in the **Federal Register** of July 13, 2000 (65 FR 43269) (hereinafter referred to as the July 2000 proposal), FDA referred to a premarket notification for a food contact substance as a ''PMN'' and the process of premarket notification for such substances as the ''PMN process.'' This document refers to a premarket notification for a food contact substance as an ''FCN'' and to the process as the food contact notification (FCN) process. This change responds to a request from the comments (see section II.H of this document). A ''food contact substance'' is defined in section 409(h)(6) of the act as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' The FDAMA amendments and their legislative history make clear that the FCN process is to be the preferred process for authorizing new uses of food additives that are FCSs. Specifically, section 409(h)(3)(A) of the act states that the FCN process shall be utilized for authorizing the marketing of food additives that are FCSs except where the Secretary of Health and Human Services determines that the submission and review of a FAP is necessary to provide adequate assurance of safety, or where FDA and any manufacturer or supplier agree that a petition may be submitted. (See S. Rept. No. 105–43, 105th Cong., 1st sess. 46 (1997); H. Rept. 105–306, 105th Cong., 1st sess. 19 (1997).) FDA expects most new uses of FCSs that previously would have been regulated by issuance of a listing regulation in response to an FAP or would have been exempted from the requirement of a regulation under the threshold of regulation (TOR) process (21 CFR 170.39) will be the subject of FCNs.

The FCN program began operating on October 22, 1999, with the signing of FDA's Fiscal Year 2000 budget. This budget met the requirements under section 409(h)(5) of the act for funding the FCN program. On October 25, 1999, FDA sent letters to trade associations and persons with pending submissions (i.e., a food additive petition or a TOR exemption request) under active review by the agency to authorize use of an FCS. The letter stated that FDA expected to be ready to accept new FCNs on January 18, 2000, and requested that those persons with a pending submission for approval of an FCS under active review contact FDA prior to withdrawing such submission and converting it to an FCN. After October 25, 1999, FDA began working with the food packaging industry to convert these pending submissions under FDA review to FCNs.[1]

In the **Federal Register** of November 12, 1999 (64 FR 61648), FDA published a notice announcing the availability of a draft guidance on the chemistry and toxicology information that should be included in an FCN. In the November 12, 1999, notice FDA requested comments on the guidance documents and on the information collection burden associated with the FCN program.

In addition, FDA published a direct final rule in the **Federal Register** of May 11, 2000 (65 FR 30352), that amended the agency's regulations on environmental impact considerations to permit manufacturers or suppliers to claim in FCNs the categorical exclusions currently applicable to FAPs and TOR exemption requests. The regulations in the May 11, 2000, direct final rule became effective on August 24, 2000.

Finally, in the July 2000 proposal (65 FR 43377), the agency proposed regulations to implement the FCN process and announced the availability of an administrative guidance document concerning the FCN process.

II. Comments on the Proposed Rule

The agency provided 75 days for comment on the proposed rule. FDA received comments from three trade associations representing the food packaging industry. In general, the comments supported the proposal. They also raised issues specific to the draft administrative guidance document announced with the proposed rule in the July 13, 2000, issue of the **Federal Register** (65 FR 43377) and the draft chemistry and toxicology guidance documents announced in the **Federal Register** of November 12, 1999 (64 FR 61648). In accordance with FDA's good guidance practice (GGP) regulations (21 CFR 10.115), such comments have been addressed by modification of the final toxicology and chemistry guidance documents announced in the **Federal Register** of April 11, 2002 (67 FR 17703), and in FDA's revised

[1]Between October 25, 1999, and December 31, 2000, FDA and industry converted 58 FAPs and 19 TOR submissions to FCNs. FDA currently lists those FCNs that have become effective on its Internet site at http://www.cfsan.fda.gov/~dms/opa-fcn.html.

administrative guidance document, the availability of which is published elsewhere in this issue of the **Federal Register**. Comments also requested that FDA clarify several specific issues in the proposal. These issues and FDA's responses follow.

(Comment 1) Two of the comments were concerned with the language in proposed § 170.104(b) describing FDA's initial review of an FCN submission. Proposed § 170.104(b) reads: ''In order for the 120-day review period to begin FDA must accept that notification.'' The comments expressed the opinion that the language in proposed § 170.104(b) could be read to mean that the 120-day review period for the FCN does not begin until after FDA ''accepts'' the submission as an FCN. These comments referenced the language in section 409(h)(2)(A) of the act that states that a ''* * * notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary * * *.''

FDA agrees with these comments that the 120-day review period for the FCN runs from the date of receipt of a complete notification. The purpose of § 170.104(b) is to provide FDA with an opportunity to determine whether the submission is a complete notification and to ensure that FDA would not be required to review or object to an incomplete FCN. The following are examples of how FDA's initial review of FCN submissions has operated thus far and how FDA expects its initial review of FCNs to proceed in the future. FDA expects to determine whether an FCN is complete and reviewable within 30 days after receipt of a submission. If FDA finds that an FCN is complete and reviewable as received, then FDA will accept the FCN and the 120-day review period will continue to run from the date of receipt of the FCN. However, if FDA determines that, as submitted, an FCN is incomplete, the agency will request additional information from the manufacturer or supplier. If the information is submitted before FDA issues a nonacceptance letter, FDA will accept the now complete FCN, and the 120-day review period begins on the date of receipt of the additional information. If the required additional information is not submitted, and the FCN is not withdrawn, FDA will issue a nonacceptance letter. Issuance of the nonacceptance letter will complete the review of the FCN submission.

In any case, the date of receipt of the complete FCN is the date of receipt for the purposes of section 409(h)(2) of the act. FDA is revising the language in § 170.104(b) to clarify that the 120-day review period begins on the date of receipt of a complete FCN and not on the date the FCN is accepted.

(Comment 2) All three comments requested that FDA clarify that the requirements in proposed § 170.101(c) regarding compliance with FDA's good laboratory practice regulations in part 58 (21 CFR part 58) do not apply to analytical testing (e.g., migration testing). The comments noted that analytical testing had not been previously required to comply with part 58. One comment requested that FDA make this clarification by explicitly referencing the definition of nonclinical laboratory studies in § 58.3.

FDA agrees that, historically, it has not applied its good laboratory practice regulations to analytical testing such as migration testing. Therefore, FDA is revising § 170.101(c) to explicitly reference the definition of nonclinical laboratory studies in § 58.3(d).

(Comment 3) All three comments requested that FDA make it clear that FCNs are required only for FCSs that are food additives. The comments referenced a statement in the preamble of the July 2000 proposal (65 FR 43269 at 43274) that reads as follows ''* * * Under section 409(a) of the act, in the absence of an effective notification an FCS cannot be legally marketed.'' One of the comments requested that FDA revise the referenced language to read as follows: ''Under section 409(a) of the act, in the absence of an effective notification, an FCS that is a food additive cannot be legally marketed.''

FDA agrees with the comments that FCNs are required only for those FCSs that are food additives as defined by section 201(s) of the act (21 U.S.C. 321(s)). FDA intended the referenced statement to clarify that in cases where FDA objects to an FCN, the FCN cannot become effective. Because the language referred to was not in the codified portion of the proposed regulation, the agency is taking no further action in response to these comments.

FDA also believes, however, that the language suggested by one comment is misleading because it implies that FCSs are authorized only through the FCN process. Although the FCN process is the primary means for authorizing new uses of FCSs, some new uses of FCSs still will be authorized through the petition process in section 409(b) of the act.

(Comment 4) All three comments requested that FDA clarify the relationship of FDA Form 3480 to the recommendations in the agency's draft guidance documents for FCNs. The comment noted that adopting § 170.101(e), as proposed, would require that a completed and signed FDA Form 3480 be included in an FCN. FDA Form 3480 requires that manufacturers or suppliers list summary toxicology information on the FCS and its constituents. In addition, the comments noted, the draft guidance on toxicology information in an FCN advises that notifiers (i.e., manufacturers and suppliers) should provide a comprehensive toxicological profile for the FCS and its constituents. The comments expressed uncertainty about the level of detail required in FDA Form 3480. The comments noted that the draft toxicology guidance document appeared to request that some of the same information be included in both the comprehensive toxicology profile and the safety narrative, as is required in FDA Form 3480. Thus, a notifier might have to list the same information in two sections of a notification.

FDA has revised FDA Form 3480 (Ref. 1) to minimize duplication of effort in developing the toxicology package for FCNs. FDA also has revised its guidance documents to assist manufacturers and suppliers in completing FDA Form 3480. Published elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of administrative, chemistry, and toxicology guidance documents.

(Comment 5) One comment requested that FDA make mandatory the issuance by the agency of a final letter for FCNs that become effective. The comment argued that the listing of notifications in FDA's inventory of effective notifications on the agency's Internet site may not be adequate to inform interested persons regarding the status of an FCN. In addition, the comment contended that listing of notifications on FDA's Internet site may not be completed in a timely manner.

FDA disagrees with this comment. The statute does not require FDA to issue a letter at the conclusion of the review of an FCN. Indeed, no action is required by FDA for an FCN to become effective. FDA believes that issuance of final letters for effective FCNs has some value, but FDA is concerned that the issuance of such letters may consume limited resources that are necessary to complete a timely review of FCNs. Therefore, FDA is denying the request to require the agency to issue a final letter for effective notifications. However, as noted above, FDA has been reviewing FCNs since the program began operating and, since that time, FDA has consistently issued final letters and listed effective notifications on its Internet site in a timely manner. Accordingly, FDA expects to continue to issue final letters as long as the

resources necessary to do so do not prevent timely review of FCNs.

(Comment 6) One comment requested that FDA provide an opportunity for a company to notify the agency of any change in name or corporate structure subsequent to its filing of an FCN. The comment also requested that FDA establish a procedure whereby FDA would change the name of the manufacturer in the listing of the FCN on FDA's Internet site and reissue the final letter for the FCN with the new company's name.

The agency agrees in part with this comment. Under § 170.100(d), manufacturers or suppliers are required to keep on file with FDA an address at which FDA may contact the manufacturer or supplier regarding the notification. FDA already had one experience with the sale of the manufacturing unit of a notified FCS from one company to another. In that case, the original manufacturer verified the sale and FDA changed the name of the manufacturer in the listing for the FCN on the agency's Internet site. FDA did not, however, reissue the final letter. FDA believes that reissuing final letters would be an ineffective use of its limited resources. Therefore, FDA will not reissue an updated final letter when the manufacturer or supplier of the FCN changes. FDA has included guidance on the above procedure in ''Preparation of Premarket Notifications for Food Contact Substances: Administrative Recommendations,'' the availability of which is announced elsewhere in this issue of the **Federal Register**.

FDA also is revising the language in all the regulations to replace the word ''notifier'' with the words ''manufacturer or supplier.'' FDA believes ''manufacturer or supplier'' is more appropriate because it is the term used in section 409(h) of the act.

(Comment 7) One comment requested that FDA clarify its position on the issue of transferability of FCNs. Specifically, the comment requests that FDA establish regulations to permit a manufacturer identified in an effective FCN to transfer the rights granted under an effective notification. The comment contended that licensing the manufacture of an FCS would maintain the safety of the FCS because it would continue to be manufactured in the manner reviewed by the agency.

At the time of the proposal, FDA did not contemplate regulations to permit a subsequent manufacturer other than the manufacturer identified in the FCN to produce and market the FCS under that FCN and did not discuss such regulations in the proposed rule. Thus, FDA believes that the issues raised in this comment are outside the scope of the proposal. Currently, FDA requires any subsequent manufacturer who wishes to market an FCS for a use that is the subject of an already effective FCN to submit a notification to FDA. In addition, the manufacturer identified in an effective FCN may authorize other manufacturers to reference information contained in the effective FCN. Thus, other manufacturers may have to provide only limited additional information in subsequent FCNs but they must notify FDA separately and wait 120 days for their FCN to become effective. However, FDA is interested in hearing the views of other interested parties on this issue. Therefore, elsewhere in this issue of the **Federal Register**, FDA is publishing an advanced notice of proposed rulemaking requesting comments on the issue of transferability of FCNs.

(Comment 8) All three comments requested FDA to replace the abbreviation ''PMN'' with ''FCN'' to represent a premarket notification for a food contact substance (also called a Food Contact Notification). The comments argued that this change will avoid confusing a premarket notification for a food contact substance with a ''PMN'' submitted to the U.S. Environmental Protection Agency (EPA).

FDA already made this change in the operation of the FCN program, throughout this document, and where appropriate in the codified regulations. FDA also made other nonsubstantive editorial changes in the regulations.

(Comment 9) In § 170.100(a)(2), FDA is replacing the word ''should'' with ''must.'' FDA is making this change to be consistent with the description of the provision in the proposed rule. In the preamble of the proposed rule, the agency stated that it would permit a manufacturer or supplier to incorporate by reference information in FDA's files where the submitter of the information has given the notifier permission to reference the information (65 FR 43269 at 43271). Requiring the manufacturer or supplier to establish that it has permission to incorporate certain information by reference also is consistent with standard FDA practice on incorporation by reference. (See 21 CFR 171.1(f); 21 CFR 314.420(d); 21 CFR 571.1(f); 21 CFR 814.20(c).)

III. Summary and Conclusions

The comments received in response to the July 2000 proposal requested changes to the proposed language in §§ 170.101(c) and 170.104(b). In addition, FDA is revising certain language throughout the proposed regulations. Because no comments were received relating to the remaining regulations included in the July 2000 proposal, FDA is finalizing those regulations as proposed with only minor editorial changes. Listed below are the revisions that are being incorporated into this final rule, based on the comments received in response to the proposal:

1. FDA is replacing the term ''notifier'' with the term ''manufacturer or supplier'' throughout the regulations to correspond with the language in section 409(h) of the act.

2. FDA is revising the language in § 170.101(c) to reference the definition of nonclinical laboratory studies in § 58.3(d) to clarify that 170.101(c) does not apply to analytical testing to determine the functionality or to determine physical or chemical characteristics of the test article.

3. FDA is revising the language in § 170.104(b) to clarify that the 120-day review period for an FCN begins on the date FDA receives the complete FCN. Thus, where FDA receives an incomplete FCN, the 120-day review period begins when FDA receives the missing information.

4. FDA is replacing the acronym ''PMN'' with ''FCN'' to refer to a premarket notification for a food contact substance (also known as a Food Contact Notification). FDA is using the acronym FCN throughout this document and in the codified regulations.

5. In § 170.100(a)(2) FDA is replacing the word ''should'' with ''must.''

IV. Paperwork Reduction Act of 1995

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Food Contact Substances Notification System.

Description: Section 409(h) of the act establishes a premarket notification process for FCSs. Section 409(h)(6) of the act defines a ''food contact substance'' as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical

effect in such food.'' Section 409(h)(3) of the act requires that the notification process be used for authorizing the marketing of FCSs except where FDA determines that the submission and premarket review of an FAP under section 409(b) of the act is necessary to provide adequate assurance of safety or where FDA and the manufacturer or supplier agree that a petition should be submitted. Section 409(h)(1) of the act requires that a notification include information on the identity and the intended use of the FCS and the basis for the manufacturer's or supplier's determination that the FCS is safe under the intended conditions of use. Because section 409(h)(1) of the act references the general safety standard for food additives, the data in an FCN should be comparable to the data in an FAP. FDA is issuing regulations necessary to implement the FCN program that will largely replace the FAP process for those food additives that are FCSs.

Also, FDA is requiring that an FCN include FDA Form 3480 entitled ''Notification for New Use of a Food Contact Substance'' (Ref. 1) and is requiring that a notification for a food contact substance formulation (NFCSF) include FDA Form 3479 entitled ''Notification for a Food Contact Substance Formulation'' (Ref. 2). These forms will serve to summarize pertinent information in the notification. FDA made Form 3480 available for public comment in the November 12, 1999 (64 FR 61648 at 61649), notice and Form 3479 available for public comment in the July 2000 proposal (65 FR 43269 at 43277). FDA believes that these forms will facilitate both preparation and review of notifications because the forms will serve to organize information necessary to support the safety of the use of the FCS. The burden of filling out the appropriate form has been included in the burden estimate for the notification.

Description of Respondents: Manufacturers of food contact substances.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
170.106[2]	FDA 3479	200	4	800	2	1,600
170.101[3,7]	FDA 3480	200	1	200	25	5,000
170.101[4,7]	FDA 3480	55	2	110	120	13,200
170.101[5,7]	FDA 3480	45	2	90	150	13,500
107.101[6,7]	FDA 3480	16	1	16	150	2,400
Total						35,700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Notifications for a food contact substance formulation. These notifications require only FDA Form 3479 (''Notification for a Food Contact Substance Formulation'') to be filled out and documentation attached.
[3] Duplicate notifications for uses of FCSs.
[4] Notifications for uses that currently would be the subject of exemptions under 21 CFR 170.39 or very simple FAPs.
[5] Notifications for uses that currently would be the subject of moderately complex FAPs.
[6] Notifications for uses that currently would be the subject of more complex FAPs.
[7] These notifications require the submission of FDA Form 3480 (''Notification for New Use of a Food Contact Substance'').

The above estimate is based on the types of submissions that FDA currently receives for food contact substances in the TOR and the FAP processes and the following assumptions and information:

• FDA estimates that the likely increase in FCNs over the number of FAPs and TOR requests will be approximately four times the highest recent annual influx of these submissions (50 and 54, respectively). This factor is based on an analysis of the number of companies producing various types of FCSs and the types of FCSs for which FAPs and TORs most commonly are submitted to FDA.

• Based on input from industry sources, FDA estimates that the agency will receive approximately 800 notifications annually for food contact substance formulations.

• FDA also has included 200 expected duplicate submissions in the second lowest tier. FDA expects that the burden for preparing these notifications primarily will consist of the manufacturer or supplier filling out FDA Form 3480, verifying that a previous notification is effective, and preparing necessary documentation.

• Based on the amount of data typically submitted in FAPs and TOR requests, FDA identified three other tiers of FCNs that represent escalating levels of burden required to collect information.

• FDA estimated the median number of hours necessary for collecting information for each type of notification within each of the three tiers based on input from industry sources.

In the July 2000 proposal (65 FR 43269 at 43276), the agency requested comments on the proposed collection of information. On October 3, 2000, OMB filed comment on the information collection provisions, assigning OMB control number 0910–0447. OMB's comments stated that, ''FDA shall evaluate the contents of this collection in light of any comments received regarding the information collection requirements contained in the rule. In addition, FDA shall address any issues related to reducing duplication between FDA and EPA related to this collection.''

FDA received no comments on the information collection requirements in the proposed rule. FDA continues to work with EPA and the U.S. Department of Agriculture (USDA) to eliminate areas of duplicative data collection and evaluation. Within the past 2 years USDA has eliminated its separate approval process for components of food contact materials that duplicated FDA's process. In addition, the Food Quality Protection Act of 1996 gave sole jurisdiction to EPA for certain substances formerly regulated by FDA as food additives and by EPA as pesticide chemicals. Currently, there is no significant duplication of data collection and evaluation for food contact substances among Federal agencies with jurisdiction. In addition, to avoid unnecessary duplication for

individual submissions, existing data will be used whenever possible by FDA in evaluating notifications for food contact substances.

FDA submitted the information collection provisions of this final rule to OMB for review. Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions in this final rule. 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.

V. Analysis of Impacts

A. Final Regulatory Impact Analysis

FDA has examined the economic implications of this final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation also is considered a significant regulatory action if it raises novel legal or policy issues. OMB determined that this final rule is a significant regulatory action as defined by Executive Order 12866. Accordingly, OMB has reviewed this final rule and has approved its publication in the **Federal Register**.

There were no comments that pertained directly or indirectly to the preliminary regulatory impact analysis (PRIA) so FDA has made no change in the evaluation of the regulation for the final regulatory impact analysis. The rulemaking was necessary to implement the FCN process established by FDAMA. The notification process largely will replace the FAP process for FCSs. The FCN process requires FDA to object within 120 days to the notification of an FCS manufacturer or supplier that it intends to market a particular food contact substance for a specific use, or the substance may be marketed legally on the 121st day without issuance of a regulation.

FDA estimates that the social benefits of the change in regime will be from new product innovation. The agency estimates that four times the current annual number of petitions and threshold of regulation exemptions will be introduced into the market, for a total of 416. The social costs from the change in regimes are the costs to submit duplicate notifications. The agency estimates that 50 percent of the total will be duplicates for a total social cost of $26,387,500. For a full explanation of the estimated costs and benefits of this final rule, see the preliminary regulatory impact assessment published in the July 2000 proposal (65 FR 43269 at 43277), which is incorporated by reference.

B. Final Regulatory Flexibility Analysis

1. Introduction

FDA has examined the economic implications of this final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612.) If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities.

2. Economic Effects on Small Entities

There were no comments that pertained directly or indirectly to the initial regulatory flexibility analysis so FDA made no change in the evaluation of the regulation for the final regulatory flexibility analysis. The final rule could affect small businesses because new costs will be imposed that did not exist before the change in regimes. A small firm that wants to introduce a new FCS will have to produce more documentation after the final rule than before. However, because the final rule reduces the uncertainty about the period of evaluation of new uses of substances, firms that rely heavily on the authorization of a unique use of a substance stand to benefit the most. Because new small businesses may rely on innovation that requires new use authorization, they are more likely to benefit the most from the final rule. However, they also may incur proportionately greater costs than if they would have relied on rival firms to incur the authorization costs.

3. Regulatory Relief

Because some small firms are expected to be adversely affected by the final rule, options for regulatory relief, such as a small business exemption, were addressed in the proposed rule. The benefit of this option is that small businesses would not incur an additional cost. The drawback is that small firms could copy and distribute themselves the substances being reviewed in response to the marketing submission of a competitor, thus, creating disincentives for new substance development by rival firms.

4. Description of Recordkeeping and Reporting

There are no additional recordkeeping requirements for the final rule.

5. Summary

FDA estimates that there will be no net costs to small businesses because of this final rule. If small business entities determine that the costs of notification outweigh the benefits, the small business entities could rely on existing authorized FCSs.

C. Unfunded Mandates

Section 1531(a) of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), defines a significant rule as a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any one year. FDA has determined that this rule does not constitute a significant rule under the Unfunded Mandates Reform Act of 1995.

VI. Environmental Impact

The agency previously reviewed the potential environmental effects of this final rule as announced in the July 2000 proposal (65 FR 43269). The agency concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FDA Form No. 3480 ''Notification for a New Use of A Food Contact Substance,'' Rev. 9/01.

2. FDA Form No. 3479 ''Notification for a Food Contact Substance Formulation,'' Rev. 5/00.

List of Subjects

21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

21 CFR Part 58

Laboratories, Reporting and recordkeeping requirements.

21 CFR Part 170

Administrative practice and procedure, Food additives, Reporting and recordkeeping requirements.

21 CFR Part 171

Administrative practice and procedure, Food additives.

21 CFR Part 174

Food additives, Food packaging.

21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 20, 58, 170, 171, 174, and 179 are amended as follows:

PART 20—PUBLIC INFORMATION

1. The authority citation for 21 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1.

2. Section 20.100 is amended by adding paragraph (c)(41) to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(41) Premarket notifications for food contact substances, in § 170.102 of this chapter.

PART 58—GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

3. The authority citation for 21 CFR part 58 continues to read as follows:

Authority: 21 U.S.C. 342, 346, 346a, 348, 351, 352, 353, 355, 360, 360b–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 262, 263b–263n.

4. Section 58.3 is amended by adding paragraph (e)(23) to read as follows:

§ 58.3 Definitions.

* * * * *

(e) * * *

(23) A premarket notification for a food contact substance, described in part 170, subpart D, of this chapter.

* * * * *

PART 170—FOOD ADDITIVES

5. The authority citation for 21 CFR part 170 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 346a, 348, 371.

6. Section 170.3 is amended by revising paragraph (e)(2) and by adding paragraph (e)(3) to read as follows:

§ 170.3 Definitions.

* * * * *

(e)(1) * * *

(2) *Uses of food additives not requiring a listing regulation*. Use of a substance in a food contact article (e.g., food-packaging or food-processing equipment) whereby the substance migrates, or may reasonably be expected to migrate, into food at such levels that the use has been exempted from regulation as a food additive under § 170.39, and food contact substances used in accordance with a notification submitted under section 409(h) of the act that is effective.

(3) *A food contact substance* is any substance that is intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.

* * * * *

7. Subpart D, consisting of §§ 170.100 through 170.106, is added to part 170 to read as follows:

Subpart D—Premarket Notifications

Sec.

170.100 Submission of a premarket notification for a food contact substance (FCN) to the Food and Drug Administration (FDA).
170.101 Information in a premarket notification for a food contact substance (FCN).
170.102 Confidentiality of information in a premarket notification for a food contact substance (FCN).
170.103 Withdrawal without prejudice of a premarket notification for a food contact substance (FCN).
170.104 Action on a premarket notification for a food contact substance (FCN).
170.105 The Food and Drug Administration's (FDA's) determination that a premarket notification for a food contact substance (FCN) is no longer effective.
170.106 Notification for a food contact substance formulation (NFCSF).

Subpart D—Premarket Notifications

§ 170.100 Submission of a premarket notification for a food contact substance (FCN) to the Food and Drug Administration (FDA).

(a) An FCN is effective for the food contact substance manufactured or prepared by the manufacturer or supplier identified in the FCN submission. If another manufacturer or supplier wishes to market the same food contact substance for the same use, that manufacturer or supplier must also submit an FCN to FDA.

(1) An FCN must contain all of the information described in § 170.101.

(2) An FCN may incorporate by reference any information in FDA's files provided that the manufacturer or supplier is authorized to reference the information. The FCN must include information establishing that the manufacturer or supplier is authorized to reference information in FDA's files.

(3) Any material submitted in or referenced by an FCN that is in a foreign language must be accompanied by an English translation verified to be complete and accurate.

(b) FDA may choose not to accept an FCN for either of the following:

(1) A use of a food contact substance that is the subject of a regulation in parts 173 through 189 of this chapter; or

(2) A use of a food contact substance that is the subject of an exemption under the threshold of regulation process described in § 170.39.

(c) A petition must be submitted under § 171.1 of this chapter to authorize the safe use of a food contact substance in either of the following circumstances, unless FDA agrees to accept an FCN for the proposed use.

(1) The use of the food contact substance increases the cumulative dietary concentration to a certain level. For a substance that is a biocide (e.g., it is intended to exert microbial toxicity), this level is equal to or greater than 200 parts per billion in the daily diet (0.6 milligram (mg)/person/day). For a substance that is not a biocide, this level is equal to or greater than 1 part per million in the daily diet (3 mg/person/day); or

(2) There exists a bioassay on the food contact substance, FDA has not reviewed the bioassay, and the bioassay is not clearly negative for carcinogenic effects.

(d) A manufacturer or supplier for which a notification is effective must keep a current address on file with FDA.

(1) The current address may be either the manufacturer's (or supplier's) address or the address of the manufacturer's (or supplier's) agent.

(2) FDA will deliver correspondence to the manufacturer's or supplier's current address.

§ 170.101 Information in a premarket notification for a food contact substance (FCN).

An FCN must contain the following:

(a) A comprehensive discussion of the basis for the manufacturer's or supplier's determination that the use of the food contact substance is safe. This discussion must:

(1) Discuss all information and data submitted in the notification; and

(2) Address any information and data that may appear to be inconsistent with the determination that the proposed use of the food contact substance is safe.

(b) All data and other information that form the basis of the determination that the food contact substance is safe under the intended conditions of use. Data must include primary biological data and chemical data.

(c) A good laboratory practice statement for each nonclinical laboratory study, as defined under § 58.3(d) of this chapter, that is submitted as part of the FCN, in the form of either:

(1) A signed statement that the study was conducted in compliance with the good laboratory practice regulations under part 58 of this chapter; or

(2) A brief signed statement listing the reason(s) that the study was not conducted in compliance with part 58 of this chapter.

(3) Data from any study conducted after 1978 but not conducted in compliance with part 58 of this chapter must be validated by an independent third party prior to submission to the Food and Drug Administration (FDA), and the report and signed certification of the validating party must be submitted as part of the notification.

(d) Information to address FDA's responsibility under the National Environmental Policy Act, in the form of either:

(1) A claim of categorical exclusion under § 25.30 or § 25.32 of this chapter; or

(2) An environmental assessment complying with § 25.40 of this chapter.

(e) A completed and signed FDA Form No. 3480.

§ 170.102 Confidentiality of information in a premarket notification for a food contact substance (FCN).

(a) During the 120-day period of the Food and Drug Administration (FDA) review of an FCN, FDA will not disclose publicly any information in that FCN.

(b) FDA will not disclose publicly the information in an FCN that is withdrawn prior to the completion of FDA's review.

(c) Once FDA completes its review of an FCN, the agency will make its conclusion about the FCN publicly available. For example, if FDA objects to a notification 90 days after the date of receipt, the agency would make available its objection at that time.

(d) By submitting an FCN to FDA, the manufacturer or supplier waives any claim to confidentiality of the information required to adequately describe the food contact substance and the intended conditions of use that are the subject of that FCN.

(e) The following data and information in an FCN are available for public disclosure, unless extraordinary circumstances are shown, on the 121st day after receipt of the notification by FDA, except that no data or information are available for public disclosure if the FCN is withdrawn under § 170.103.

(1) All safety and functionality data and information submitted with or incorporated by reference into the notification. Safety and functionality data include all studies and tests of a food contact substance on animals and humans and all studies and tests on a food contact substance for establishing identity, stability, purity, potency, performance, and usefulness.

(2) A protocol for a test or study, unless it is exempt from disclosure under § 20.61 of this chapter.

(3) A list of all ingredients contained in a food contact substance, excluding information that is exempt from disclosure under § 20.61 of this chapter. Where applicable, an ingredient list will be identified as incomplete.

(4) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is exempt from disclosure under § 20.61 of this chapter.

(5) All correspondence and written summaries of oral discussions relating to the notification, except information that is exempt for disclosure under § 20.61 of this chapter.

(6) All other information not subject to an exemption from disclosure under subpart D of part 20 of this chapter.

§ 170.103 Withdrawal without prejudice of a premarket notification for a food contact substance (FCN).

A manufacturer or supplier may withdraw an FCN without prejudice to a future submission to the Food and Drug Administration (FDA) if FDA has not completed review of the FCN. For the purpose of this section, FDA's review is completed when FDA has allowed 120 days to pass without objecting to the FCN or FDA has issued an objection letter.

§ 170.104 Action on a premarket notification for a food contact substance (FCN).

(a) If the Food and Drug Administration (FDA) does not object to an FCN within the 120-day period for FDA review, the FCN becomes effective.

(b) If an FCN is complete when received, the 120-day review period begins on the date FDA receives the FCN.

(1) If any element required under § 170.101 is missing from an FCN, then FDA will not accept that FCN and FDA will send an FCN nonacceptance letter to the manufacturer or supplier. If the manufacturer or supplier submits the missing information before FDA sends an FCN nonacceptance letter, the 120-day review period begins on the date of receipt of the missing information.

(2) If FDA accepts an FCN, then FDA will acknowledge in writing its receipt of that FCN.

(c) Objection to an FCN:

(1) If FDA objects to an FCN, then FDA will send an FCN objection letter. The date of the letter will be the date of FDA's objection for purposes of section 409(h)(2)(A) of the act.

(2) If FDA objects to an FCN within the 120-day period for FDA review, the FCN will not become effective.

(3) FDA may object to an FCN if any part of FDA's 120-day review occurs during a period when this program is not funded as required in section 409(h)(5) of the act.

(d) If FDA and a manufacturer or supplier agree that the notifier may submit a food additive petition proposing the approval of the food contact substance for the use in the manufacturer's or supplier's FCN, FDA will consider that FCN to be withdrawn by the manufacturer or supplier on the date the petition is received by FDA.

§ 170.105 The Food and Drug Administration's (FDA's) determination that a premarket notification for a food contact substance (FCN) is no longer effective.

(a) If data or other information available to FDA, including data not submitted by the manufacturer or supplier, demonstrate that the intended use of the food contact substance is no longer safe, FDA may determine that the authorizing FCN is no longer effective.

(b) If FDA determines that an FCN is no longer effective, FDA will inform the manufacturer or supplier in writing of the basis for that determination. FDA will give the manufacturer or supplier an opportunity to show why the FCN should continue to be effective and will

specify the time that the manufacturer or supplier will have to respond.

(c) If the manufacturer or supplier fails to respond adequately to the safety concerns regarding the notified use, FDA will publish a notice of its determination that the FCN is no longer effective. FDA will publish this notice in the **Federal Register**, stating that a detailed summary of the basis for FDA's determination that the FCN is no longer effective has been placed on public display and that copies are available upon request. The date that the notice publishes in the **Federal Register** is the date on which the notification is no longer effective.

(d) FDA's determination that an FCN is no longer effective is final agency action subject to judicial review.

§ 170.106 Notification for a food contact substance formulation (NFCSF).

(a) In order for the Food and Drug Administration (FDA) to accept an NFCSF, any food additive that is a component of the formulation must be authorized for its intended use in that NFCSF.

(b) FDA may publish a notice in the **Federal Register** stating that the agency has insufficient resources to review NFCSFs. From the date that this notice publishes in the **Federal Register**, FDA will no longer accept NFCSFs.

(c) An NFCSF must contain the following:

(1) A completed and signed FDA Form No. 3479; and

(2) Any additional documentation required to establish that each component of the formulation already may be marketed legally for its intended use.

PART 171—FOOD ADDITIVE PETITIONS

8. The authority citation for 21 CFR part 171 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

9. Section 171.1 is amended by revising paragraph (i)(1) to read as follows:

§ 171.1 Petitions.

* * * * *

(i)(1)(i) Within 15 days after receipt, the Food and Drug Administration will notify the petitioner of the acceptance or nonacceptance of a petition, and if not accepted, the reasons therefor. If accepted, the petitioner will be sent a letter stating this and the date of the letter shall become the date of filing for the purposes of section 409(b)(5) of the act. In cases in which the Food and Drug Administration agrees that a premarket notification for a food contact substance (Food Contact Notification (FCN)) submitted under section 409(h) of the act may be converted to a petition, the withdrawal date for the FCN will be deemed the date of receipt for the petition.

(ii) If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, the petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified.

(iii) Notwithstanding paragraph (i)(1)(ii) of this section, the petition shall not be filed if the Food and Drug Administration determines that the use identified in the petition should be the subject of an FCN under section 409(h) of the act rather than a petition.

* * * * *

10. Section 171.7 is amended by adding paragraph (c) to read as follows:

§ 171.7 Withdrawal of petition without prejudice.

* * * * *

(c) Any petitioner who has a food additive petition pending before the agency and who subsequently submits a premarket notification for a food contact substance (FCN) for a use or uses described in such petition shall be deemed to have withdrawn the petition for such use or uses without prejudice to a future filing on the date the FCN is received by the Food and Drug Administration.

PART 174—INDIRECT FOOD ADDITIVES: GENERAL

11. The authority citation for 21 CFR part 174 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

12. Section 174.5 is amended by adding paragraph (d)(5) to read as follows:

§ 174.5 General provisions applicable to indirect food additives.

* * * * *

(d) * * *

(5) Food contact substances used in accordance with an effective premarket notification for a food contact substance (FCN) submitted under section 409(h) of the act.

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

13. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

14. Section 179.25 is amended by revising paragraph (c) to read as follows:

§ 179.25 General provisions for food irradiation.

* * * * *

(c) Packaging materials subjected to irradiation incidental to the radiation treatment and processing of prepackaged food shall be in compliance with § 179.45, shall be the subject of an exemption for such use under § 170.39 of this chapter, or shall be the subject of an effective premarket notification for a food contact substance for such use submitted under § 170.100 of this chapter.

* * * * *

Dated: September 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12661 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 54, and 602

[TD 8987]

RIN 1545–AY69, 1545–AY70

Required Distributions From Retirement Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Wednesday, April 17, 2002 (67 FR 18988) relating to the required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

DATES: This correction is effective January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Cathy A. Vohs, (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections are under sections 401, 403, 408, 457, and 4974 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8987), that were the subject of FR Doc. 02-8963, are corrected as follows:

1. On page 18991, column 2, in the preamble under the paragraph heading ''*Temporary Rules for Defined Benefit Plans and Annuity Contracts*'', first paragraph, line 2 from the bottom, the language ''assets has been replaced with this more'' is corrected to read ''assets have been replaced with this more''.

§ 54.4974–2 [Corrected]

2. On page 19028, column 1, § 54.4974–2(b)(4), line 19, the language ''the calendar in which the employee'' is corrected to read ''the calendar year in which the employee''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–12720 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AA57

Federal Sector Equal Employment Opportunity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is publishing this final rule to implement the amendment of section 501 of the Rehabilitation Act, under the Rehabilitation Act Amendments of 1992. This rule continues the movement towards full integration of individuals with disabilities into the Federal workforce.

DATES: Effective June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, or Mary Kay Mauren, Senior Attorney Advisor, (202) 663–4689 (voice), (202) 663–7026 (TDD). This document is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this document in an alternative format should be made to the Publications Information Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: Increasing the employment of individuals with disabilities is one of the goals of section 501 of the Rehabilitation Act of 1973, as amended (section 501),[1] and Title I and selected sections of Title V of the Americans with Disabilities Act (ADA).[2] Section 501 has prohibited the federal government, as an employer, from discriminating on the basis of disability since the late 1970's. Title I of the ADA applied similar prohibitions to private sector and state and local government employers in 1990. To promote consistent and full enforcement of these two laws, Congress amended section 501 in 1992 [3] to adopt the employment nondiscrimination standards of the Americans with Disabilities Act (ADA).[4] In a Notice of Proposed Rulemaking (NPRM), the U.S. Equal Employment Opportunity Commission (EEOC or Commission) proposed to implement the 1992 Amendments by deleting the text of its old section 501 regulation, at 29 CFR 1614.203, and inserting new language to cross-reference the Commission's existing ADA regulation at 29 CFR part 1630.[5] The Commission now responds to public comments submitted in response to this NPRM and issues a final rule. Consistent with President George W. Bush's New Freedom Initiative, this final rule continues ''the movement towards full integration of individuals with disabilities'' into the workforce and promotes full compliance with section 501.[6]

[1] 29 U.S.C. 791(1994) (codified as amended). For a summary of the early history of Section 501, see *Prewitt v. United States Postal Service,* 662 F.2d 292, 301–304 (5th Cir. 1981).

[2] 42 U.S.C. 12101–12117, 12201–12213 (1994) (codified as amended). This goal was reaffirmed by the New Freedom Initiative of President George W. Bush (Integrating Americans with Disabilities into the Workforce, Part C: Compliance with the Americans with Disabilities Act) (Feb. 1, 2001), at http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html (visited 1/09/02) [hereinafter New Freedom Initiative].

[3] Rehabilitation Act Amendments of 1992, Pub. L. 102–569, 106 Stat. 4344, 4424 (1992) (codified as amended at 29 U.S.C. 791(g) (1994)) (1992 Amendments).

[4] The 1992 Amendments refer to Title I and selected sections of Title V (sections 501 through 504 and 510).

[5] Notice of Proposed Rulemaking to Update 29 CFR 1614.203, 65 FR 11019, March 1, 2000.

[6] New Freedom Initiative, *supra* note 2.

Overview of Public Comments

The Commission received fifteen comments in response to this NPRM. Of these comments, four were from federal agencies, two were from federal unions, two from advocacy groups representing persons with disabilities, one from a group representing employment attorneys, and one from a state agency. The remaining submissions were from four individuals and one group not specifically involved with federal employees or disability rights. The Commission has carefully considered all of the comments and, as a result, has made some changes to the proposed regulation. The public comments and the text of the final regulation are discussed below.

Nondiscrimination and Model Employer

An advocacy group for individuals with disabilities expressed concern that paragraph (a) of the proposed rule specifically referenced hiring, placement, and advancement of qualified individuals with disabilities, but did not enumerate all the types of employment discrimination prohibited by the ADA. To clarify that the ADA's broad nondiscrimination standards apply in the federal sector, this commenter suggested cross-referencing the ADA's list of prohibited activities in paragraph (a) and also deleting the specific references to hiring, placement, and advancement.

The Commission concludes that these changes are not necessary because paragraph (b) of the rule already cross references the ADA statute and regulation. Specifically, paragraph (b) states that the ADA's nondiscrimination standards apply to section 501 complaints, and cross references the ADA rule at 29 CFR part 1630. Title I of the ADA, and the ADA rule at 29 CFR part 1630, both enumerate many types of prohibited employment discrimination. In light of this cross-reference, it is unnecessary to supplement paragraph (a) to establish that the ADA's broad discrimination prohibitions apply under section 501. Furthermore, for purposes of simplicity and clarity, the Commission makes paragraph (b) the sole reference to nondiscrimination in the final rule, deleting the general nondiscrimination language from paragraph (a).

Using the ADA Rule To Implement the 1992 Amendments

One commenter questioned the Commission's proposal to implement the 1992 Amendments by cross-referencing its ADA regulation at 29

CFR part 1630. The Commission remains convinced that this is the most efficient way to implement the 1992 Amendments. The Commission's ADA regulation at 29 CFR part 1630 implements the ADA employment provisions that are cited in the 1992 Amendments.[7]

This commenter also correctly noted that the ADA's statutory definition of ''employer'' excludes the United States. On this basis, the commenter contended that the ADA cannot cover federal employers. This commenter misapprehended both the purpose and effect of the 1992 Amendments and this regulation. Neither the 1992 Amendments nor this regulation result in the ADA directly covering federal employers. Rather, section 501 of the Rehabilitation Act continues to cover federal employers. Due to the text of the 1992 Amendments, however, section 501 now incorporates by reference the ADA's nondiscrimination standards. The ADA's statutory definition of ''employer'' does not impact the coverage of section 501.

Self-Identification and Affirmative Action

One advocacy group for individuals with disabilities asserted that old subparagraph 1614.203(e)(3), which permitted self-identification for affirmative action purposes, should be retained so that federal agencies can comply with their affirmative action responsibilities under section 501.[8] The Commission has considered the comment but concludes that old subparagraph 1614.203(e)(3) should be deleted in its entirety. Contrary to the commenter's assertions, the ADA standard does not prevent federal employers from satisfying their section 501 affirmative action obligations. The ADA permits affirmative action disability-related inquiries of job applicants if certain requirements are met. Specifically, employers may ask applicants to voluntarily self-identify as individuals with disabilities if the employer is undertaking affirmative action because of a federal, state, or local law (including a veterans' preference law) that requires affirmative action for individuals with disabilities.[9] This would include the government's affirmative action efforts under section 501. *See* 29 U.S.C. 791(b).

Definition of Disability

An advocacy group for individuals with disabilities contended that the U.S. Supreme Court's decision in *Sutton* v. *United Airlines,* Inc., 527 U.S. 471 (1999), should not apply to section 501. The Commission has considered this comment but does not adopt it. The ADA definition of ''disability'' as construed by the Supreme Court must apply to section 501.[10]

Safety Issues and ''Direct Threat'

A federal agency commented that the NPRM imposes a burden on federal employers because they may need to determine whether an applicant or employee poses a ''direct threat'' to health or safety. The Commission has considered this comment but has decided that, pursuant to the 1992 Amendments, the same ''direct threat'' standard must apply to federal employers as to private employers. The NPRM correctly stated the ADA standard for ''direct threat,'' which requires employers to assess each individual's ability to safely perform a particular job, based on the most current medical assessment or other objective evidence.[11]

Reasonable Accommodation

Section 501 requires federal employers to provide reasonable accommodation for qualified applicants and employees with disabilities, barring undue hardship. Reasonable accommodation is central to integrating individuals with disabilities into the workforce.[12] The NPRM preamble addressed the ADA's treatment of the interactive process, reassignment, and undue hardship. The Commission reiterates that the ADA standards that apply in private sector employment apply to federal employment as well.[13] The following discussion addresses some of the public comments regarding reasonable accommodation.

The Interactive Process

The Commission agrees with the public comment that, under ADA standards, a request for reasonable accommodation and the informal interactive process are two distinct steps. First, the individual must request reasonable accommodation, in all but the most limited circumstances.[14] Second, the employer engages in the interactive process if the disability or the type of accommodation needed are not obvious.[15] Under ADA standards, employers must make a reasonable effort to identify an effective accommodation that does not pose an

[7] The 1992 Amendments cite two sections in Title V of the ADA that are not implemented by the Commission's ADA regulation because they do not concern employment. These are sections 502 (state immunity) and 504 (regulations by the Architectural and Transportation Barriers Compliance Board). *Compare* 29 U.S.C. 791(g) (1994) *with* 29 CFR 1630.1(a) (2001).

[8] Old subparagraph 1614.203(e)(3) states: ''To enable and evaluate affirmative action to hire, place or advance individuals with handicaps, the agency may invite applicants for employment to indicate whether and to what extent they are handicapped * * *''

[9] The employer also must state clearly on any written questionnaire, or orally if no written questionnaire is used, that the information requested is used solely in connection with its affirmative obligations or efforts, and that the information is being requested on a voluntary basis and will be kept confidential and used in accordance with the ADA (or section 501 of the Rehabilitation Act). The information must also be on a form that is kept separate from the application. *See* ''ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations,'' at 12, 8 FEP Manual (BNA) 405:7191, 7196–97 (1995) [hereinafter ''Guidance on Preemployment Inquiries'']. (This and other ADA guidances are available through the Internet at *http://www.eeoc.gov.*) However, the information on a separate form may be provided to hiring officials or special appointing authorities to fulfill affirmative action obligations.

[10] The Commission notes that the *Sutton* analysis has been applied in section 501 decisions. *See Crocker* v. *Runyon,* 207 F.3d 314, 319 n.1 (6th Cir. 2000). *See also Flynn-Banigan* v. *Dep't of Justice,* EEOC Appeal No. 01973401 (August 3, 2000), *Pulcini* v. *Social Security Admin.,* EEOC Appeal No. 01990835 (July 27, 2000).

[11] The Supreme Court is deciding an ADA direct threat case this term. *See Chevron U.S.A., Inc.* v. *Echazabal,* No. 00–1406 (U.S. argued February 27, 2002). The Commission already has applied the ADA ''direct threat'' standard to federal employers in its decisions. *Kahout* v. *United States Postal Service,* EEOC Appeal No. 01954900 (June 19, 1997); *Hobbs* v. *United States Postal Service,* EEOC Appeal No. 01944181 (January 26, 1996); *Robinson* v. *United States Postal Service,* EEOC Request No. 05940034 (September 16, 1994). *See* 29 CFR 1630.2(r)(2001)(definition of ''direct threat''). For a discussion of when employers may request medical information necessary for assessing ''direct threat,'' see ''Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act,'' question 5, n.39, 8 FEP Manual (BNA) 405:7701, 7708 (2000).

[12] *See* New Freedom Initiative *supra* note 2.

[13] In *US Airways, Inc.* v. *Barnett,* No. 00–1250, slip op. at 9 (U.S. April 29, 2002), the Supreme Court adopted the position articulated in several lower court cases that in any reasonable accommodation case, a plaintiff/employee ''need only show that an 'accommodation' seems reasonable on its face, i.e., ordinarily or in the run of cases,'' to defeat a defendant/employer's motion for summary judgment with respect to whether an accommodation is ''reasonable.'' Once the plaintiff/employee has made this showing, the defendant/employer has the burden of demonstrating undue hardship on the facts of the particular case. The decision in *Barnett* involved a conflict between a seniority system and a reassignment as a reasonable accommodation.

[14] *See* ''EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act,'' at questions 1–4, 39, 8 FEP Manual (BNA) at 405:7601, 7604–07, 7628–29 (1999) [hereinafter ''Reasonable Accommodation Guidance'']. The Reasonable Accommodation Guidance contains a detailed description of the reasonable accommodation interactive process.

[15] *See* Reasonable Accommodation Guidance, supra note 14 at question 5, 8 FEP at 405:7606–07 (1999).

undue hardship. *See* 29 CFR part 1630 app. 1630.9.

Reassignment as a Reasonable Accommodation

Reassignment Is Separate From the Federal Merit Promotion System

Several agencies expressed concern that section 501 reassignment actions could violate the federal merit promotion system. Under ADA standards, however, reassignment of a qualified individual with a disability is distinct from the competitive selection process. The ADA defines reassignment to be part of the duty of reasonable accommodation, which is a nondiscrimination obligation separate and apart from the competitive selection process.[16] Indeed, the Office of Personnel Management (OPM) has characterized the reasonable accommodation of reassignment as ''a non-competitive process.'' [17]

Probationary Employees and Reassignment

Agencies also expressed concern that the ADA approach to reassignment permits reassignment of probationary employees, contrary to the categorical prohibition against such reassignment in the old regulation at 29 CFR 1614.203(g). The Commission considered these comments and again concludes that reassignment is available as a reasonable accommodation for probationary employees.

Under the ADA, qualified individuals with disabilities are entitled to reasonable accommodation, barring undue hardship. Reassignment is a form of reasonable accommodation. An individual with a disability is qualified for reassignment if s/he has adequately performed the essential functions of the original position, with or without reasonable accommodation, before the need for reassignment arose.[18] The longer the period of time in which a probationary employee has adequately performed the essential job functions, with or without reasonable accommodation, the more likely it is that reassignment is appropriate if s/he becomes unable to continue performing the essential functions of the position due to a disability. If, however, the probationary employee has never adequately performed the essential functions, with or without reasonable accommodation, then s/he is not entitled to reassignment because s/he was never ''qualified'' for the original position.[19]

When a Position Becomes ''Vacant'' for Purposes of Reassignment

Two federal agencies responded to the Commission's request for comment on when a position becomes vacant in the federal government. One agency commented that a position must not only be funded and unencumbered but must also be one that the agency intends to fill rather than eliminate for budgetary or mission reasons. The other agency commented that positions subject to hiring or other employment freezes are not presently funded and so cannot be considered vacant positions even though they may be authorized and not filled. It further contended that if an employee leaves a position, the employer must continue to have the opportunity to decide whether to fund the position, abolish it, or modify it in accordance with changed work or business requirements. Both agencies contended that a position cannot be considered vacant if it has been unconditionally offered to another individual. Finally, one of the agencies argued that a position cannot be considered vacant if another employee has a vested priority to it by seniority or some other superior right based on the employer's non-discriminatory policies.

The Commission agrees that an agency must have an opportunity to decide whether to abolish, modify, or simply continue funding a position after an employee departs. The Commission also agrees that the duty to provide reassignment does not include reassignment to a position for which there has already been an offer to another individual.[20] Finally, a position is not vacant if it is subject to a hiring freeze. Any decision not to continue a position, whether for funding or mission reasons, must not be discriminatorily based.

Undue Hardship and the Extent of Duty To Search for a Vacancy

Several agencies commented on an employer's duty to search for vacancies throughout its organization and on issues involving reassignments denied on the basis of undue hardship. These agencies expressed concern that an obligation to search for vacant positions beyond a commuting area and throughout an entire organization would result in administrative difficulty and expense. One commenter asserted that federal employers should not always be required to search for vacancies in different subagencies or components of the larger agency, because subagencies may be legally separate and may operate under separate appropriations, appointing authorities, and personnel offices. Another commenter urged the Commission to redefine the ADA ''undue hardship'' standard for the federal sector, so that reassignment decisions could be based on the budget of a particular facility. In the federal sector, the agency commented, a facility may have a limited budget with which to respond to growing public needs.

Under the 1992 Amendments, the Commission is bound by ADA standards, including the undue hardship standard.[21] The Commission concludes, however, that the ADA's ''undue hardship'' analysis takes into account the operational, financial, and legal relationships between components of large organizations, whether the organizations are private or federal.[22] An employer seeking to demonstrate ''undue hardship'' under the ADA standard would have to demonstrate why, in light of the resources, operations, and constraints of its particular organization, a reasonable accommodation would result in significant difficulty or expense. If a federal employer seeks to demonstrate that a specific reasonable accommodation poses an undue hardship because it would compromise the agency's mission, the agency needs to factually assess the ''impact of the accommodation'' on operations.[23]

An advocacy group for individuals with disabilities objected that the proposed rule appeared to limit reassignment to situations in which there was no other effective accommodation, or in which all other accommodations would impose an undue hardship. The Commission has consistently interpreted the ADA to mean that reassignment is only required in these circumstances.[24] Reassignment may be an option in other circumstances if the employer and the employee agree to it.[25] To avoid any ambiguity

[16] *See* 42 U.S.C. 12111(9)(B) (1994).

[17] *See* Employment Service, U.S. Office of Personnel Management, People with Disabilities in the Federal Government: An Employment Guide at 31 (1999).

[18] *See* Reasonable Accommodation Guidance, *supra* note 14 at question 25, 8 FEP at 405:7622–23 (1999).

[19] *See id.*

[20] Under the ADA, a job offer is real if the employer has evaluated all relevant non-medical information which it reasonably could have obtained and analyzed prior to giving the offer. *See* Guidance on Preemployment Inquiries, *supra* note 9, at 18–19, 8 FEP 405:7200 (1995).

[21] The Supreme Court, in *US Airways,* slip op. at 10, emphasized that the employer still retains the burden of showing undue hardship.

[22] *See* 42 U.S.C. 12111(10) (1994). *See also* 29 CFR 1630.2(p) (2001).

[23] *Id.*

[24] *See* Reasonable Accommodation Guidance, *supra* note 14, at p. 39, 8 FEP at 405:7622 (1999).

[25] *Id.*

concerning when reassignment is appropriate, we eliminated paragraph (b)(2) which defined the employer's duty to provide reasonable accommodation and reassignment. The remaining cross-reference to the ADA standards in paragraph (b) provides the appropriate standard.

Conflict With Collective Bargaining Agreement

Some federal unions and employers questioned whether reassignment should be required as a reasonable accommodation when it would create a conflict with another employee's seniority rights under a collective bargaining agreement (CBA). These commenters cited developing ADA case law on this issue and urged the view that CBA seniority rights should prevail. Following the submission of these public comments to the Commission, the U.S. Supreme Court decided *US Airways, Inc.* v. *Barnett,* No. 00–1250, (U.S. April 29, 2002). In *Barnett,* the Court considered whether the ADA requires an employer to reassign an individual with a disability as a reasonable accommodation when another employee is entitled to hold the position under an established seniority system.

The Court held that a conflict between a seniority system and a proposed accommodation should be analyzed to determine whether the requested accommodation is reasonable. The Court ruled that ''ordinarily'' a proposed accommodation will not be reasonable if it conflicts with a seniority system. *Barnett,* slip op. at 14. However, the Court also stated that, even if an employer shows that the proposed accommodation will violate a seniority system, a plaintiff/employee may nevertheless show that ''special circumstances'' warrant a finding that the accommodation is ''reasonable'' on the facts of the particular case. The plaintiff/employee has the burden of proof to show that such ''special circumstances'' exist. The Court remanded *Barnett* for consideration under this standard.

In *Barnett,* a seniority system was linked to longstanding employer practice but was not part of a negotiated CBA. In its analysis, the Court relied primarily on Rehabilitation Act and ADA case law involving collectively bargained seniority systems to conclude that accommodations conflicting with seniority systems are unreasonable absent special circumstances. The Court's language broadly and consistently referred to ''seniority systems.'' Accordingly, the Commission construes *Barnett* as applying to CBA seniority provisions as well as to seniority systems based on employer practices.

Effective Date of the Final Rule

This regulation will be effective 30 days after publication of the final rule in the **Federal Register**, and will apply to conduct occurring on or after that date.

Additional Amendment

The Commission did not receive public comment on its proposal to delete the provision in § 1614.102(a)(9) which refers to reassignment pursuant to § 1614.203(g). That paragraph is now deleted.

Regulatory Procedures

Executive Order 12866

Pursuant to Executive Order 12866, EEOC has coordinated this final rule with the Office of Management and Budget. Under section 3(f)(1) of Executive Order 12866, EEOC has determined that the regulation will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State or local tribal governments or communities. Therefore, a detailed cost-benefit assessment of the regulation is not required.

Paperwork Reduction Act

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

In addition, the Commission 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, because it applies exclusively to employees and agencies and departments of the federal government. For this reason, a regulatory flexibility analysis is not required.

List of Subjects in 29 CFR Part 1614

Administrative practice and procedure, Equal employment opportunity, Government employees, Individuals with disabilities.

For the Commission.

Cari M. Dominguez,

Chair.

For the reasons set forth in the preamble, Chapter XIV of Title 29 of the Code of Federal Regulations is amended as follows:

PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

1. The authority citation for part 1614 continues to read as follows:

Authority: 29 U.S.C. 206(d), 633(a), 791 and 794a; 42 U.S.C. 2000e–16; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR 1978 Comp., p. 321.

§ 1614.102 [Amended]

2. Section 1614.102 is amended by removing paragraph (a)(9) and redesignating paragraphs (a)(10) through (a)(14) as paragraphs (a)(9) through (a)(13), respectively.

3. Section 1614.203 is revised to read as follows:

§ 1614.203 Rehabilitation Act.

(a) *Model employer.* The Federal Government shall be a model employer of individuals with disabilities. Agencies shall give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.

(b) *ADA standards.* The standards used to determine whether section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791), has been violated in a complaint alleging nonaffirmative action employment discrimination under this part shall be the standards applied under Titles I and V (sections 501 through 504 and 510) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101, 12111, 12201), as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630.

[FR Doc. 02–12543 Filed 5–20–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 140

[FRL–7212–4]

Marine Sanitation Devices (MSDs); Regulation to Establish a No Discharge Zone (NDZ) for State Waters within the Boundary of the Florida Keys National Marine Sanctuary (FKNMS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing a NDZ for State waters within the boundaries of

the FKNMS pursuant to section 312 (f)(4)(A) of the Clean Water Act. This action is being taken in response to an October 27, 1999, resolution passed by the FKNMS Water Quality Protection Program Steering Committee and a December 8, 1999, resolution of the Board of County Commissioners of Monroe County, Florida to establish a NDZ area for State waters within the FKNMS. These resolutions led to a December 7, 2000, letter from Governor Jeb Bush of Florida requesting this action.

DATES: This rule will take effect June 19, 2002.

ADDRESSES: Written comments or requests for information may be submitted to Wesley B. Crum, Chief, Coastal Programs, EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Drew Kendall at (404) 562–9394 or Fred McManus at (404) 562–9385.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed rule was published in the **Federal Register** on July 26, 2001 (66 FR 38967). A 90-day comment period followed (ending October 26, 2001), during which time, EPA Region 4 received 1,050 comments via letter, fax, or E-Mail. The comment tally was 1,016 in favor and 34 opposed. This **Federal Register** document will address comments submitted in response to the July 26, 2001 (66 FR 38967), **Federal Register** document. Comments in opposition to the NDZ designation are addressed in section II below in general subject categories. Comments in favor of the NDZ designation focused on the fact that the FKNMS contains unique marine ecosystems(seagrass meadows, third largest coral barrier reef in the world, and mangrove islands) that are a State and national treasure and of high ecological, educational, aesthetic, recreational, and commercial value. Commentors supporting the NDZ pointed out that these ecosystems support tremendous biological diversity, containing more than 6,000 species of plants, fish and invertebrates that depend upon pristine water quality. Further, they stated that all boaters who use the FKNMS share the responsibility to protect this resource for future generations and that establishment and compliance with the NDZ is important and necessary to protect water quality.

A map which delineates the area to be designated can be obtained or viewed by accessing the FKNMS's Web site at *http://www.fknms.nos.noaa.gov/*, by calling the Sanctuary office at (305) 743–2437, or by writing to the Sanctuary Superintendent at P.O. Box 500368, Marathon, Florida 33050. Basically, State waters extend from land out to a distance of three statute miles on the Atlantic side of the Florida Keys and nine nautical miles on the Gulf side. It should be noted that the National Oceanic and Atmospheric Administration (NOAA) is pursuing NDZ status for Federal waters within the FKNMS. It is estimated that NOAA will complete its rule-making process in late 2002 or early 2003.

Currently, there are about 30 pump out facilities located throughout the Florida Keys. To obtain a list of these facilities you may contact George Garrett, Director of Marine Resources for Monroe County, at (305) 289–2507, E-mail at *garrettg@mail.state.fl.us,* or by writing to Monroe County Service Center, 2798 Overseas Highway, Suite 420, Marathon, Florida 33050–2227.

The Florida Keys are a national treasure of international acclaim that contain unique environments and possess high value to humans when properly conserved. Adjacent to the Florida Keys land mass are located spectacular, unique nationally significant marine environments, including seagrass meadows, mangrove islands, and extensive living coral reefs. These marine environments support rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and aesthetic values. These marine environments are the maritime equivalent of tropical rain forests in that they support high levels of biological diversity, are fragile and easily susceptible to damage from human activities, including nutrient enrichment. The economy of the Florida Keys is based in large part on tourism and fisheries that are directly tied to the ecological resources and quality of the waters surrounding the Florida Keys. In recognition of this, Congress created the FKNMS with the signing of H.R. 5905 (Public Law 101–605, the FKNMS and Protection Act) on November 16, 1990. The purpose of a marine sanctuary is to protect resources and their conservation, recreational, ecological, historical, research, educational, or aesthetic values through comprehensive long-term management. The mission of the National Marine Sanctuary Program is to identify, designate, and comprehensively manage marine areas of national significance. National Marine Sanctuaries are established for the public's long-term benefit, use, and enjoyment. Congress also recognized the critical role of water quality in maintaining the ecological resources of the Florida Keys, and directed the U.S. EPA and the State of Florida to develop a Water Quality Protection Program (WQPP) for the Sanctuary. The WQPP was finalized in September 1996 and implementation of the numerous recommended actions within the WQPP is ongoing.

The State of Florida recognized the importance of water quality to ecosystem structure and function and declared the State waters surrounding the Florida Keys as ''Outstanding Florida Waters'' (OFW) in 1985. Florida Statute grants the Florida Department of Environmental Protection the power to establish rules that provide for the category of water bodies called OFW, which are worthy of special protection because of their natural attributes. No degradation of water quality is allowed in OFW, except as allowed in Florida Administrative Code (F.A.C.) 62–4.242(2). In addition, the Florida Keys have been designated as an ''Area of Critical State Concern.'' The objective of this program is to provide another level of legislative review for development plans within areas where unique and fragile natural resources exist and local protection may be lacking. ''Areas of Critical State Concern'' are declared where there is a perceived need to protect public resources from risk by unregulated or inadequately regulated development. Further, the pristine and unique habitats of the Florida Keys have led to the establishment of special protection areas by the Federal government, including the Key West Wildlife Refuge and the Great White Heron Wildlife Refuge. These actions are further evidence of the importance of the Florida Keys and their unique natural resources.

The purpose of the WQPP is to recommend priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the FKNMS. This includes restoration and maintenance of a balanced, indigenous population of corals, shellfish, fish and wildlife, and recreational activities in and on the water. NOAA's Final Management Plan/Environmental Impact Statement for the FKNMS became effective on July 1, 1997 and includes the WQPP. The Monroe County Board of County Commissioners and the State of Florida recognize and support this document.

There is a large community in the Florida Keys that live on boats and many live-aboard vessels are permanently anchored in harbors and are not capable of movement. Transient vessels also anchor in harbors and other

protected sites and are very numerous in winter months. The number of live-aboard vessels has increased dramatically in recent years. While the Clean Vessel Act prohibits the dumping of raw sewage, treated wastewater from vessels may be discharged into State waters. Wastewater treatment (disinfection) by Type I and II MSDs does not remove nutrients from wastewater. Many live-aboard and transient vessels discharge wastewater into surface waters. It is estimated that nutrients from vessel wastewater account for about 2.8% of nitrogen and 3.0% of phosphorus loadings into nearshore waters of the Florida Keys (U.S. EPA, 1993, Phase II Report). Nutrient loadings from vessels may be relatively small contributions to total Keys-wide loadings. However, loadings from vessels are a significant source of nutrients to harbors and result in eutrophication of waters that typically exhibit poor circulation/flushing. Violations of fecal coliform standards are common in marinas and harbors throughout the Florida Keys (Florida Department of Environmental Regulation 1987, 1990). The WQPP Phase II Report (1993) and other studies have determined that discharges of wastewater from vessels are degrading water quality in nearshore and confined waters. The final WQPP document (1996) identified the need to eliminate sewage discharges from live-aboard vessels and other vessels as a high priority action item. The State of Florida, as requested by the City of Key West, recently determined that the protection and enhancement of the quality of waters surrounding the City of Key West require greater environmental protection. This action prohibits the discharge from all vessels of any sewage, whether treated or not, into such waters out to a distance of 600 feet from shore. The U.S. EPA, pursuant to section 312(f)(3) of the Clean Water Act (Public Law 92–500), recently (August 25, 1999) concurred with the State's determination that adequate pumpout facilities for safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters surrounding the City of Key West.

The Board of County Commissioners of Monroe County, Florida has for some time been concerned about water quality in the Florida Keys. Monroe County's Comprehensive Plan is very strongly predicated upon environmental protection and the associated Executive Order and Work Program adopted by the Florida Governor and Cabinet are geared toward assisting Monroe County with improving and protecting water quality. The Board of County Commissioners of Monroe County has adopted a resolution requesting that the Governor of the State of Florida petition the EPA to declare all waters of the State within the boundaries of the FKNMS to be a NDZ for sewage, whether treated or not, from all vessels. Monroe County believes that this action would be a major step in protecting water quality around the Keys and especially in those areas where there are high concentrations of vessels. The NDZ designation is fully supported by the WQPP Steering Committee and is consistent with the overall goals of the WQPP for the FKNMS. This designation is also consistent with Florida's Area of Critical State Concern Program and the Principles for Guiding Development for the Florida Keys. The Governor of the State of Florida supports Monroe County's decision and submitted the County's request to EPA Region 4, asking EPA to designate all State waters within the boundary of the FKNMS as a NDZ under the authority of section 312(f)(4)(a) of the CWA.

Section 312(f)(4)(a) states: ''If the EPA Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall, by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.'' This authority has now been delegated to EPA Regional Administrators. On December 7, 2000, the Governor of Florida, Jeb Bush, requested that EPA Region 4 establish the NDZ status for State waters within the FKNMS. The EPA Region 4 Administrator concurs with this request.

II. Response to Comments

A. Clarification of the Requirements of Section 312 of the CWA

Several commentors appeared to misinterpret the different requirements of Clean Water Act (CWA) section 312(f)(4)(A) and CWA section 312(f)(3) and which regulatory process was being used to propose this NDZ. To propose a NDZ in this situation, there are two primary but distinct regulatory approaches that may be followed. Under CWA section 312(f)(3), the State may designate a NDZ based on a State determination that protection and enhancement of the quality of the waters within the area requires additional protection and a determination by EPA that adequate pump out facilities for safe and sanitary removal and treatment of sewage from vessels are reasonably available. This is contrasted with CWA section 312(f)(4)(A), which focuses solely on the water quality issues and does not require EPA to make the determination that adequate pump out facilities are reasonably available for State waters within the boundary of the NDZ. Under section 312(f)(4)(A), ''if EPA determines upon application by a State that the protection and enhancement of the quality of specified waters within the state requires a prohibition, EPA shall, by regulation completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters.'' In this particular matter, the Board of County Commissioners of Monroe County, by resolution, requested that Florida Governor Jeb Bush submit an application to EPA for a NDZ designation pursuant to section 312(f)(4)(A). The Governor honored this request and applied to EPA under the authority of section 312(f)(4)(a) based on the State's finding that its waters within the boundary of the FKNMS have particular environmental importance considering the unique, fragile, and ecologically important natural resources of the Florida Keys ecosystem. However, although section 312(f)(4)(A) does not require an analysis of whether adequate pump out facilities are reasonably available, due to the number of comments received related to this issue, EPA, working with the County and the State has provided information concerning this issue below.

B. Adequate Pump Out Facilities

Many commentors' letters expressed concern about the adequacy of existing pump out facilities in the Florida Keys, including the total number of facilities and the availability of the pump outs. In addition, a few commentors stated that EPA did not investigate the availability of pump out facilities. Although it was not required for this determination under section 312(f)(4)(a), staff from EPA, the Florida Department of Environmental Protection (FDEP), and Monroe County did conduct a survey and collect information on the existing and planned pump out facilities throughout the Florida Keys. This effort identified 29 locations with active pump-out stations and several more in the planning stages (see the summary section of this final notice for instructions on how to obtain this information). The types of pump outs varied from stationary facilities located on docks, to carts that boaters can roll to their vessels, to pump out boats/barges that navigate to vessels in need of pump out services. The hours of operation usually coincided with the normal business hours of marinas and

many facilities were open seven days a week. Several pump out stations in Key West are capable of servicing large vessels. During the survey, a review of GIS maps identified several areas throughout the Florida Keys where gaps exist and where additional pump out facilities may be needed. The survey effort resulted in the development of a detailed spreadsheet and maps with specific information concerning all pump out facilities in the Florida Keys. Ideally, about 26 additional pump out facilities are recommended (by the interagency planning group mentioned above) throughout the Florida Keys for total coverage along the entire length of the islands which would eliminate the identified gaps. It should be noted that most of those areas in the Florida Keys with large populations and density of vessels have available pump out stations.

Currently, the majority of existing marinas in the Florida Keys are not required to provide pump out services. State regulations only require installation of pump out systems for new and expanded docking facilities where the development project involves construction of ten or more slips in Outstanding Florida Waters, pursuant to Rule 62–312.430 of the Florida Administrative Code (F.A.C.), or in sovereign submerged lands owned by the State, in accordance with Rule 18–21.0041(1)(b)6, F.A.C.

The FDEP Division of Law Enforcement administers the Clean Vessel Act (CVA) grant program. Under this program, grants are available to fund installation of vessel sewage pump out facilities and portable toilet dump stations at marinas. These grants can be used to fund mobile pump out systems and are available to local governments and commercial and non-profit entities operating marinas, boat ramps, mooring fields, etc.

Projects under this program receive federal/state funds for up to 75% of the project cost. Grantees are required to provide pump out services to the recreational boating public and fees shall not exceed $5.00 per service, unless justified and approved by FDEP and the U.S. Fish and Wildlife Service. FDEP staff is currently working with local governments and marina owners to increase the number of pump out facilities. Since 1996, eighteen pump out facilities have been funded with CVA grants totaling approximately $520,000 in the Florida Keys. In addition, National Fish and Wildlife Foundation and Coastal Improvement Assistance Program (CIAP) grants obtained by Monroe County will be used to establish mooring fields. CIAP grants will also be used to develop additional pump out systems.

FDEP in consultation with EPA and many other state, regional, local, and federal government agencies and concerned citizens have initiated an effort to develop an implementation plan for the NDZ. This implementation plan will consist of many components, including a public education/outreach program, a strategy to develop additional infrastructure (pump outs, mooring fields, etc.) and an enforcement strategy. Initial efforts will be focused on public education and outreach and the construction of additional pump out facilities in areas where gaps have been identified. Initially, enforcement of the NDZ will be focused in the marinas, harborages, and other protected areas where vessels congregate and where pump out facilities are available. Later, after pump out stations are added in the areas with gaps, enforcement will be expanded to all areas of the Florida Keys.

One group of commentors representing the tugboat, barge, and towboat industry commented that there are no existing facilities in the Florida Keys that can accommodate large tug/towboat units. In 1999, pursuant to section 312(f)(3) of the CWA, the State of Florida designated the waters around the City of Key West out to a distance of 600 feet from shore as a NDZ and EPA determined that adequate pump out facilities for safe and sanitary removal and treatment of sewage from vessels are reasonably available. In addition, according to the Assistant City Manager of Key West, there are existing facilities in the City of Key West that can accommodate large ocean-going vessels and can provide pump out services. The dock at Mallory Square can accommodate large tugs and towboats and presently, the City pumps the holding tanks of large vessels by running a hose from the dock to a sewage collection line that is directly connected to the City's state-of-the-art sewage treatment and disposal facility. The City has plans to install a large capacity pump station capable of servicing large vessels at Mallory Square by April 2002. The U.S. Naval Base at Truman Annex in Key West can also accommodate large vessels and is equipped with a pump out station that is directly connected to the collection system of the City's wastewater treatment facility. This U.S. Naval facility may be transferred to the City of Key West in the near future and can now be used by the City in emergency situations for pump out services. The U.S. Coast Guard Base at Trumbo Point does receive fuel shipments via tankers and this facility has a pump out station that is connected to the Key West wastewater management system. In addition, the City of Key West operates a pump out vessel with a capacity of 300 gallons and is scheduled to acquire another pump out vessel with a capacity of 1,000 gallons by summer 2002. Accordingly, consistent with our 1999 determination, EPA still believes that there are sufficient pump out facilities in the Key West area to service the limited number of ocean-going tugs, towboats, and other large vessels with destinations in the Key West area. Further, we believe that ocean-going barge traffic navigating through Sanctuary waters should be able to retain the minimum volume of sewage generated while in Sanctuary waters and then discharge that sewage when outside the established NDZ in an environmentally safe manner.

C. Effectiveness of Land-Based Wastewater Treatment Facilities/ Adequacy of Existing MSDs

Some commentors questioned whether land-based wastewater treatment systems were more effective at treating and disposing of sewage from vessels than Type 1 and 2 MSDs. EPA believes that the land based facilities which are available to treat the pumped sewage are more effective in removing a greater range of pollutants than the Type 1 and Type 2 MSDs. Type 1 and 2 MSDs are flow-through devices for treating and discharging sewage on commercial and recreational vessels that are equipped with installed toilets. When operated properly, these devices macerate fecal material and add chemicals, or otherwise treat/disinfect the sewage to meet specified requirements for fecal coliform bacteria. However, Type 1 and 2 MSDs do not remove nutrients and other pollutants (e.g.; oxygen demanding materials) that contribute to water quality degradation. The City of Key West and the City of Key Colony Beach have recently completed significant and costly upgrades to their wastewater management systems, including construction of advanced wastewater treatment plants, subsurface well injection of effluent, and replacement of inadequate sewage collection lines. In addition, there are waste water treatment facilities in the Miami area that properly treat and dispose of sewage pumped from vessel holding tanks. Further, Monroe County's Sanitary Wastewater Master Plan has been completed and the County is pursuing wastewater system upgrades to state-of-the-art wastewater management systems that remove the vast majority of

nutrients from sewage prior to disposal. Pursuant to recent State legislation, all new and expanded land-based wastewater discharges permitted in the Florida Keys after June 1999 are required to meet best available technology standards for treatment and disposal, including nutrient removal. In addition, the legislation requires all existing sewage treatment plants and on-site sewage treatment and disposal systems to meet these standards by year 2010.

Several commentors stated that they had already installed an approved Type 1 MSD and that this type device is adequate to protect the environment. Boaters who have taken the initiative to install approved Type 1 MSD devices are to be commended. However, as mentioned above, Type 1 MSDs do not remove nutrients or the biochemical oxygen demand loading from vessel sewage. The population of the Florida Keys includes a large number of individuals that live on their boats and many of these vessels are permanently anchored in various harbors throughout the chain of islands. Thousands of transient vessels also anchor in harbors and other protected sites and are especially numerous in the winter months. Nutrient loadings from vessels may be a relatively minor contribution to total Keys-wide loadings. However, loadings from vessels are a significant source of nutrients to harbors and other protected areas that experience poor circulation and flushing contributing to eutrophication. Several scientific studies have determined that discharges from vessels have caused degraded water quality in nearshore areas of confined and semi-confined waters. The discharge of minimally treated sewage from vessels is not consistent with the numerous actions that the State of Florida and Monroe County have taken to restore and protect the water quality of the Florida Keys, and which formed the basis for the State's application for a NDZ.

D. Land-Based Sources of Pollution

Some respondents to the NDZ Federal Register Notice pointed out that land-based sources of pollution are the primary cause of water quality problems in the Florida Keys and that the relative contribution of vessel sewage versus other sources is minuscule. It is true that comparatively, most sewage nutrients entering the nearshore waters of the Florida Keys are from land-based sources such as inadequate cesspits, malfunctioning septic systems, and leaky collection lines associated with aging wastewater treatment plants. It is also true that the relative contribution of vessel sewage versus other sources represents a small percentage of the overall sewage load entering the system. Several scientific studies conducted in the Florida Keys have documented that sewage and the associated nutrients from onsite wastewater treatment systems migrate from land to semi-confined waters (canal systems) and other nearshore coastal waters and cause water quality degradation and eutrophication of the environment. It is estimated that nutrients from vessel wastewater account for only about 2.8% of the total nitrogen and 3.0% of the total phosphorus loadings into nearshore waters of the Florida Keys (EPA, 1999). However, loadings from vessels are a significant source of nutrients to harbors, marinas, and other protected areas where vessels congregate and result in eutrophication of waters that typically exhibit poor circulation and flushing. The WQPP document and action plan (EPA, 1996) concluded that sewage discharges from vessels were degrading water quality in nearshore and confined waters. However small the contribution from vessels may be, the fact remains that nutrients from vessel sewage does negatively impact the fragile environment of the Florida Keys (additional information is provided in section G below).

E. Enforcement

Several commentors expressed concern over the relatively large size of the proposed NDZ and felt that enforcement would be difficult. These respondents also commented that previous NDZ designations in other areas (i.e., Rhode Island) have been ineffective. As mentioned above, FDEP in consultation with EPA and many other state, regional, local, and federal government agencies and concerned citizens have initiated an effort to develop an implementation plan for the NDZ. This implementation plan will consist of many components, including a public education/outreach program, a strategy to develop additional infrastructure (pump outs, mooring fields, etc.), and an enforcement strategy. Initial efforts will be focused on public education and outreach and the construction of additional pump out facilities in areas where gaps have been identified. The NDZ implementation plan recommends that enforcement activities be phased in after the public education/outreach initiative. The recommended approach is to conduct a comprehensive public education/outreach program, after the NDZ designation becomes effective, before taking formal enforcement action, issuing citations, and imposing penalties. This phased approach will not apply to the previously established NDZ for the jurisdictional waters surrounding the City of Key West. Marine law enforcement agencies including federal, State, and local governments will actively participate in the implementation of the public education/outreach program by distributing information on the NDZ regulations to boaters.

Initially, enforcement of the NDZ will be focused in the marinas, harborages, and other protected areas where vessels congregate and where pump out facilities are available. Later, after pump out stations are added in the areas that have been identified as requiring pump outs, enforcement activities can be expanded to all areas of the Florida Keys. Achieving 100% compliance with the NDZ designation in all the State waters of the FKNMS is probably not realistic. However, EPA does believe that the vast majority of the boating public will voluntarily comply with the requirements of the NDZ and utilize the available pump out stations. This will lead to a decrease in the amount of nutrients and other pollutants entering the waters of the FKNMS and an increase in the level of protection for the waters and unique marine resources of the Florida Keys ecosystem. EPA staff reviewed the magazine articles provided by respondents concerning the Rhode Island NDZ and have discussed the status of this NDZ with staff from EPA Region 1 in Boston, Massachusetts. Problems do appear to exist with the availability of pump out facilities during certain times of the day and in some specific areas throughout the designated NDZ area. However, this information does not lead to a conclusion that the NDZ for the State of Rhode Island is ineffective. Based on the existing level of public concern for and demonstrated desire to protect the environment of the Florida Keys and the level of commitment and willingness to cooperate and coordinate on the part of all levels of government, we are confident that the NDZ designation for State waters within the boundary of the FKNMS will be successful.

F. Economic Impacts, Safety, and Feasibility

The Florida Keys have been, and continue to be an international tourist/boating destination. According to a study sponsored by NOAA, the Florida Keys Tourist Development Council, and The Nature Conservancy, visitors in the Florida Keys spent $1.38 billion during the 12-month period from June 1997 through May 1998. The primary

attractions for people who visit this area are warm weather, historic areas, fishing, and diving/snorkeling activities that are available in the nearby coral reef communities. Currently, the coral reef ecosystem is degrading. Coral reefs require waters low in nutrients to thrive. Therefore, actions that reduce the input of nutrients into this system are likely to benefit coral reefs. If the coral reefs and associated biological resources are allowed to decline, then a significant portion of the attraction for visiting this area will no longer exist.

One commentor thought that a NDZ would make it illegal to discharge grey water associated with bathing and washing dishes. Designation of an area as a NDZ does not make it illegal to discharge grey water. Another commentor believed that the NDZ would outlaw existing Type 1 and 2 MSDs currently installed onboard vessels. The NDZ designation would not cause existing Type 1 and 2 MSDs to be in violation by their mere presence onboard the vessel. However, it would be illegal for vessel operators to discharge from these devices while inside the NDZ. Type 1 and 2 MSDs should be secured to prohibit discharge while navigating or otherwise situated within the NDZ.

Some commentors stated that holding tanks were personally unacceptable and installation of Type 3 MSDs could cause various problems, including unpleasant odors, decrease in boat stability, and substantially reduce the limited usable space on the average vessel. Cost to retrofit was also cited as a negative impact on boat owners. It is indisputable that boating safety is an important consideration. Neither EPA or the State of Florida would promulgate any rule which compromises the safety of the boating public. Installation of a holding tank should be approached no differently than any other marine retrofit, and if done properly by a well-trained and certified marine mechanic, safety, odor, and cost issues can be dealt with effectively. According to the Monroe County Department of Marine Resources and the FDEP Division of Law Enforcement, the average cost of installing a typical Type 3 MSD in most vessels should be about $600. As an alternative, portable toilets (i.e.; porto-potties) can be purchased ($50 to $100) and used onboard most vessels, or boaters can tie-up at a marina with shoreside facilities.

The vast majority of vessels that operate within the FKNMS are recreational (approximately 22,000 registered recreational vessels). However, there are a significant number of commercial fishing, charter/dive/party boats, and some tugboats/towboats that operate within the boundary of the FKNMS. According to the U.S. Coast Guard, most charter/dive/party boats in the Florida Keys are already equipped with Type 3 MSDs and these commercial vessels will be able to use the available pump out facilities (most already do this) and comply with the NDZ rule. Other commercial vessels without Type 3 MSDs should be able to retrofit for less than $1,000 in most cases. A commercial vessel (e.g., tugboat/towboat, etc.) operator with an existing Type 2 MSD that chooses not to retrofit (prohibitive cost or other considerations) may install an appropriate portable toilet in addition to the existing Type 2 MSD for use while navigating through waters of the FKNMS designated as a NDZ.

Several commentors were concerned about the cost to pump out vessel holding tanks. EPA, FDEP, and Monroe County conducted a survey and collected information on the existing pump outs in the Florida Keys and determined that the range of costs to pump out was from $5.00 to $25.00, with the majority of pump out facilities charging $5.00. The number of times a tank will need to be pumped out will depend on usage. Live-aboards will have to pump out fairly often while less frequent boat users will need to empty the tank much less often. Using $10.00 as the pump out charge, ($10 is on the high end, most pump outs cost $5) and one pump out per week, results in an estimated annual cost of $520 per vessel per year. Annual costs in this range are considered reasonable. It should also be noted that pump out fees may qualify as a business expense and may be tax deductible for some vessel owners.

One commentor suggested that it would be a better use of funds from FDEP to provide money for research into more effective MSD technology. The State of Florida, in accordance with section 312 (f)(4)(A) filed an application for the designation of the NDZ and EPA has the responsibility of processing that application. EPA would always encourage research into more effective means to reduce pollution that is being discharged into the nation's waters. However, whether FDEP should fund research into more effective MSDs is an issue that EPA would defer to the State.

G. Availability of Scientific Evidence to Support NDZ

Several commentors claimed that there is no scientific evidence to demonstrate that the proposed NDZ will improve water quality in the Florida Keys aquatic environment. It is their opinion that Type I or Type II MSDs are effective and that their use does not contribute to water quality problems.

As part of the Florida Keys National Marine Sanctuary and Protection Act of 1990, specific programs were established to address water quality issues. Water quality matters in the Florida Keys are reviewed and evaluated by the Steering Committee for the Water Quality Protection Program. The Steering Committee consists of federal and State resource agency managers, local elected officials and knowledgeable citizens. The Steering Committee receives technical guidance from the Water Quality Protection Program Technical Advisory Committee which consists of scientists from the Florida Keys and South Florida. Both committees concurred that water quality concerns in the Florida Keys must be addressed comprehensively. The committees concluded that elimination of discharges from vessels, including discharge from Type I or Type II MSDs, will eliminate a known source of water quality degradation.

A major challenge to scientists and managers working in the Florida Keys, and elsewhere, is being able to differentiate the natural variability of ecosystems from human-caused disturbances. Signs of ecosystem stress in the Florida Keys include loss of coral cover and diversity, particularly at offshore bank reefs, increasing nitrogen and phosphorus concentrations in the near shore waters, decreased water clarity, and changes in the natural benthic community composition. Comprehensive monitoring has documented a 37% reduction in stony coral coverage between 1996 and 2000. Also, the reason that monitoring was initiated was the observed, but poorly quantified loss of coral cover at many sites prior to 1996. Habitat and water quality degradation in canals and other semi-confined waters within the Florida Keys has been measured and is related to population density. The distance from shore at which ecological changes are attributable to sources of pollution continues to be a subject of scientific debate.

Scientists have postulated that the observed degradation of the Florida Keys marine ecosystem is due to multiple stressors operating on different scales. The increase in atmospheric carbon dioxide and warming of ocean waters is occurring on a global scale and may be responsible for weakening corals through bleaching or other heat-related stresses. Nutrient addition to coastal waters is a local stressor that may be more easily managed than others by implementing wastewater and storm water treatment technologies to

eliminate or significantly reduce nutrient addition.

Just like lawn fertilizer, human wastes contain nutrients that if discharged to water can stimulate algal growth and deplete the amount of oxygen in the water. Algal growth and changes in water chemistry are two of the identified factors in ecosystem decline. The most readily observed impacts of nutrient addition occur in confined waters (canals, marina basins) because of reduced circulation and/or reduced dilution. However, it is feared that if nutrient additions continue or increase, those perturbations will result in changes in community structure further and further from shore.

Manipulative experiments in seagrass beds in south Florida have demonstrated that the time course of response of seagrass beds to nutrient enrichment is on the order of decades. Since the bank reefs are already stressed and are a major component of the economy of the Keys, it is prudent to reduce all manageable sources of pollution before additional environmental degradation occurs.

The Florida Keys ecosystem is, hydrologically, very ''open.'' Water current directions and speeds are very complex and are just beginning to be understood. Nutrients and other pollutants derived from other geographical areas undoubtedly reach waters surrounding the Florida Keys. The mass balance loadings from these various sources have not been quantified because of the hydrological complexity. However, nutrient loadings from land-based sources and vessels in the Keys have been estimated (EPA, 1993; Monroe County Sanitary Wastewater Master Plan, 2000; Monroe County Storm Water Master Plan, 2001). Nutrient loading to a water body can come from various land-based sources including residential, commercial, and municipal sewage treatment systems, poor storm water practices, and other discharges from shoreline facilities and boats.

It is estimated that nutrients from vessel wastewater account for only about 2.8% of the total nitrogen and 3.0% of the total phosphorus loadings into nearshore waters of the Florida Keys (EPA, 1999). While these percentages may not seem significant Keys-wide, it is thought that vessel discharge is a major contributor of nutrients in harbors and other anchorages where vessels congregate.

Type I MSDs treat sewage with disinfectant chemicals before discharge and the discharges must not show any visible floating solids. Type II MSDs provide a higher level of maceration and disinfection, and the discharge contains a greater level of chemicals. Neither Type I or Type II MSDs remove nutrients from the discharge. Raw sewage or improperly treated sewage from vessels or other sources is not only visually repulsive, but also has the potential to expose swimmers and shellfish to pathogens.

Waterborne illnesses directly attributable to sewage pollution include hepatitis, typhoid, cholera, and gastroenteritis. The indicators used to detect the presence of sewage pollution are usually not the pathogens themselves, but rather a type of bacteria called fecal coliform bacteria. Fecal coliform bacteria detected in water can be an indicator of the presence of human waste and the potential exposure to diseases. Enterococci bacteria are another indicator of fecal contamination that is more specific to human wastes than fecal coliform bacteria. When bacteria levels exceed designated public health standards, swimming beaches and shellfish beds may be closed, which can harm tourism and deteriorate the quality of life.

Several studies conducted by the FDEP, or its predecessor agency, have documented water quality standard violations or other signs of eutrophication (nutrient enrichment) in areas where vessels congregate in the Florida Keys. In 1985, State scientists studied the water quality of waters surrounding the Keys in preparation for their proposed designation as Outstanding Florida Waters (OFW). That study concluded that the majority of waters met the criteria for designation as OFW, but that certain areas, including canals and other confined waters exhibited low values in dissolved oxygen, high nutrient concentrations, and violations of the fecal coliform standard. These areas were listed as ''hot spots'' by EPA (Phase 1 Report, 1992). Included in that list are several marinas or boat basins (e.g., Plantation Yacht Harbor, Faro Blanco Marina, Boot Key Harbor, Oceanside Marina, and Garrison Bight Marina).

In 1984, FDEP (1987) measured water quality parameters in the vicinity of the City of Marathon (Middle Keys). High levels of nutrients and fecal coliform bacteria were found at Faro Blanco Marina during the tourist season due to discharge of sewage from vessels. In 1990, the Florida Department of Environmental Regulation conducted an intensive one-year study to assess the water quality in Boot Key Harbor (Marathon). Boot Key Harbor is a basin with limited flushing that has approximately 400 live-aboard vessels during winter months. The canals discharging into the basin and the basin itself had reduced oxygen concentration and high fecal coliform concentrations. Fecal coliform levels in the basin were highest during winter months at stations in close proximity to live-aboard vessels; violations of the State standard for fecal coliform bacteria were common.

In 1994, Lapointe et al. assessed nutrient concentrations along transects from known sources, including House Boat Row (Cow Key Channel), Key West. Nutrients were highest at the sources and decreased seaward. They found elevated nutrients hundreds of meters offshore of the source. Because any degradation from ambient conditions is a violation of OFW standards, these elevated nutrient concentrations were a violation of State water quality standards. They also concluded that nutrient enrichment was resulting in significant degradation to seagrass community structure for a considerable distance from shore.

One commentor stated that the use of MSDs on commercial vessels transiting the Keys would cause no water quality or habitat degradation. There are no site-specific scientific studies available that directly address that matter. There are many variables to consider in assessing the impacts of vessels transiting Keys waters including the volume of discharge, level of treatment, the number of vessels, the depth and distance from shore or other sources of pollution, current patterns, and the habitat type at the discharge point. The dilution of wastewater from a single vessel transiting the Keys may be so great that the discharge may not cause serious ecological problems and may not be detectable within a short distance from the point of discharge. However, the cumulative impact from many transiting vessels could be significant. The potential impacts are increased if the transiting vessels discharge in close proximity to coral reef or seagrass habitats. As a practical matter, allowing some vessels to discharge at some locations within the FKNMS would lead to confusion among boaters and enforcement problems. Thus, it is our determination that the prudent and expedient course of action is to eliminate all discharges of wastewater from all vessels in State waters in the FKNMS.

H. Geographic Scope of NDZ

At least one commentor noted that the jurisdictional waters surrounding the City of Key West have previously been designated as a NDZ and suggested that the proposed Keys-wide NDZ be limited

to 600 feet from shore and only in areas with adequate pump outs. EPA, pursuant to section 312 (f)(3) of the CWA, concurred (August 1999) with the State of Florida's determination that adequate pump out facilities for safe and sanitary removal and treatment of sewage from all vessels are reasonably available for waters surrounding the City of Key West. The action cited above prohibits the discharge from all vessels of any sewage, whether treated or not, into such waters around Key West out to a distance of 600 feet from shore.

Based on information provided by the Monroe County Department of Marine Resources, there are many vessel anchorage areas (both nearshore and offshore) throughout the Florida Keys that are outside the zone that would be delineated by a line 600 feet from shore. Many, if not most, of these anchorages are situated in areas with extensive living corals, seagrass meadows, and other unique and ecologically important marine resources. A NDZ limited to 600 feet from shore would not provide an increased level of protection to a vast area within the FKNMS that contains fragile and nationally significant marine resources. In addition, limiting the NDZ area to a line 600 feet from shore would cause confusion among the boating public and would complicate and confound enforcement of the NDZ designation. Therefore, EPA believes that the NDZ should encompass all State waters within the boundary of the FKNMS to provide the highest level of protection afforded by law to the waters and the precious marine ecosystem of the Florida Keys.

III. Administrative Requirements

A. Executive Order 12866

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

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

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

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

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

EPA, in consultation with local and State government officials, has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132

The State of Florida is requesting that EPA take action to designate State waters within the FKNMS as a NDZ. Therefore, this order does not apply.

C. Executive Order 13175

This order pertains to compliance costs of this rule to tribes. There are no tribal lands within the boundaries of the FKNMS. Therefore, this order does not apply.

D. Executive Order 13045

This order authorizes EPA the discretion to consider health or safety risks (especially for children) when making regulatory determinations. The net result of this action will be to improve environmental conditions within the FKNMS.

E. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 6501 *et seq* whenever an agency is developing regulations, it must prepare and make available for public comment the impact of the regulations on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required if the head of the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. EPA policy dictates that an Initial Regulatory Flexibility Analysis (IRFA) be prepared if the proposed action will have any significant effect on any small entities. An abbreviated IRFA can be prepared depending on the severity of the economic impact and relevant statute's allowance of alternatives. After considering the economic impacts of this proposed regulation/rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as we minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and recordkeeping requirements affecting 10 or more non-Federal respondents be approved by OMB. Since today's rule would not establish or modify any information and recordkeeping requirements, it is not subject to the requirements of the Paperwork Reduction Act.

G. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statute is required for EPA rules under section 205 of the Act, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must consider that alternative, unless the Administrator explains otherwise in the final rule. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them opportunity for meaningful and timely input during the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them of compliance with the regulatory requirements.

EPA, in consultation with local and State government officials, has determined that this rule does not include a Federal mandate that will result in estimated annualized costs of $100 million or more to either State, local, and tribal governments in the aggregate, or to the private sector. All vessels that are equipped with MSDs and that navigate throughout the FKNMS are already subject to the EPA MSD Standard at 40 CFR part 140 and the U.S. Coast Guard MSD Standard at 33 CFR part 159. These standards prohibit the overboard discharge of untreated vessel sewage in State waters in the FKNMS and require that vessels with on-board toilets shall have U.S. Coast Guard certified MSDs which

either retain sewage or treat sewage to the applicable standards.

There are 3 types of MSDs certified by the U.S. Coast Guard. Only those vessels that have either one of the two types of certified flow-through devices will be affected by this rule. Those vessels affected by this rule will either retain and pump out treated sewage or discharge outside of the designated NDZ. Any costs associated with those activities is minimal and it is therefore estimated that the annualized costs to State or tribal governments in the aggregate, or to the private sector, will not exceed $100 million.

Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Act. Because the rule contains no regulatory requirements that might significantly or uniquely affect small governments, it is also not subject to the requirements of section 203 of the Act. Small governments are subject to the same requirements as other entities whose duties result from this rule and they have the same ability as other entities to retain and pump out treated sewage or discharge outside of the designated zones.

List of Subjects in 40 CFR Part 140

Environmental protection, Sewage disposal, Vessels.

Dated: May 7, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

Title 40, Chapter 1, Part 140 of the Code of Federal Regulations is amended as follows:

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

Authority: 33 U.S.C. 1322.

2. Section 140.4 is amended by adding paragraph (b)(1)(ii)to read as follows:

§ 140.4 Complete prohibition.

* * * * *

(b) ***

(1) ***

(ii) Waters of the State of Florida within the boundaries of the Florida Keys National Marine Sanctuary as delineated on a map of the Sanctuary at *http://www.fknms.nos.noaa.gov/*.

* * * * *

[FR Doc. 02–12283 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7523]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield.	Town of Greenwich.	February 11, 2002, February 18, 2002, *Greenwich Times*.	Mr. Richard Bergstresser, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Feb. 4, 2002	090008 C
Delaware: New Castle.	Unincorporated Areas.	March 25, 2002, April 1, 2002, *The News Journal*.	Mr. Thomas P. Gordon, New Castle County Executive, New Castle County Government Center, 87 Reads Way, New Castle, Delaware 19720.	July 1, 2002	105085 D
Illinois: Kane	City of Geneva	March 6, 2002, March 13, 2002, *Kane County Chronicle*.	The Honorable Kevin Burns, Mayor of the City of Geneva, 22 South First Street, Geneva, Illinois 60134.	June 12, 2002	170325 B
Indiana:					
DeKalb	Unincorporated Areas.	February 26, 2002, *The Evening Star*.	Ms. Connie Miles, President of the County Commissioners, 100 South Main Street, Auburn, Indiana.	Mar. 28, 2002	18044 B
Hamilton	Town of Westifeld	April 12, 2002, April 19, 2002, *The Daily Ledger*.	Mr. Michael McDonald, Town of Westfield Council President, 130 Penn Street, Westfield, Indiana 46074.	July 19, 2002	180083 C
Maryland:					
Montgomery	City of Rockville ..	March 6, 2002, March 13, 2002, *Rockville Gazette*.	The Honorable Larry Giammo, Mayor of the City of Rockville, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 28050.	Feb. 22, 2002	200051 B
Howard	Unincorporated Areas.	December 13, 2001, December 20, 2001, *The Howard County Times*.	Mr. James N. Robey, Howard County Executive, 3430 Courthouse Drive, Ellicott City, Maryland 21043.	Nov. 28, 2001	240044 B
New York: Queensbury.	Town of Queensbury.	February 13, 2002, February 20, 2002, *The Post-Star*.	Mr. Dennis Brower, Supervisor for the Town of Queensbury, 742 Bay Road, Queensbury, New York 12804.	Aug. 6, 2002	360879 B
Ohio: Hamilton	Unincorporated Areas.	April 12, 2002, April 19, 2002, *The Cincinnati Enquirer*.	Mr. David J. Krings, Hamilton County Administrator, 138 East Court Street, Room 603, Cincinnati, Ohio 45202.	April 4, 2002	390204 B
Pennsylvania:					
Chester	Township of East Bradford.	April 25, 2002, May 2, 2002, *Daily Local News*.	Mr. John T. Jordan, Chairman of the Township of East Bradford Board of Supervisors, 666 Copeland School Road, West Chester, Pennsylvania 19380.	August 1, 2002	420276 D
Bucks	Township of Hilltown.	April 23, 2002, *The Intelligencer*.	Mr. Ken Bennington, Chairman of the Township of Hilltown Board of Supervisors, 13 West Creamery Road, Hilltown, Pennsylvania 18297.	May 24, 2002	420189 D
Lehigh	Township of Salisbury.	March 11, 2002, March 18, 2002, *Morning Call*.	Mr. Gabriel Khalife, Manager of the Township of Salisbury, 2900 South Pike Avenue, Allentown, Pennsylvania 18103.	June 17, 2002	450591 D
Chester	Township of Willistown.	April 17, 2002, April 24, 2002, *Daily Local News*.	Mr. Robert T. Lang, Chairman of the Township of Willistown Board of Supervisors, 688 Sugartown Road, Malvern, Pennsylvania 19335.	April 1, 2002	422282 D
Puerto Rico	Commonwealth ...	November 16, 2001, November 23, 2001, *The San Juan Star*.	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, Office of the Governor, P.O. Box 9020082, San Juan, Puerto Rico 00901.	Nov. 7, 2002	720000 E

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Virginia:					
Prince William	Unincorporated Areas.	April 19, 2002, April 26, 2002, *Potomac News*.	Mr. Craig Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	April 3, 2002	510119 D
Prince William	Unincorporated Areas.	February 7, 2002, February 14, 2002, *Potomac News*.	Mr. Craig Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	May 16, 2002	510119 D
Fauquier	Town of Warrenton.	March 21, 2002, March 28, 2002, *Fauquier Citizen*.	Mr. John Anzivino, Warrenton Town Manager, Municipal Building, 18 Court Street, Warrenton, Virginia 20186.	Mar. 5, 2002	510057 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12656 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–P–7610]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Administrator for Federal Insurance and Mitigation Administration reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arkansas: Cleburne.	Unincorporated Areas.	April 3, 2002, April 10, 2002, *The Sun Times*.	The Honorable Claude Dill, Judge, Cleburne County, County Courthouse, 301 West Main Street, Heber Springs, Arkansas 72543.	March 12, 2002	050424
Illinois: Cook	Unincorporated Areas.	March 20, 2002, March 27, 2002, *The Chicago Tribune*.	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	June 26, 2002	170054
Illinois: Cook	Unincorporated Areas.	January 17, 2002, January 24, 2002, *Northbrook Star*.	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Northbrook, Illinois 60602.	December 20, 2001 ..	170054
Illinois: St. Clair ..	City of Belleville	January 8, 2002, January 15, 2002, *Belleville News-Democrat*.	The Honorable Mark A. Kern, Mayor, City of Belleville, 101 South Illinois Street, Belleville, Illinois 62220.	April 16, 2002	170618
Illinois: Cook	City of Northbrook.	January 17, 2002, January 24, 2002, *Northbrook Star*.	Mr. Mark W. Damisch, President, Village of Northbrook, 1225 Cedar Lane Northbrook, Illinois 60062–4582.	December 20, 2001 ..	170132
Illinois: Cook	City of Oak Forest.	March 20, 2002, March 27, 2002, *The Chicago Tribune*.	The Honorable Patrick M. Gordon, Mayor, City of Oak Forest, 15440 South Central Avenue, Oak Forest, Illinois 60452.	June 26, 2002	170136
Illinois: Will	Village of Plainfield.	February 20, 2002, February 27, 2002, *The Enterprise*.	Mr. Richard Rock, President, Village of Plainfield, 530 West Lockport Street, Suite 206, Plainfield, Illinois 60544.	May 29, 2002	170771
Indiana: Dearborn	Town of Greendale.	February 7, 2002, February 14, 2002, *The Dearborn County Register*.	The Honorable Doug Hedrick, Mayor, Town of Greendale, 510 Ridge Avenue, Greendale, Indiana 47025.	January 9, 2002	180040
Indiana: Johnson	City of Greenwood.	April 3, 2002, April 10, 2002, *Greenwood and Southside Challenger*.	The Hon. Charles E. Henderson, Mayor, City of Greenwood, 2 North Madison Avenue, Greenwood, Indiana 46142.	April 22, 2002	180115
Indiana: Dearborn	City of Lawrenceburg.	February 7, 2002, February 14, 2002, *The Dearborn County Register*.	The Honorable Paul E. Tremain, Mayor, City of Lawrenceburg, 450 Main Street, Lawrenceburg, Indiana 47025.	January 9, 2002	180041
Michigan: Oakland.	Village of Lake Orion.	April 3, 2002, April 10, 2002, *The Lake Orion Review*.	Ms. JoAnn Van Tassel, Manager, Village of Lake Orion, 37 East Flint Street, Lake Orion, Michigan 48362.	April 5, 2002	260588
Michigan: Macomb.	City of Warren ...	March 22, 2002, March 29, 2002, *The Macomb Daily*.	The Hon Mark A. Steenbergh, Mayor, City of Warren, Warren Municipal Building, 29500 Van Dyke Avenue, Warren, Michigan 48093.	June 28, 2002	260129
Michigan: Macomb.	Township of Washington.	February 8, 2002, February 15, 2002, *The Macomb Daily*.	Mr. Gary Kirsh, Supervisor, Township of Washington, P.O. Box 94067, Washington, Michigan 48094.	December 21, 2001 ..	260447
Minnesota: Anoka	City of Coon Rapids.	February 15, 2002, February 22, 2002, *The Herald*.	The Honorable Ilona McCauley, Mayor, City of Coon Rapids, 11155 Robinson Drive, Coon Rapids, Minnesota 55433.	January 22, 2002	270011
Minnesota: Rice ..	City of Dundas ..	January 23, 2002, January 30, 2002, *Northfield News*.	The Honorable Myron Malecha, Mayor, City of Dundas, 216 Railway Street North, Dundas, Minnesota 55109–4013.	May 1, 2002	270403

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Missouri: St. Louis.	City of Ladue	April 19, 2002, April 26, 2002, *St. Louis Post Dispatch*.	The Honorable Jean Quenlen, Mayor, City of Ladue, 9345 Clayton Road, Ladue, Missouri 63124–1511.	April 2, 2002	290363
Missouri: Ste. Genevieve.	City of Ste., Ste. Genevieve.	February 20, 2002, February 27, 2002, *Ste. Genevieve Herald*.	The Honorable Kathleen Waltz, Mayor, City of Ste. Genevieve, 165 South Fourth Street, Ste. Genevieve, Missouri 63670.	February 8, 2002	290325
Missouri: Ste. Genevieve.	Unincorporated Areas.	February 20, 2002, February 27, 2002, *Ste. Genevieve Herald*.	Mr. Dennis Huck, County Commissioner, Ste. Genevieve County, 165 South Fourth Street, Ste. Genevieve, Missouri 63670.	February 8, 2002	290833
New Mexico: Bernalillo.	City of Albuquerque.	February 21, 2002, February 28, 2002, *Albuquerque Journal*.	Mr. Tom Rutherford, Chairman, Bernalillo County, 2400 Broadway, S.E., Albuquerque, New Mexico 87102.	January 29, 2002	350001
Ohio: Lorain	City of Avon	March 22, 2002, March 29, 2002, *The Morning Journal*.	The Honorable James A. Smith, Mayor, City of Avon, 36080 Chester Road, Avon, Ohio 44011.	June 28, 2002	390348
Ohio: Montgomery.	City of Centerville.	March 15, 2002, March 22, 2002, *Dayton Daily News*.	The Honorable Sally D. Beals, Mayor, City of Centerville, 7875 Stonehouse Court, Centerville, Ohio 45459.	June 21, 2002	390408
Ohio: Delaware ...	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion*.	Mr. James Ward, President, Delaware County, Board of Commissioners, 101 North Sandusky Street, Delaware, Ohio 43015.	June 12, 2002	390146
Ohio: Franklin	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion*.	Mr. Dewey R. Stokes, President, Franklin County, Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215.	June 12, 2002	390167
Ohio: Franklin	City of Grove City.	April 17, 2002, April 24, 2002, *Suburban News Publication*.	The Hon. Cheryl L. Grossman, Mayor, City of Grove City, P.O. Box 427, Grove City, Ohio 43123.	July 24, 2002	390173
Ohio: Lucas	Unincorporated Areas.	February 19, 2002, February 26, 2002 *Farmland News*.	Ms. Sandy Isenberg, President, Lucas County, Board of Commissioners, One Government Center, Suite 800, Toledo, Ohio 43604.	May 28, 2002	390359
Ohio: Franklin and Delaware.	City of Westerville.	March 6, 2002, March 13, 2002, *Westerville News and Public Opinion*.	The Honorable Stewart Flaherty, Mayor, City of Westerville, 21 South State Street, Westerville, Ohio 43081.	June 12, 2002	390179
Ohio: Franklin and Delaware.	City of Westerville.	April 10, 2002, April 17, 2002 *Westerville News and Public Opinion*.	The Honorable Stewart Flaherty, Mayor, City of Westerville, 21 South State Street, Westerville, Texas 43081.	March 8, 2002	390179
Oklahoma: Oklahoma.	Unincorporated Areas.	March 22, 2002, March 29, 2002, *The Edmond Sun*.	The Honorable Saundra Naifeh, Mayor, City of Edmond, P.O. Box 2970, Edmond, Oklahoma 73083.	February 28, 2002	400252
Oklahoma: Tulsa	Unincorporated Areas.	March 7, 2002, March 14, 2002, *Tulsa World*.	The Honorable Wilbert E. Collins, Chairman, Board of Commissioners, 500 South Denver, Tulsa, Oklahoma 74103.	June 13, 2002	400462
Texas: Tarrant	City of Arlington	April 10, 2002, April 17, 2002, *The Arlington Morning News*.	The Honorable Elzie Odom, Mayor, City of Arlington, 101 West Abram Street, Arlington, Texas 76004–0231.	July 16, 2002	485454
Texas: Travis	City of Austin	March 5, 2002, March 12, 2002, *Austin American Statesman*.	The Honorable Kirk P. Watson, Mayor, City of Austin, 124 West 8th Street, Austin, Texas 78701.	January 18, 2002	480624
Texas: Travis	City of Austin	April 30, 2002, May 7, 2002, *Austin American Statesman*.	The Honorable Kirk P. Watson, Mayor, City of Austin, 124 West 8th Street, Austin, Texas 78701.	August 6, 2002	480624

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Bexar	Unincorporated Areas.	January 17, 2002, January 24, 2002, *San Antonio Express News*.	The Honorable Cyndi T. Krier, Judge, Bexar County, 100 Dolorosa, Suite 101, San Antonio, Texas 78205–3035.	April 25, 2002	480035
Texas: Bexar	Unincorporated Areas.	February 21, 2002, February 28, 2002, *San Antonio Express News*.	The Honorable Nelson W. Wolff, Judge, Bexar County, 100 Dolorosa, Suite 101, San Antonio, Texas 78205–3035.	May 30, 2002	480035
Texas: Johnson ..	City of Burleson	February 20, 2002, February 27, 2002, *The Burleson Star*.	The Honorable Byron Black, Mayor, City of Burleson, 141 West Renfro, Burleson, Texas 76028.	May 29, 2002	485459
Texas: Comal	Unincorporated Areas.	November 16, 2001, November 23, 2001, *New Braunfels Herald-Zeitung*.	The Honorable Danny Scheel, Judge, Comal County, 150 North Seguin Street, New Braunfels, Texas 78130.	February 22, 2002	485463
Texas: Montgomery.	City of Conroe ...	February 19, 2002, February 26, 2002, *The Courier*.	The Honorable Carter Moore, Mayor, City of Conroe, P.O. Box 3066, Conroe, Texas 77305.	May 28, 2002	480484
Texas: Denton	Town of Corinth	April 3, 2002, April 10, 2002, *Lake Cities Sun Paper*.	The Hon. Shirley Spellerberg, Mayor, Town of Corinth, 2003 South Corinth, Corinth, Texas 76205.	July 10, 2002	481143
Texas: Dallas	City of Dallas	January 24, 2002, January 31, 2002, *Dallas Morning News*.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, City Hall, Dallas, Texas 75201.	May 1, 2002	480171
Texas: Tarrant	City of Fort Worth.	March 20, 2002, March 27, 2002, *Fort Worth Star-Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	June 26, 2002	480569
Texas: Tarrant	City of Fort Worth.	April 3, 2002, April 10, 2002, *Fort Worth Star-Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	July 10, 2002	480596
Texas: Dallas	City of Garland ..	March 7, 2002, March 14, 2002, *Garland Morning News*.	The Honorable Jim Spence, Mayor, City of Garland, 200 North 5th Street, P.O. Box 469002, Garland, Texas 76046–9002.	June 13, 2002	485471
Texas: Harris	City of Houston	January 10, 2002, January 17, 2002, *Houston Chronicle*.	The Honorable Lee P. Brown, Mayor, City of Houston, P.O. Box 1562 Houston, Texas 77251.	April 18, 2002	480296
Texas: Williamson	City of Hutto	February 21, 2002, February 28, 2002, *Hutto Herald*.	The Honorable Glen Pierce, Mayor, City of Hutto, P.O. Box 280, Hutto, Texas 78634.	May 30, 2002	481047
Texas: Dallas	City of Irving	April 4, 2002, April 11, 2002 *The Irving Morning News*.	The Honorable Joe H. Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, TX 75015–2288.	March 8, 2002	480180
Texas: Midland ...	City of Midland ..	May 2, 2002, May 9, 2002, *Midland Reporter-Telegram*.	The Honorable Michael J. Canon, Mayor, City of Midland, City Hall, 300 N. Loraine, Midland, Texas 79701.	August 8. 2002	480477
Texas: Montgomery.	Unincorporated Areas.	March 6, 2002, March 13, 2002, *The Courier*.	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 201, Conroe, Texas 77301.	June 12, 2002	480483
Texas: Montgomery.	Unincorporated Areas.	March 20, 2002, March 27, 2002, *The Courier*.	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	February 26, 2002	480483
Texas: Montgomery.	Unincorporated Areas.	March 21, 2002, March 28, 2002, *The Courier*.	The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	March 1, 2002	480483

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Tarrant	City of North Richland Hills.	January 8, 2002, January 15, 2002, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	December 19, 2001 ..	480607
Texas: Tarrant	City of North Richland Hills.	March 4, 2002, March 11, 2002, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	January 23, 2002	480607
Texas: Montgomery.	City of Oak Ridge North.	March 6, 2002, March 13, 2002, *The Courier*.	The Honorable Joe Michels, Mayor, City of Oak Ridge North, City Hall, 27424 Robinson Road, Oak Ridge North, TX 77385.	June 12, 2002	481560
Texas: Collin	City of Plano	February 20, 2002, February 27, 2002, *Plano Star Courier*.	The Honorable Jeran Akers, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	May 29, 2002	480140
Texas: Rockwall	City of Rockwall	March 22, 2002, March 29, 2002, *The Rockwall/Rowlett Morning News*.	The Honorable Scott Self, Mayor, City of Rockwall, 205 West Rusk, Rockwall, TX 75087.	March 1, 2002	480547
Texas: Tarrant	Unincorporated Areas.	April 3, 2002, April 10, 2002, *Fort Worth Star-Telegram*.	The Honorable Tom Vandergriff, Judge, Tarrant County, 100 East Weatherford Street, Fort Worth, Texas 76196–0101.	July 10, 2002	480582
Texas: Travis	Unincorporated Areas.	March 6, 2002, March 13, 2002, *Austin American-Statesman*.	The Honorable Samuel T. Briscoe, Judge, Travis County, P.O. Box 1748, Austin, Texas 78767–1748.	June 12, 2002	481026
Texas: Collin	City of Wylie	March 20, 2002, March 27, 2002, *Wylie News*.	The Honorable John Mondy, Mayor, City of Wylie, 2000 State Highway 78 North, Wylie, TX 75098.	March 1, 2002	480759

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12655 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in BFEs are in accordance with 44 CFR 65.4. *National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Craighead (FEMA Docket No. 7608).	City of Jonesboro	September 4, 2001, September 11, 2001, *The Jonesboro Sun*.	The Honorable Hubert Brodell, Mayor, City of Jonesboro, P.O. Box 1845, Jonesboro, Arkansas 72403–1845.	Aug. 15, 2001	050048
Arkansas: Pope (FEMA Docket No. 7606).	City of Russellville.	August 21, 2001, August 28, 2001, *The Courier*.	The Honorable Raye Turner, Mayor, City of Russellville, P.O. Box 428, Russellville, Arkansas 72801.	July 30, 2001	050178
Illinois:					
Lake (FEMA Docket No. 7606).	Village of Lake Zurich.	August 16, 2001, August 23, 2001, *Lake Zurich Courier*.	The Honorable James Krischke, Mayor, Village of Lake Zurich, 70 East Main Street, Lake Zurich, Illinois 60047.	July 18, 2001	170376
Will (FEMA Docket No. 7606).	Unincorporated Areas.	July 24, 2001, July 31, 2001, *Chicago Sun-Times*.	Mr. Joseph L. Mikan, Will County Executive, 302 North Chicago Street, Joliet, Illinois 60432.	Oct. 30, 2001	170695
Indiana:					
Howard (FEMA Docket No. 7608).	Unincorporated Areas.	October 23, 2001, October 30, 2001, *Kokomo Tribune*.	Mr. John Harbaugh, President, Howard County, Board of Commissioners, 230 North Main, Kokomo, Indiana 46901.	Oct. 12, 2001	180414
Howard (FEMA Docket No. 7608).	City of Kokomo ...	October 23, 2001, October 30, 2001, *Kokomo Tribune*.	The Honorable James Trobaugh, Mayor, City of Kokomo, 100 South Union Street, Kokomo, Indiana 46901.	Oct. 12, 2001	180093
Iowa: Black Hawk (FEMA Docket No. 7606).	City of Cedar Falls.	July 24, 2001, July 31, 2001, *Waterloo Cedar Falls Courier*.	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, Iowa 50613.	June 22, 2001	190017
Minnesota: Winona (FEMA Docket No. 7608).	Unincorporated Areas.	December 21, 2001, December 28, 2001, *Winona Daily News*.	Mr. David Stoltman, Chairperson, Winona County, Board of Commissioners, 177 Main Street, Winona, Minnesota 55987.	Mar. 29, 2002	270525
Missouri:					
St. Charles (FEMA Docket No. 7608).	City of Cottleville	October 5, 2001, October 12, 2001, *St. Charles Journal*.	The Honorable Robert Powers, Mayor, City of Cottleville, P. O. Box 387, Cottleville, Missouri 63338.	Jan. 11, 2002	290898
St. Charles (FEMA Docket No. 7608).	Unincorporated Areas.	October 5, 2001, October 12, 2001, *St. Charles Journal*.	Mr. Joe Ortwerth, St. Charles County Executive, 201 North Second Street, St. Charles, Missouri 63301.	Jan. 11, 2002	290315
Marion (FEMA Docket No. 7606).	Unincorporated Areas.	August 1, 2001, August 8, 2001, *Palmyra Spectator*.	Mr. Lyndon, Presiding Commissioner, Marion County, 100 South Main Street, Palmyra, Missouri 63461.	July 9, 2001	290222

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Ohio: Lorain (FEMA Docket No. 7608).	City of Avon Lake	October 24, 2001, October 31, 2001, *The Morning Journal*.	The Honorable Robert Berner, Mayor, City of Avon Lake, 150 Avon Belden Road, Avon Lake, Ohio 44012–1699.	Jan. 30, 2002	390602
Oklahoma:					
Tulsa (FEMA Docket No. 7608).	City of Broken Arrow.	November 1, 2001, November 8, 2001, *Broken Arrow Ledger*.	The Honorable Jim Reynolds, Mayor, City of Broken Arrow, 220 South First Street, Broken Arrow, Oklahoma 74012.	Feb. 7, 2002	400236
Tulsa (FEMA Docket No. 7608).	City of Broken Arrow.	October 18, 2001, October 25, 2001, *Broken Arrow Ledger*.	The Honorable Jim Reynolds, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, Oklahoma 74013.	Jan. 24, 2002	400236
Oklahoma (FEMA Docket No. 7608).	City of Edmond ..	November 1, 2001, November 8, 2001, *The Edmond Sun*.	The Honorable Saundra Naifeh, Mayor, City of Edmond, 100 E. First, Edmond, Oklahoma 73034.	Oct. 15, 2001	400252
Oklahoma (FEMA Docket No. 7608).	City of Oklahoma City.	December 5, 2001, December 12, 2001, *The Daily Oklahoman*.	The Hon. Kirk Humphreys, Mayor, City of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, Oklahoma 73102.	Mar. 13, 2002	405378
Texas:					
Comal (FEMA Docket No. 7608).	Unincorporated Areas.	November 16, 2001, November 23, 2001, *New Braunfels Herlad-Zeitung*.	The Honorable Danny Scheel, Judge, Comal County, 150 North Seguin Street, New Braunfels, Texas 78130.	Feb. 22, 2002	485463
Dallas and Ellis (FEMA Docket No. 7608).	City of Cedar Hill	October 19, 2001, October 26, 2001, *Southwest Morning News.*.	The Hon. Robert L. Franke, Mayor, City of Cedar Hill, P.O. Box 96, Cedar Hill, Texas 75106.	Jan. 24, 2002	480168
Denton (FEMA Docket No. 7608).	City of Denton	November 14, 2001, November 21, 2001, *Denton Record Chronicle*.	The Honorable Euline Brock, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201.	Feb. 20, 2002	480194
Collin (FEMA Docket No. 7608).	City of Frisco	December 12, 2001, December 19, 2001, *Plano Star Courier*.	The Honorable Kathy Seei, Mayor, City of Frisco, 6891 Main Street, Frisco, Texas 75034.	Mar. 20, 2002	480134
Dallas (FEMA Docket No. 7608).	City of Garland ...	December 20, 2001, December 27, 2001, *Garland Morning News*.	The Honorable Jim Spence, Mayor, City of Garland, P. O. Box 469002, Garland, Texas 75046–9002.	Nov. 9, 2001	485471
Dallas and Ellis (FEMA Docket No. 7608).	City of Grand Prairie.	October 19, 2001, October 26, 2001, *Arlington Morning News*.	The Hon. Charles England, Mayor, City of Grand Prairie, 317 College Street, P. O. Box 534045, Grand Prairie, Texas 75053.	Jan. 24, 2001	485472
Ellis, Tarrant and Dallas (FEMA Docket No. 7608).	City of Grand Prairie.	November 14, 2001, November 21, 2001, *Arlington Morning News*.	The Hon. Charles England, Mayor, City of Grand Prairie, 317 College Street, P. O. Box 534045, Grand Prairie, Texas 75053.	Oct. 17, 2001	485472
Tarrant (FEMA Docket No. 7606).	City of Haltom City.	July 24, 2001, July 31, 2001, *Fort Worth Star Telegram*.	Mr. Joel A. Guerrero, Floodplain Administrator, City of Haltom City, 5024 Broadway Avenue, Haltom City, Texas 76117.	Oct. 30, 2001	480599
Harris (FEMA Docket No. 7606).	Unincorporated Areas.	August 16, 2001, August 23, 2001, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	Nov. 22, 2001	480287
Harris (FEMA Docket No. 7606).	Unincorporated Areas.	August 21, 2001, August 28, 2001, *Houston Chronicle*.	The Honorable Robert Eckels, Judge Harris County, 1001 Preston Street, Suite 911, Houston, Texas 77002.	Nov. 27, 2001	480287
Harris (FEMA Docket No. 7606).	City of Houston ..	August 21, 2001, August 28, 2001, *Houston Chronicle*.	The Honorable Lee P. Brown, Mayor, City of Houston, P. O. Box 1562, Houston, Texas 77251–1562.	Nov. 27, 2001	480296
Dallas (FEMA Docket No. 7608).	City of Irving	December 20, 2001, December 27, 2001, *The Irving Morning News*.	The Honorable Joe H. Putnam, Mayor, City of Irving, P. O. Box 152288, 825 West Irving Boulevard, Irving, Texas 75015–2288.	Mar. 28, 2002	480180

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Galveston (FEMA Docket No. 7608).	City of League City.	December 13, 2001, December 20, 2001, *The Galveston County Daily News*.	The Hon. A. T. Frankovich, Mayor, City of League City, City Hall, Suite 216, 200 West Walker, League City, Texas 77573.	Mar. 21, 2002	485488
Ellis (FEMA Docket No. 7608).	City of Midlothian	November 8, 2001, November 15, 2001, *The Midlothian Mirror*.	The Honorable Daid Setzer, Mayor, City of Midlothian, 104 West Avenue E, Midlothian, Texas 76065.	Feb. 14, 2002	480801
Tarrant (FEMA Docket No. 7606).	City of North Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P. O. Box 820609, North Richland Hils, Texas 76182.	Oct. 30, 2001	480607
Tarrant (FEMA Docket No. 7604).	City of North Richland Hills.	June 22, 2001, June 29, 2001, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P. O. Box 820609, North Richland Hills, Texas 76182.	June 12, 2001	480607
Tarrant (FEMA Docket No. 7606).	City of North Richland Hills.	August 23, 2001, August 30, 2001, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of N. Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182.	July 31, 2001	480607
Parker (FEMA Docket No. 7608).	Unincorporated Areas.	September 12, 2001, September 19, 2001, *Weatherford Democrat*.	The Honorable Mark Riley, Parker County Judge, 1 Court House Square Weatherford, Texas 76086.	Aug. 9, 2001	480520
Collin and Dallas (FEMA Docket No. 7608).	City of Richardson.	November 20, 2001, November 27, 2001, *Dallas Morning News*.	The Honorable Gary A. Slagel, Mayor, City of Richardson, P. O. Box 830309, Richardson, Texas 75083.	Feb. 26, 2002	480184
Tarrant (FEMA Docket No. 7606).	City of Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram*.	Mr. John W. Cherry, P.E., Director, Department of Public Works, City of Richland Hills, 6700 Rena Drive, Richland Hills, Texas 76118.	Oct. 30, 2001	480608
Bexar (FEMA Docket No. 7608).	City of San Antonio.	December 21, 2001, December 28, 2001, *San Antonio Express-News*.	The Honorable Ed Garza, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283.	March 29, 2002	480045
Tarrant (FEMA Docket No. 7606).	City of Southlake	August 3, 2001, August 10, 2001, *Fort Worth Star-Telegram*.	The Honorable Rick Stacy, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, Texas 76092.	Nov. 9, 2001	480612
Harris (FEMA Docket No. 7606).	City of Tomball ...	July 25, 2001, August 1, 2001, *Tomball Magnolia Tribune*.	The Hon. Hap Harrington, Mayor, City of Tomball, 401 West Market Street, Tomball, Texas 77375.	Oct. 31, 2001	480315

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12658 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation

determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut:					
Fairfield (FEMA Docket No. D–7517).	Town of Greenwich.	November 15, 2001, November 22, 2001, *Greenwich Times*.	Ms. Lolly H. Prince, First Selectman of the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Nov. 5, 2001	090008 C
Fairfield (FEMA Docket No. D–7519).	Town of Greenwich.	December 21, 2001, December 28, 2001, *Greenwich Times*.	Mr. Richard Bergstresser, First Selectman for the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Dec. 7, 2001	090008 C
New Haven (FEMA Docket No. D–7519).	City of Meriden ...	November 30, 2001, December 7, 2001, *Record-Journal*.	The Honorable Joseph J. Marinan, Jr., Mayor of the City of Meriden, 142 East Main Street, Meriden, Connecticut 06450–8022.	Nov. 19, 2001	090081 C
Florida:					
Lee (FEMA Docket No. D–7517).	Unincorporated Areas.	September 27, 2001, October 4, 2001, *News-Press*.	Mr. Doug St. Cerny, Chairman of the Lee County Board of County Commissioners, P.O. Box 398, Fort Myers, Florida 33902.	Sept. 20, 2001	125124 B
Santa Rosa (FEMA Docket No. D–7521).	Unincorporated Areas.	December 4, 2001, December 11, 2001, *The Pensacola News Journal*.	Mr. Hunter Walker, Santa Rosa County Administrator, 6495 Caroline Street, Suite D, Milton, Florida 32570–4592.	Nov. 27, 2001	120274 C
Sarasota (FEMA Docket No. D–7521).	City of Sarasota	December 5, 2001, December 12, 2001, *Sarasota Herald Tribute*.	The Honorable Carolyn Mason, Mayor of the City of Sarasota, P.O. Box 1058, Sarasota, Florida 34230.	Nov. 28, 2001	125150 C
Leon (FEMA Docket No. D–7517).	City of Tallahassee.	September 28, 2001, October 5, 2001, *Tallahassee Democrat*.	The Honorable Scott Maddox, Mayor of the City of Tallahassee, 300 South Adams Street, Tallahassee, Florida 32301–1731.	Jan. 4, 2002	120144 D
Georgia:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Fulton (FEMA Docket No. D–7521).	City of Alpharetta	October 11, 2001, October 18, 2001, *The Review & News*.	The Honorable Charles E. Martin, Jr., Mayor of the City of Alpharetta, City Hall, 2 South Main Street, Alpharetta, Georgia 30004.	Jan. 17, 2001	130084 E
Columbia (FEMA Docket No. D–7521).	Unincorporated Areas.	October 25, 2001, November 1, 2001, *The Augusta Chronicle*.	Mr. Barry Fleming, Chairman of the Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Evans, Georgia 30809.	Oct. 18, 2001	130059 B
Columbia (FEMA Docket No. D–7521).	Unincorporated Areas.	November 8, 2001, November 15, 2001, *The Augusta Chronicle*.	Mr. Barry Flemming, Chairman of the Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Evans, Georgia 30809.	Nov. 1, 2001	130059 A
Fulton (FEMA Docket No. D–7521).	Unincorporated Areas.	October 25, 2001, November 8, 2001, *The Atlanta Daily World*.	Mr. Thomas Andrews, Fulton County Manager, 141 Pryor Street S.W., Fulton County Government Center, Atlanta, Georgia 30303.	Jan. 31, 2002	135160 E
Gwinnett (FEMA Docket No. D–7517).	Unincorporated Areas.	September 27, 2001, October 4, 2001, *Gwinnett Daily Post*.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	Sept. 20, 2001	130322 B&C
Gwinnett (FEMA Docket No. D–7515).	Unincorporated Areas.	August 23, 2001, August 30, 2001, *Gwinnett Daily Post*.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	Nov. 29, 2001	130322 C
Bibb and Jones (FEMA Docket No. D–7517).	City of Macon	September 25, 2001, October 4, 2001, *The Macon Telegraph*.	The Honorable Jack Ellis, Mayor of the City of Macon, 700 Poplar Street, Macon, Georgia 31201.	Jan. 1, 2002	130011 E
Illinois:					
Cook (FEMA Docket No. D–7521).	Village of Arlington Heights.	November 2, 2001, November 9, 2001, *Daily Herald*.	The Honorable Arlene J. Malder, Mayor of the Village of Arlington Heights, Arlington Heights Village Hall, 33 South Arlington Road, Arlington Heights, Illinois 60005.	Feb. 8, 2002	170056 F
Cook	Unincorporated Areas.	January 25, 2002, *The Daily Southtown*.	Mr. John H. Stroger, Jr., President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	Feb. 24, 2002	170054 F
Cook	Village of Willow Springs.	January 25, 2002, *The Daily Southtown*.	The Honorable Terrence Carr, Mayor of the Village of Willow Springs, 8156 South Archer Avenue, Willow Springs, Illinois 60480.	Feb. 24, 2002	170174 F
Indiana:					
Lake (FEMA Docket No. D–7519).	Town of Dyer	December 14, 2001, December 21, 2001, *Daily Herald*.	Mr. Glen Eberly, President, Town of Dyer Board of Trustees, One Town Square, Dyer, Indiana 46311.	Dec. 6, 2001	180129 D
Lake (FEMA Docket No. D–7519).	Town of Schererville.	December 14, 2001, December 21, 2001, *Daily Herald*.	Mr. Richard Kramer, Manager of the Town of Schererville, 833 West Lincoln Highway, Suite B20W, Schererville, Indiana 46375.	Dec. 6, 2001	180142 B
Maine:					
York (FEMA Docket No. D–7517).	Town of Alfred	September 27, 2001, October 4, 2001, *The Sanford News*.	Mr. Perley Yeaton, Chairperson of the Board of Selectmen for the Town of Alfred, P.O. Box 667, Alfred, Maine 04002.	Sept. 19, 2001	230191C
Aroostook (FEMA Docket No. D–7519).	Town of Fort Fairfield.	November 28, 2001, December 5, 2001, *Fort Fairfield Press*.	Mr. Dan K. Foster, Manager of the Town of Fort Fairfield, P.O. Box 350, Fort Fairfield, Maine 04742.	Nov. 19, 2001	230018 B
Knox (FEMA Docket No. D–7519).	Town of North Haven.	November 22, 2001, November 29, 2001, *The Courier-Gazette*.	Mr. Dake Collins, Town of North Haven Administrator, P.O. Box 400, North Haven, Maine 04853.	Nov. 13, 2001	230228 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Cumberland (FEMA Docket No. D–7521).	Town of Scarborough.	November 30, 2001, December 7, 2001, *Portland Press Herald*.	Mr. Ronald W. Owens, Manager of the Town of Scarborough, P.O. Box 360, Scarborough, Maine 04070–0360.	Nov. 19, 2001	230052 D
Knox (FEMA Docket No. D–7517).	Town of St. George.	October 18, 2001, October 25, 2001, *Courier-Gazette*.	Mr. John Falla, St. George Town Manager, P.O. Box 131, Tenants Harbor, Maine 04860.	Oct. 12, 2001	230229 C
Maryland:					
Frederick (FEMA Docket No. D–7517).	City of Frederick	November 14, 2001, November 21, 2001, *Frederick News Post*.	The Honorable James Grimes, Mayor of the City of Frederick, 101 North Court Street, Frederick, Maryland 21701.	Oct. 30, 2001	240030 B
Frederick (FEMA Docket No. D–7521).	City of Frederick	November 19, 2001, November 26, 2001, *Frederick News Post*.	The Honorable James Grimes, Mayor of the City of Frederick, 101 North Court Street, Frederick, Maryland 21701.	Nov. 1, 2001	240030 B
Frederick (FEMA Docket No. D–7517).	Unincorporated Areas.	November 14, 2001, November 21, 2001, *Frederick News Post*.	Mr. Ron Hart, Frederick County Manager, 12 East Church Street, Frederick, Maryland 21701.	Oct. 30, 2001	240027 B
Massachusetts:					
Plymouth (FEMA Docket No. D–7521).	Town of Hanover	December 12, 2001, December 19, 2001, *Hanover Mariner*.	Office of the Chairman of the Board of Selectmen, Town Hall, 550 Hanover Street, Hanover, Massachusetts 02339.	Mar. 13, 2002	250266 B
Michigan:					
Wayne (FEMA Docket No. D–7517).	Township of Canton.	October 18, 2001, October 25, 2001, *The Observer & Eccentric*.	Mr. Thomas J. Yack, Township of Canton Supervisor, 1150 South Canton Center Road, Canton, Michigan 48188.	Jan. 24, 2002	260219 B
New Jersey:					
Cape May (FEMA Docket No. D–7517).	City of North Wildwood.	October 10, 2001, October 17, 2001, *The Leader*.	The Honorable Aldo A. Palombo, Mayor of the City of North Wildwood, Municipal Building, 901 Atlantic Avenue, North Wildwood, New Jersey 08260.	Sept. 19, 2001	345308 E
North Carolina:					
Wake (FEMA Docket No. D–7513).	Town of Cary	May 24, 2001, May 31, 2001, *The Cary News*.	The Honorable Glenn D. Lang, Mayor of the Town of Cary, P.O. Box 8005, Cary, North Carolina 27512.	August 29, 2001	370238 E
Wake (FEMA Docket No. D–7521).	Town of Cary	November 23, 2001, November 30, 2001, *The News and Observer*.	The Honorable Glenn D. Lang, Mayor of the Town of Cary, 318 North Academy Street, P.O. Box 8005, Cary, North Carolina 27512.	July 26, 2001	370238 E
Dare (FEMA Docket No. D–7515).	Unincorporated Areas.	August 23, 2001, August 30, 2001, *Coastland Times*.	Mr. Moncie L. Daniels, Chairman of the Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	Aug. 16, 2001	375348E
Ohio:					
Warren (FEMA Docket No. D–7517).	City of Mason	September 5, 2001, September 12, 2001, *Pulse-Journal*.	The Honorable John McCurley, Mayor of the City of Mason, 202 West Main Street, Mason, Ohio 45040.	Aug. 30, 2001	390559 C
Pennsylvania:					
Dauphin (FEMA Docket No. D–7521).	Township of East Hanover.	November 30, 2001, December 7, 2001, *Patriot News*.	Mr. George Rish, Chairman, Township of East Hanover, Board of Supervisors, 80848 Jonestown Road, Grantville, Pennsylvania 17028.	Nov. 14, 2001	420377 B
Carbon (FEMA Docket No. D–7519).	Township of East Penn.	November 2, 2001, November 9, 2001, *Times News*.	Mr. Gordon Scherer, Chairman of the Township of East Penn Board of Supervisors, 167 Municipal Road, Lehighton, Pennsylvania 18253.	Oct. 23, 2001	421013 B
Dauphin (FEMA Docket No. D–7521).	Township of Swatara.	December 7, 2001, December 14, 2001, *Patriot News*.	Mr. Gregory J. Ricci, President of the Township of Swatara Board of Commissioners, 599 Eisenhower Boulevard, Swatara, Pennsylvania 17111–2397.	Mar. 15, 2002	420398 B
Puerto Rico:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Common wealth.	.....	October 5, 2000, October 12, 2000, *El Nuevo Dia*.	Mr. Jose R. Cabellero Mercado, President de la Junta de, Planificacion de Puerto Rico, El Piso 13, Oficina 1304, Edificio Norte, Centro Gubernamental Minillas, Santurce, Puerto Rico 00940.	Jan. 12, 2001	720000
Puerto Rico (FEMA Docket No. D–7517).	Commonwealth ..	October 12, 2001, October 19, 2001, *San Juan Star*.	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	Jan. 18, 2002	720000 B&C
South Carolina:					
Richland (FEMA Docket No. D–7513).	Unincorporated Areas.	June 28, 2001, July 5, 2001, *The State*.	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street, P.O. Box 192, Columbia, South Carolina 29202.	June 21, 2001	450170 G
Richland (FEMA Docket No. D–7521).	Unincorporated Areas.	December 17, 2001, December 24, 2001, *The State Newspaper*.	Mr. T. Cary McSwain, Richland County Administrator, P.O. Box 192, 2020 Hampton Street, Columbia, South Carolina 29202.	Dec. 10, 2001	450170 G
Tennessee:					
Williamson (FEMA Docket No. D–7521).	City of Brentwood	November 23, 2001, November 30, 2001, *The Review Appeal*.	The Honorable Joseph Reagan, Mayor of the City of Brentwood, 5211 Maryland Way, Brentwood, Tennessee 37024.	November 16, 2001 ..	470205 C
Shelby (FEMA Docket No. D–7521).	Town of Collierville.	October 18, 2001, October 25, 2001, *The Collierville Herald*.	The Honorable Linda Kerley, Mayor of the Town of Collierville, 101 Walnut Street, Collierville, Tennessee 38017–2671.	Jan. 31, 2002	470263 E
U.S. Virgin Islands (FEMA Docket No. D–7517).	Island of St. Croix	November 1, 2001, November 8, 2001, *The Daily News*.	The Honorable Charles W. Turnbull, Governor of the U.S. Virgin Islands, Government House, 21–22 Kongens Gade, St. Thomas, Virgin Islands 00802.	Oct. 25, 2001	780000 D
Virginia:					
Fauquier (FEMA Docket No. D–7517).	Unincorporated Areas.	October 18, 2001, October 25, 2001, *Fauquier Citizen*.	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	Jan. 24, 2002	510055 A
Henrico (FEMA Docket No. D–7517).	Unincorporated Areas.	October 26, 2001, November 1, 2001, *The Richmond Times*.	Mr. Richard Glover, Chairman of the Henrico County, Board of Supervisors, P.O. Box 27032, Richmond, Virginia 23273.	Oct. 12, 2001	510077 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12657 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or

individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) ● Elevation in feet (NAVD)
OHIO	
Meigs County (Unincorporated Areas) (FEMA Docket No. D–7518)	
Village of Middleport, Village of Pomeroy, Village of Racine, Village of Syracuse, and Meigs County (Unincorporated Areas)	
Ohio River:	
Approximately 2 miles upstream of the downstream county boundary	*576
At the upstream county boundary	*602
Meigs County (Unincorporated Areas)	
Little Leading Creek:	
Approximately 0.8 mile upstream of the Village of Rutland corporate limits	*578
Approximately 0.9 mile upstream of the Village of Rutland corporate limits	*578
Kerr Run:	
Just upstream of the Village of Pomeroy corporate limits	*579
Approximately 250 feet upstream of the Village of Pomeroy corporate limits	*579
Unnamed Tributary to Kerr Run:	
Just upstream of the Village of Pomeroy corporate limits	*579
Approximately 50 feet upstream of the Village of Pomeroy corporate limits	*579
Unnamed Tributary to Wolf Run:	
Approximately 750 feet upstream of the confluence with Wolf Run	*582
Approximately 950 feet upstream of the confluence with Wolf Run	*582
Rose Creek:	
Approximately 0.8 mile upstream of the confluence with the Ohio River	*580
Approximately 1.1 miles upstream of the confluence with the Ohio River	*580
Johns Run:	
Approximately 200 feet downstream of State Route 338	*587
Approximately 0.7 mile upstream of State Route 338	*587
Groundhog Creek:	
Just upstream of State Route 338	*593
Approximately 1.7 miles upstream of State Route 338	*593
Sugarcamp Run:	
Just upstream of State Route 124	*601
Approximately 0.8 mile upstream of State Route 124	*601
Indian Run:	
Just upstream of State Route 124	*602
Approximately 0.9 mile upstream of State Route 124	*602
Meigs County (Unincorporated Areas)	
Maps available for inspection at the Meigs County Courthouse, 100 East Second Street, Pomeroy, Ohio.	
Village of Middleport	
Maps available for inspection at the Middleport Village Hall, 237 Race Street, Middleport, Ohio.	
Village of Pomeroy	
Maps available for inspection at the Pomeroy Village Hall, 320 East Main Street, Pomeroy, Ohio.	
Village of Racine	
Maps available for inspection at the Racine Village Hall, 405 Main Street, Racine, Ohio.	
Village of Syracuse	
Maps available for inspection at the Syracuse Village Hall, 2581 Third Street, Syracuse, Ohio.	
Scioto County (Unincorporated Areas) (FEMA Docket No. D–7516)	
Scioto County (Unincorporated Areas), City of Portsmouth	
Ohio River:	
Approximately 1,270 feet downstream of the confluence of Spencer Run	*531
Approximately 4.2 miles downstream of CSX Transportation	*536
Village of Rarden	
Rarden Creek:	
At Norfolk Southern Railway	*615
At upstream corporate limits	*615
City of Portsmouth	
Scioto River:	
At downstream corporate limits	*535

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)
At upstream corporate limits	*535
Scioto County (Unincorporated Areas)	
Maps available for inspection at the Scioto County Courthouse, 602 7th Street, Room 1, Portsmouth, Ohio.	
Village of Rarden	
Maps available for inspection at the Rarden City Hall, 1400 Main Street, Rarden, Ohio.	
City of Portsmouth	
Maps available for inspection at the Portsmouth Municipal Building, 728 2nd Street, Portsmouth, Ohio.	
VIRGINIA	
Southampton County (Unincorporated Areas) (FEMA Docket No. D–7520)	
Southampton County (Unincorporated Areas)	
Blackwater River:	
At the confluence with Chowan River	*14
Approximately 6,700 feet upstream of State Route 620 (Broadwater Road)	*36
Southampton County (Unincorporated Areas), Town of Courtland	
Nottoway River:	
At the confluence with Chowan River	*14
Approximately 2,400 feet upstream of Norfolk Franklin & Danville Railroad	*27
Southampton County (Unincorporated Areas)	
Maps available for inspection at the Southampton County Administrator's Office, 26022 Administration Center Drive, Courtland, Virginia.	
Town of Courtland	
Maps available for inspection at the Courtland Town Office, 22219 Meherrin Road, Courtland, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12654 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) ● Elevation in feet (NAVD)
CONNECTICUT	
Cheshire (Town), New Haven (FEMA Docket No. D–7512)	
Judd Brook:	
At West Johnson Avenue	*137
Approximately 600 feet upstream of Interstate 84	*140
Maps available for inspection at the Town Planning Department, Town Hall, 84 South Main Street, Cheshire, Connecticut.	
Southington (Town), Hartford County (FEMA Docket No. D–7512)	
Judd Brook:	
Approximately 75 feet upstream of corporate limits	*139
At confluence of East Branch Judd Brook and Humiston Brook	*144
Humiston Brook:	
At confluence of Judd Brook and East Branch Judd Brook	*144
Approximately 50 feet downstream of Marion Avenue	*166
East Branch Judd Brook:	
At confluence of Judd Brook and Humiston Brook	*144
Approximately 1,940 feet upstream of Marion Avenue	*185
Maps available for inspection at the Planning and Zoning Department, 75 Main Street, Southington, Connecticut.	
FLORIDA	
Bay County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Gulf of Mexico:	
Approximately 500 feet southwest of the intersection of Paridiso Place and Miracle Strip Parkway	*16
Approximately 1,100 feet southwest of Salt Creek crossing of U.S. Route 98	*8
East Bay:	
At Farndale Bayou shoreline crossing of Tyndall County Line Road	*6
Approximately 500 feet west of the Hamilton Road extended	*10
St. Andrew Bay:	
Approximately 500 feet east of the intersection of Delwood Beach Road and Delwood Drive	*12
Approximately 500 feet west of the intersection of Sabre Drive and Delta Avenue	*8
North Bay:	
Approximately 500 feet west of the intersection of 27th Street and Mound Avenue	*11
Approximately 750 feet north of the intersection of North Shore Road and Goose Bayou Road	*7
Callaway Creek:	
At State Route 22	*7
Approximately 0.8 mile upstream of State Route 22	*7
Callaway Bayou:	
Approximately 200 feet south of intersection of Colonial Road and Coleridge Drive	*7
Approximately 1,600 feet south of intersection of Colonial Road and Coleridge Drive	*10
Watson Bayou Tributary:	
Approximately 200 feet southwest of intersection of Cherry Street and Everitt Avenue	*8
St. Andrew Sound:	
Approximately 4,000 feet south of intersection of Interstate 98 and Unnamed Road	*11
Approximately 2,000 feet south of intersection of Interstate 98 and Unnamed Road	*13
Maps available for inspection at the Bay County Builders Services Division, 640 Mulberry Avenue, Panama City, Florida.	
Callaway (City), Bay County (FEMA Docket No. D–7524)	
East Bay:	
Approximately 0.7 mile east of the intersection of South Berthe Avenue and Wallace Road	*11
Approximately 1,000 feet southeast of intersection of South Berthe Avenue and Wallace Road	*7
Callaway Bayou:	
Approximately 0.7 mile east of the intersection of South Berthe Avenue and Wallace Road	*11
Approximately 500 feet southeast of intersection of Winonast and Beulah Avenue	*7
Callaway Creek:	
At State Route 22	*7
Approximately 0.6 mile upstream of State Route 22	*7
Pitts Bayou:	
West side of U.S. Route 98 (Tyndall Parkway) at Pitts Bayou Crossing	*8
Maps available for inspection at the Department of Public Works, 324 South Berthe Avenue, Callaway, Florida.	
Lynn Haven (City), Bay County (FEMA Docket No. D–7524)	
North Bay:	
At the intersection of West 19th Street and Maryland Avenue	*7
Shoreline at Little Oyster Bar Point	*11
At intersection of New Jersey Avenue and 11th Street	*7
Maps available for inspection at the Lynn Haven City Hall, 825 Ohio Avenue, Lynn Haven, Florida.	
Martin County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Bessey Creek:	
Approximately 1,100 feet downstream of Andrews Drive	*8
At 84th Avenue	*26
Danforth Creek:	
At Martin Downs Boulevard	*8
Approximately 1,600 feet upstream of State Route 76A	*23
South Fork St. Lucie River:	
Approximately 2.1 miles upstream of State Route 76	*8
Approximately 4.9 miles upstream of State Route 76	*10
Roebuck Creek:	
Approximately 700 feet downstream of Buckskin Trail	*8
Approximately 0.78 miles upstream of State Route 76A	*19
Manatee Creek:	
State Route A1A	*9
Approximately 1,800 feet upstream of Twin Lakes Drive	*15
East Fork Creek:	
Approximaely 400 feet upstream of Cove Road	*9
Approximately 100 feet upstream of Mariner Sands Drive	*15
Atlantic Ocean:	
Approximately 600 feet east of the intersection of A1A and 42nd Street	*14
Approximately 1.1 miles northeast of intersection of Golfhouse Drive and Hill Terrace	*6

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) ● Elevation in feet (NAVD)
Maps available for inspection at the Martin County Engineer's Office, 2401 South East Monterey Road, Stuart, Florida.	
Mexico Beach (City). Bay County (FEMA Docket No. D–7524)	
Gulf of Mexico:	
At the intersection of 38th Street and 36th Street ..	*8
Approximately 175 feet south of the intersection of 16th Street and U.S. Highway 98	*16
Maps available for inspection at the Mexico Beach City Hall, 118 North 14th Street, Mexico Beach, Florida.	
Panama City (City). Bay County (FEMA Docket No. D–7514)	
Watson Bayou:	
Approximately 300 feet west of the intersection of Harris Avenue and 11th Street	*8
Approximately 1,600 feet northeast of the intersection of Hollis Avenue and Texas Street	*11
St. Andrew Bay:	
Approximately 400 feet north of the intersection of Allen Avenue and Linda Avenue	*8
Approximately 125 feet south of the intersection of Fairland Avenue and Beach Drive	*12
North Bay:	
Approximately 100 feet west of the intersection of Frankfort Avenue and Calhoun Avenue	*7
Approximately 650 feet northwest of the intersection of Harbor Place and Harbor Road	*11
Maps available for inspection at the City Hall, City of Panama City, 9 Harrison Avenue, Panama City, Florida.	
Panama City Beach (City), Bay County (FEMA Docket No. D–7514)	
Gulf of Mexico:	
Approximately 400 feet west of the intersection of Crane Street and Miracle Strip Parkway	*16
Approximately 200 feet west of the intersection of Habanero Avenue and Lullwater Drive East	*8
Maps available for inspection at the Panama City Beach City Hall, 110 South Arnold Road, Panama City Beach, Florida	
Parker (City), Bay County (FEMA Docket No. D–7514)	
East Bay:	
Approximately 2,500 feet southeast of the intersection of Fleming Street and Interstate 98	*10
Approximately 300 feet east of the intersection of Bay Avenue and Oak Shore Drive	*8
St. Andrew Bay:	
Approximately 800 feet west of intersection of Sunset Drive and Cedar Avenue	*11
At the intersection of East Street and Fourth Street	*8
Maps available for inspection at the Parker City Hall, 1001 West Parker, Parker, Florida.	
Springfield (City), Bay County (FEMA Docket No. D–7514)	
Watson Bayou Tributary:	
Approximately 300 feet south of the intersection of East 2nd St and Springfield Avenue	*8
Maps available for inspection at the Springfield City Hall, 3529 East Third Street, Springfield, Florida.	
GEORGIA	
White County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Blue Creek:	
Approximately 300 feet upstream of the confluence with Chattahoochee River	*1,268
Approximately 2.5 miles upstream of Duncan Bridge Road	*1,372
Brasstown Creek:	
Approximately 800 feet upstream of the confluence with Chattahoochee River	*1,271
Approximately 3.2 miles upstream of Roy Powers Road	*1,391
Brasstown Creek Tributary No. 1:	
At confluence with Brasstown Creek	*1,322
Approximately 1.3 miles upstream of the confluence with Brasstown Creek	*1,386
Brasstown Creek Tributary No. 2:	
At the confluence with Brasstown Creek	*1,341
Approximately 0.9 mile upstream of the confluence with Brasstown Creek	*1,394
White Creek:	
Approximately 200 feet upstream of the confluence with Chattahoochee River	*1,133
At State Route 254	*1,317
Chattahoochee River:	
Approximately 1.7 miles downstream of State Route 75	*1,390
Approximately 1.5 miles downstream of State Route 75	*1,394
Maps available for inspection at the White County Planning Commission Director's Office, 59 South Main Street, Cleveland, Georgia.	
MAINE	
Orrington (Town), Penobscot County (FEMA Docket No. D–7522)	
Sedgeunkedunk Stream:	
A point approximately 100 feet downstream of Orrington corporate limits	*42
A point approximately 420 feet upstream of Fields Pond Road bridge	*102
Penobscot River:	
At downstream corporate limits	*11
At upstream corporate limits	*16
Brewer Lake:	
Entire shoreline within community	*112
Maps available for inspection at the Orrington Town Hall, 29 Center Drive, Orrington, Maine.	
MASSACHUSETTS	
Malden (City), Middlesex County (FEMA Docket No. D–7516)	
Town Line Brook:	
Approximately 1,000 feet downstream of corporate limits	*9
Approximately 500 feet upstream of Lynn Street	*9
Linden Brook:	
Approximately 250 feet downstream of corporate limits	*9
On downstream side of Beach Street	*9
Maps available for inspection at the Malden Engineering Office, Malden City Hall, 200 Pleasant Street, Malden, Massachusetts.	
Revere (City), Suffolk County (FEMA Docket No. D–7516)	
Town Line Brook:	
Approximately 100 feet east of intersection of Washington Avenue and Squire Road	*9
Linden Brook:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) ● Elevation in feet (NAVD)
Approximately 180 feet south of the intersection of Lynn Street and Adamski Memorial Highway	*9
Maps available for inspection at the Revere Planning Office, 281 Broadway, Revere, Massachusetts.	
MISSISSIPPI	
Gulfport (City), Harrison County (FEMA Docket No. D–7524)	
Flat Branch:	
Approximately 525 feet upstream of Dedeaux Road	*20
Downstream side of U.S. Highway 49	*50
Maps available for inspection at the Gulfport City Hall, 2309 15th Street, Gulfport, Mississippi.	
NEW JERSEY	
Watchung (Borough), Somerset County (FEMA Docket No. D–7255)	
Stony Brook:	
Approximately 40 feet downstream of Johnston Drive	*115
Approximately 150 feet upstream of Somerset Street	*187
East Branch Stony Brook:	
Approximately 675 feet downstream of Valley Drive	*213
Approximately 20 feet downstream of Meadowlark Drive	*237
Green Brook:	
At Raymond Avenue	*128
Approximately 1,650 feet upstream of Apple Tree Road	*405
Maps available for inspection at the Watchung Borough Hall, 15 Mountain Boulevard, Watchung, New Jersey.	
NEW YORK	
Corning (City), Steuben County (FEMA Docket No. D–7516)	
Post Creek:	
Approximately 0.52 mile upstream of the confluence with Chemung River	*924
Approximately 1.55 miles upstream of the confluence with Chemung River	*958
Maps available for inspection at the Corning Code Enforcement Office, 7 Nasser Civic Center, Corning, New York.	
Corning (Town), Steuben County (FEMA Docket No. D–7506)	
Post Creek:	
Approximately 150 feet downstream of downstream corporate limits	*956
Approximately 1,850 feet upstream of downstream corporate limits	*967
Maps available for inspection at the Corning Town Hall, 20 South Maple Street, Corning, New York.	
Hamilton (Town), Madison County (FEMA Docket No. D–7504)	
Sangerfield River:	
From downstream corporate limits	*1,075
Approximately 150 feet upstream of upstream corporate limits	*1,186
Maps available for inspection at the Hamilton Town Hall, 16 Broad Street, Hamilton, New York.	
Hamilton (Village), Madison County (FEMA Docket No. D–7516)	
Canal Tributary:	
At confluence with Payne Brook Tributary	*1,110
At the upstream corporate limits	*1,116
Payne Brook:	
Approximately 1,360 feet downstream of College Street	*1,101
At upstream corporate limits	*1,125
Payne Brook Tributary:	
At the confluence with Payne Brook	*1,104
Approximately 80 feet upstream of Eaton Street	*1,119
Maps available for inspection at the Hamilton Village Hall, 3 Broad Street, Hamilton, New York.	
Lisle (Town), Broome County (FEMA Docket No. D–7514)	
Dudley Creek:	
Approximately 650 feet downstream of Owen Hill Road	*1,044
At Popple Hill Road	*1,097
Culver Creek:	
At the confluence with Dudley Creek	*1,075
At Hunts Corners Road	*1,106
Tioughnioga River:	
Approximately 3.12 miles downstream of Main Street	*979
A point approximately 1.19 miles upstream of Main Street	*1,003
Maps available for inspection at the Lisle Town Office, 9234 NYS Route 79, Lisle, New York.	
Lockport (Town), Niagara County (FEMA Docket No. D–7516)	
Eighteen Mile Creek:	
At downstream corporate limits	*356
Approximately 130 feet upstream of Stone Road	*365
East Tributary to Eighteen Mile Creek:	
At downstream corporate limits	*360
Approximately 1 mile upstream of State Route 104	*363
West Tributary to Eighteen Mile Creek:	
At confluence with Eighteen Mile Creek	*359
At Lockport town line	*384
East Branch to Eighteen Mile Creek:	
At downstream corporate limits	*357
Approximately 1,500 feet upstream of upstream corporate limits	*375
Gulf Branch:	
At Niagara Street	*472
Just downstream of Upper Mountain Road	*584
Gulf Tributary:	
At confluence with Gulf Branch	*497
Approximately 2,250 feet upstream of confluence with Gulf Branch	*514
Tonawanda Creek:	
Approximately 1 mile upstream of Rapids Road	*591
At upstream corporate limits	*591
Donner Creek:	
At the downstream corporate limits	*606
Approximately 1,660 feet upstream of Hamm Road	*618
Maps available for inspection at the Lockport Town Hall, 6560 Dysinger Road, Lockport, New York.	
Tusten (Town), Sullivan County (FEMA Docket No. D–7514)	
Delaware River:	
At the downstream corporate limits	*629
Approximately 2.03 miles downstream of the CONRAIL bridge	*665
Maps available for inspection at the Tusten Town Hall, 210 Bridge Street, Narrowsburg, New York.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) ● Elevation in feet (NAVD)
VIRGINIA	
Franklin (City), Independent City (FEMA Docket No. D–7514)	
Blackwater River:	
At downstream corporate limits	*17
At upstream corporate limits	*22
Maps available for inspection at the Franklin City Office, 207 West Second Avenue, Franklin, Virginia.	
Suffolk (City), Independent City (FEMA Docket No. D–7514)	
Blackwater River:	
At downstream corporate limits	*15
At upstream corporate limits	*16
Maps available for inspection at the Suffolk City Manager's Office, 441 Market Street, Suffolk, Virginia.	
Isle of Wight County (Unincorporated Areas) (FEMA Docket No. D–7514)	
Blackwater River:	
Approximately 3.7 miles downstream of CSX Transportation	*16
Approximately 1.3 miles upstream of Broadwater Road (State Route 629)	*36
Maps available for inspection at the Isle of Wight Planning and Zoning Department, 17140 Monument Circle, Suite 201, Isle of Wight, Virginia.	
WISCONSIN	
Bay City (Village), Pierce County (FEMA Docket No. D–7516)	
Mississippi River (Lake Pepin):	
Entire shoreline within community	*682
Bay City Creek:	
Approximately 520 feet downstream of CSX Transportation	*683
Approximately 900 feet upstream of Great River Road	*690
Maps available for inspection at the Bay City Village Hall, W6371 Main Street, Bay City, Wisconsin.	
Chippewa Falls (City), Chippewa County (FEMA Docket No. D–7516)	
Duncan Creek:	
Upstream side of Bridge Street	*827
Approximately 0.72 mile upstream of Glen Loch Dam	*898
Maps available for inspection at the Chippewa Falls City Hall, 30 West Central Street, Chippewa Falls, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12653 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

Proposed Rules

Federal Register
Vol. 67, No. 98
Tuesday, May 21, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–42–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A–1, 205B, 212, 214B, and 214B–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 204B, 205A–1, 212, 214B, and 214B–1 helicopters. That AD currently requires reducing the retirement time for certain main rotor tension-torsion (TT) straps on those models and on the Model UH–1 series helicopters. This document would contain the same requirements but would remove the Model UH–1 series restricted category helicopters and would add the BHTI Model 205A and 205B helicopters to the applicability. This proposal is prompted by the issuance of a separate AD for the Model UH–1 series helicopters and the need to add the BHTI Model 205A and 205B helicopters to the applicability because the affected straps are eligible for installation on these model helicopters. The actions specified by the proposed AD are intended to prevent failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before June 5, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–42–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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On July 31, 1980, the FAA issued AD 80–17–09, Amendment 39–3876 (45 FR 54014, August 14, 1980), Docket No. 80–ASW–25. That AD requires replacing certain TT straps on or before attaining 1,200 hours TIS or 24 calendar months, whichever occurs first, for the BHTI Model 204B, 205A–1, 212, 214B, 214B–1, and the Model UH–1 series military helicopters. That action was prompted by an offshore accident of a Bell Model 212 helicopter in which a TT strap reportedly failed in flight after 2,140 hours TIS with resulting loss of the main rotor blade. The requirements of that AD are intended to prevent failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter.

Since the issuance of that AD, a separate NPRM has been issued (67 FR 17305, April 10, 2002) for the military surplus restricted category helicopters that includes the Model UH–1 series hence the removal of the Model UH–1 series helicopters from the applicability of this proposed AD. Also, further review indicates that the affected TT straps are eligible for installation on the BHTI Model 205A and 205B helicopters. Therefore, this proposed AD includes those models in the applicability.

This unsafe condition is likely to exist or develop on other helicopters of these same type designs. The proposed AD would supersede AD 80–17–09 to contain the same requirements but would change the applicability by removing the restricted category Model UH–1 series helicopters and adding the BHTI Model 205A and 205B helicopters.

The FAA estimates that this AD would affect 168 helicopters of U.S. registry. The FAA also estimates that it would take 8 work hours to replace the TT straps at an average labor rate of $60 per work hour. The TT straps would cost approximately $10,484 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,840,352.

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), 40114, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–3876 (45 FR 54014, dated August 14, 1980), and by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Textron, Inc.: Docket No. 2001–SW–42. Supersedes AD 80–17–09, Amendment 39–3876, Docket No. 80–ASW–25.

Applicability: Model 204B, 205A, 205A–1, 205B, 212, 214B, and 214B–1 helicopters, with main rotor tension-torsion (TT) strap, part number (P/N) 204–012–122–1, –5, or 214–010–179–1, 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 (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 separation of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove and replace any TT strap with 1,200 or more hours time-in-service (TIS) or 24 or more months since initial installation on any helicopter, whichever occurs first.

(b) This AD revises the limitations section of the maintenance manual by establishing a life limit for the TT straps, P/N 204–012–122–1, –5, or 214–010–179–1, of 1200 hours TIS or 24 months since initial installation on any helicopter, whichever occurs first.

(c) Special flight permits will not be issued.

(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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

Issued in Fort Worth, Texas, on May 9, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–12702 Filed 5–20–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 170

[Docket No. 01N–0234]

Food Additives: Food Contact Substance Notification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is requesting input on whether the agency should establish regulations permitting the licensing of the rights to manufacture and market a food contact substance for the use that is the subject of an effective food contact notification (FCN). FDA is requesting this input in response to a comment on a proposed rule published in the **Federal Register** of July 13, 2000. The action requested in the comment concerning the transfer of rights granted under the FCN process is beyond the scope of the July 2000 proposal, and FDA is publishing this document so that interested persons may have adequate time to consider and comment on this issue.

DATES: Submit written or electronic comments by August 5, 2002.

ADDRESSES: Submit written comments 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: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

The Food and Drug Administration Modernization Act of 1997 (Public Law 105–115) established a premarket notification process for food contact substances (FCSs). The FCN process began to operate on October 22, 1999, and is now the primary method for authorizing new uses of food additives that are FCSs. In the **Federal Register** of July 13, 2000 (65 FR 43269), the agency proposed regulations to facilitate implementation of the notification process. FDA provided 75 days for comment on the proposed rule. FDA received three comments from trade associations representing the food packaging industry. One comment requested that FDA issue regulations to permit the transfer of rights granted under the FCN process. Because that request is outside the scope of the proposed rule, in this advanced notice of proposed rulemaking, FDA is soliciting input from interested parties on the action requested by that comment. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule responding to the remaining comments on the proposal and codifying the proposed regulations with limited changes.

II. The American Plastics Council Comment

The comment on the proposed rule received from the American Plastics Council (APC) requests that FDA issue regulations to permit a manufacturer identified in an effective FCN to transfer by sale, licensing, or otherwise to another manufacturer the right to

manufacture and market the FCS for the use that is the subject of the FCN, provided that FDA is advised of the transfer. The APC comment argues that such a process would maintain the safety of the FCS because the FCS would continue to be manufactured in the manner reviewed by FDA and would still be authorized only for the use that was the subject of the original FCN. As noted, FDA believes that the issue raised in the APC comment is outside the scope of the proposed rule, and thus, the agency has not addressed the APC comment in the final rule published elsewhere in this issue of the **Federal Register**. To assist the agency in determining what, if any, action it should take, FDA is requesting comments from interested parties on whether the agency should permit a manufacturer to transfer the rights, granted by an effective FCN, to manufacture and market an FCS.

III. FDA's Current Practice

Under section 409(h)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)(2)(C)), a notification is only effective for the FCS identified in the FCN and not for a similar or identical FCS manufactured or prepared by another manufacturer. Currently, FDA requires any subsequent manufacturer who wishes to market an FCS for a use that is the subject of an effective FCN to submit a new notification to FDA. In addition, the manufacturer identified in an effective FCN may authorize other manufacturers to reference information contained in the effective FCN. Thus, other manufacturers may have to provide only limited additional information in subsequent FCNs but they must separately notify FDA and wait 120 days for their FCN to become effective. One effect of FDA issuing the regulations requested in the APC comment would be that subsequent manufacturers could more rapidly market FCSs.

IV. Paperwork Reduction Act of 1995

This advanced notice of proposed rulemaking contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Analysis of Impacts

Executive Order 12866, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995 require cost-benefit and other economic analyses of regulatory alternatives. FDA requests comments on economic issues associated with regulations permitting a manufacturer or supplier identified in an effective FCN to transfer by sale, licensing, or otherwise to another manufacturer or supplier the right to manufacture or market the FCS for the use that is the subject of the FCN. The agency particularly requests answers or comments on the following questions:

1. What paperwork and other costs will you incur in submitting a transfer application?

2. What health and safety safeguards operate under transfer?

3. Will consumers benefit from establishing such a transfer right? If so, how?

4. What effect would transfer have on the costs and market position of small businesses?

5. How many transfers do you anticipate issuing for each new FCN?

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment from the American Plastics Council submitted to FDA Docket No. 99N–5556, dated September 26, 2000.

VIII. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this notice by August 5, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12662 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 54

[REG–136193–01]

RIN 1545–BA08

Notice of Significant Reduction in the Rate of Future Benefit Accrual; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains a correction to the notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Tuesday, April 23, 2002 (67 FR 19713) that relates to the requirements of section 4980F of the Internal Revenue Code (Code) and section 204(h) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, which apply to defined benefit plans and to individual account plans that are subject to the funding standards of section 412 of the Code and section 302 of ERISA.

FOR FURTHER INFORMATION CONTACT: Pamela Kinard, (202) 622–3847 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 4980F of the Internal Revenue Code.

Need for Correction

As published, REG–136193–01 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–136193–01), which is the subject of FR Doc. 02–9529 is corrected as follows:

On page 19718, column 2, in the preamble under the caption ''Comments and Public Hearing'', third paragraph, line 8, the language ''(8) copies) by June

18, 2002. A period'' is corrected to read ''(8) copies) by July 22, 2002. A period''.

LaNita Van Dyke,

Paralegal Specialist, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02–12721 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2002–1; Order No. 1341]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes revising its rules of practice to require, in most instances, that participants file documents electronically over the Internet. This will allow the Commission and others to apply modern technology to certain routine procedures. This should reduce the burden and expense associated with traditional hard copy filing. Conforming and related changes to other rules, including those addressing service and submission of computer-generated studies and analyses, are also proposed. These changes also will contribute to more efficient participation in Commission proceedings and enhance administration.

DATES: Working session on June 12, 2002 (10:00 a.m.); comments due by June 21, 2002.

ADDRESSES: Send correspondence concerning this proposal to Steven W. Williams, Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001. The working session will be held at the same address.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

See 66 FR 33034 (June 20, 2001).

Procedural History

The Commission has preliminarily concluded that it is feasible and desirable to make electronic filing of documents over the Internet the standard procedure for filing official documents with the Commission. The Internet-based filing system that the Commission has developed is referred to as Filing Online. Nearly all participants in Commission proceedings rely on word processing software to generate the documents that they file, and nearly all have the capability to send those documents in electronic form to the Commission via the Internet using standard browser technology. The Commission has developed a user interface to support the electronic filing of documents by participants in Commission proceedings. Tests of this interface have shown it to be secure, reliable, and user-friendly. It is therefore appropriate to propose that online filing be made the standard procedure for filing documents in Commission proceedings.

The Commission laid the groundwork for the conversion from hard copy to online filing in its notice and order concerning electronic filing (order no. 1317), issued June 13, 2001. There the Commission notified the public of the specific online filing procedures that it was developing, and of its intention to incorporate them in a notice of proposed rulemaking. It invited both written comments on those procedures and oral comments at a technical conference that it conducted on July 11, 2001. The public's suggestions resulted in some adjustments to the procedures proposed.

On October 24, 2001, the Commission issued a notice to participants in all of the dockets that were active at that time. The notice announced that the Commission was setting up docket no. T2002–1 as a vehicle for conducting a live test of its proposed online filing procedures. Participants were encouraged to take hard copy documents that they were filing in other dockets and file them simultaneously in docket no. T2002–1 via the Internet. Additional minor revisions were made to the Commission's proposed electronic filing procedures as a result of this test. The notice indicated the Commission's desire to make online filing procedures available on an optional basis shortly after the conclusion of the test.

Proposal To Make Filing Over the Internet Standard Procedure

The results of the T2002–1 test docket have led the Commission to conclude preliminarily that the potential benefits to participants and the Commission promised by online filing are substantial, but that to fully realize them it will be necessary to make online filing the standard procedure for filing and serving documents in its proceedings. Therefore, the Commission is proposing to make the use of Filing Online mandatory. A participant may obtain a waiver of the online filing requirement if it demonstrates to the Commission that it faces special circumstances that make online filing infeasible. The Commission proposes to revise its rules of practice and arrange for any training that may be necessary to ensure that the benefits of online filing will be available to all participants in the next major rate or classification proceeding that the Commission conducts.

The Benefits of Filing Online

As noted in order no. 1317, using Filing Online should substantially reduce the cost of participating in Commission proceedings. The process for filing documents will be greatly simplified. Transaction costs associated with the actual filing of hard copy, as well as the costs of paper, printing, and postage, will be largely eliminated. The need to serve participants will be eliminated for all but the most lengthy documents. The cumbersome attestation requirement for interrogatory answers will be eliminated as well. This streamlining should reduce the time and expense of filing documents with the Commission. It should also give participants earlier access to documents filed by others, making it possible to shorten the current cycle of pleading and response. It should also eliminate any confusion over service dates.

Because documents will be available in portable document format (pdf), they will be vastly more efficient to download. It will also be easier to cut and paste portions of filed documents into related pleadings and testimony. Conversion to Filing Online should also facilitate document management and electronic archiving for participants. It should bring about these improvements without a reduction in security, since web transmissions between participants and the Commission's server will be over encrypted channels. Processing documents on the Commission's Web site will be secure as well. Procedures are provided that allow a participant to temporarily store documents that it plans to file in a reserved area on the Commission's server without losing control over its documents. Filing Online also provides procedures that safeguard against inadvertent filing of documents that have not been finalized. Materials subject to a protective order, however, may not be filed through Filing Online, and will not be posted on the Commission's Web site.

Conversion to Filing Online also offers significant benefits to the Commission. The time and expense of applying scanning and optical character recognition procedures to filed documents will be eliminated for most

filings. As a result, filings can be posted on the Commission's Web site more quickly, in drastically reduced file sizes, and in a form that will ensure consistency when they are reproduced on different printers by different users. This will enable the Commission to provide participants with faster and more efficient service.

Account Holders

The specific procedures that are proposed for filing documents online with the Secretary of the Commission are set forth in the Filing Online user guide, which may be accessed from the Filing Online Login page on the Commission's Web site (url: *www.prc.gov*). A hard copy of the Filing Online user guide will also be mailed to each person who was on a service list of any Commission docket that was active within the past year. It will also be mailed to anyone else that requests it.

Basic to the proposed Filing Online procedures is the requirement that each individual who wishes to represent a participant in a Commission proceeding become an account holder. An individual may become an account holder by filling out the account holder application that is attached to this notice as attachment 2 and mailing it to the Secretary.

When the Commission accepts an application to become an account holder, the account holder assumes a contractual duty to ensure that each document that he or she files online is authentic, accurate, and authorized by the participant that the account holder purports to represent. This duty is the same as that imposed by the Commission's current subscription rule [39 CFR 3001.11(e)]. Under proposed 39 CFR 3001.6(c), the account holder must notify the Commission if this authority to represent a particular participant ends.

The Secretary will assign the new account holder a user name and temporary password and deliver them by e-mail. The e-mail will instruct the new account holder to immediately access the Profile page through the Commission's Filing Online link and select a new password. The new password and all files subsequently submitted using the new password will be transmitted to the Commission's server over an encrypted channel. The account holder will be encouraged to take the added precaution of periodically changing his or her password, which can be done on the Profile page. These procedures will keep the password-protected material in each account holder's dedicated user area on the Commission's server secure.

By submitting a document for filing under the account holder's user name and password, the account holder would vouch for the accuracy and authenticity of that document in the same way that a person would vouch for the accuracy and authenticity of the documents that he or she submits under the Commission's current subscription rule. This procedure will dispense with the need to sign individual documents that are filed online. For the same reason, submitting an interrogatory answer to the Commission for filing under an account holder's user name and password will dispense with the need for the witness to attest to the accuracy of his or her answer. Attestation will not be required until the interrogatory is offered as record evidence.

The Basic Mechanics of Filing Documents Online

In order to use Filing Online, an account holder will access the Commission's Web site. The account holder will click on the Filing Online link in the banner at the top of the Home page and log in by providing the appropriate user name and password. A Welcome page will appear. This page will offer several choices. A page can be selected that will explain how to file a document (the Create Filing Record page). Another page can be selected that will list and display all the documents the account holder is currently preparing for filing (the User Activity page). The account holder may also select a page that will list all of the documents that have been submitted on behalf of a participant that the account holder represents, indicate which account holder submitted them, and whether the filings are pending or accepted (the Participant Activity page). Finally, a page can be selected that will explain how the account holder's password or address information can be changed (the Profile page).

There are several ways for an account holder to file a document. All begin with the creation of a filing record. A filing record may be thought of as an empty receptacle that the account holder will fill. The account holder will begin this process by clicking on ''create filing record.'' If the document to be filed consists of a single file, the account holder will fill in the basic record-identifying fields by selecting the appropriate docket number and filing party, and entering the title of the document to be filed exactly as it appears on the first page of that document. The document may be uploaded either from the account holder's personal computer or from the user area reserved for the account holder on the Commission's server.

In order for the document to be filed, however, it must be in text-based pdf form. Requiring that all Filing Online documents be submitted in this form is essential to the Commission's ability to provide a seamless exchange among all participants of documents that are filed online. It will ensure that page and line citations to any document downloaded via Filing Online will be consistent; it will make it feasible to assemble Filing Online documents into a searchable database; and it will drastically reduce the size of downloaded files.

The account holder can produce a document in text-based pdf form on a personal computer using standard Adobe Acrobat software. Alternatively, the account holder can convert a document to text-based pdf form when submitting it to the Commission by simply clicking on either the ''create pdf'' button on the Edit Filing page, the Add Files to Computer page, or the User Activity page.

If the material that the user wishes to file consists of a set of files, the user must select a text file from the set to treat as the ''host document.'' A host document is one that references all other files in the set and describes them (as attachments, exhibits, workpapers, et cetera). The user will be required to enter the title of the host document exactly as it appears on the first page of that document. The host document and any collateral files that belong in the set should then be uploaded, either from the user's work station or from the user's area on the Commission's web server. The host document must be submitted in text-based pdf form. Any collateral files that can be produced in text-based pdf must also be submitted in that form. The ''create pdf'' button on the Commission's Edit Filing page, Add Files from Computer page, and the User Activity page can convert Postscript, Word, Rich Text Format or Wordperfect files into text-based pdf files. While data files may be submitted in their native format, they must accompany a host document that is in the required pdf format. This is necessary to enable the Commission to track and archive the filed material.

After the record-identifying information has been supplied, the host document and attachments have been assembled, and the host document and any other documents capable of being converted to text-based pdf format have been converted, the user will then click the ''proceed with filing'' button. This will bring up the Confirmation page.

The confirmation page gives the user a final chance to view a filing before submitting it. Clicking the ''Save on Activity page'' button saves the record on the User Activity page without filing it. If the account holder submits the record to the Commission, a Receipt page will appear that reflects the time that the Commission received the submission. The account holder should print a copy of this record. The receipt acknowledges only the fact that the Commission's server has received the submission. It does not constitute acceptance of the submission as an officially filed document. The receipt will contain a unique document identifier that may be used if problems subsequently arise.

The Secretary or designee will check the document-identifying information for the host document and review any collateral files. If they are found to be in compliance with the Commission's rules, the filing will be posted on the Daily Listing page. This will indicate that the filing has been accepted. If a problem is found the account holder will be contacted.

A dedicated User Activity page will be provided for the account holder's convenience. It will be password-protected and will have three parts. The ''holding area'' screen provides a space on the Commission's server where the account holder can temporarily upload individual files in order to assemble them into a set, or test their conversion to pdf format, without creating an official filing record. Documents in the holding area can be added directly to a prospective filing using the ''add files from holding area'' button. Files will remain in the holding area for 7 days.

Filings not yet submitted will be listed in the ''filings in progress'' table on the User Activity page. An account holder will be able to save a filing record and return to it later from this screen. Unsubmitted filings will remain on this screen for seven days. Filings that the account holder has submitted to the Commission in the last seven days appear in the ''submitted filings'' table on the same page. All submitted filings will be listed on this screen as ''pending'' until they have been reviewed and accepted or rejected. Once a document is accepted, its status will change from ''pending'' to ''filed.''

A Participant Activity page will be available where multiple account holders who represent the same participant can view a list of all of the filings that they submitted on behalf of that participant, on that day and the previous business day, whether the filings are pending or accepted. Both hard copy and electronic files will be listed.

A Profile page will be made available where account holders can change their password and update their address information. To maintain security, account holders are encouraged to periodically change their password. Updating the address information on the Profile page will simultaneously update the account holder's address on the service list and participant representative pages on the Commission's Web site.

A Help page will be available where the public may obtain information in a question and answer format about how to use the Filing Online system. Commission information specialists will also be available to answer questions by telephone at (202) 789–6847 during regular Commission office hours.

Compatibility With Users' Systems

Filing Online is designed to be compatible with most commonly-used web browsers, computer operating systems, and word processing software. The basic uploading and downloading functions provided by Filing Online are available to account holders that use any recent edition of the Internet Explorer, Netscape, or AOL web browsers, the Windows or Mac operating systems, and Word or WordPerfect word processing software. The Commission recommends that all account holders download and use the most recent version of Adobe Acrobat Reader to view documents downloaded through Filing Online. Adobe Acrobat Reader may be downloaded free of charge at *www.Adobe.com.*

At its inception, Filing Online will offer some enhanced functions as well, such as batch downloading and batch printing. These will be available to account holders that use any recent version of the Windows operating system together with either Internet Explorer, Netscape 4.7 or Netscape 6.2. Batch downloading and batch printing, however, will not initially be available to account holders who use other versions of Netscape, or who use a Mac operating system. The availability of these enhanced functions will gradually be expanded.

Comparison With Hard Copy Filing System

Filing Online filing procedures should prove to be easier to comply with than the hard copy-based filing procedures that are currently followed. Most documents filed with the Commission will be generated in the same manner as they are currently, using standard word processing, spreadsheet, and statistical software. The principal restriction that Filing Online will impose on users is the requirement that each filing have at least a host document that is submitted in text-based pdf form. This conversion is straightforward for users who have Adobe Acrobat software. Users who do not have Adobe Acrobat software can make the conversion on the Commission's Web site at the touch of a button. This will ensure that all copies subsequently made of host documents filed through Filing Online will be true to the original, wherever and however they are generated.

The requirement that host documents be filed in text-based pdf format should not add to the complexity of producing such documents for filing with the Commission. Currently, hard copy text documents are typically composed in Word or Wordperfect format and then printed before they are filed with the Commission. If a filer uses different printers with different printer drivers to print the same document, it may affect the formatting, and therefore, the appearance of the document, particularly if the document incorporates a graph or table generated by non-text based software. For this reason, the prudent participant currently will review a document one final time after it has been printed but before it has been submitted to the Commission, in order to catch such discrepancies. The same precaution should be followed when submitting a document under Filing Online. A document should be reviewed one final time in pdf form before it is submitted to the Commission in order to catch similar discrepancies that might arise between the word-processed version and the pdf version.

Once produced in pdf form, it should be much easier and cheaper to file documents with the Commission under Filing Online than under the current hard copy system, for the reasons discussed above. As was also noted above, the need to serve documents filed through Filing Online on other participants will largely be eliminated.

Training and Implementation

After comments on this notice of proposed rulemaking have been received and evaluated, the Commission hopes to adopt Filing Online as the standard procedure for filing documents in Commission proceedings. The Commission expects to have Filing Online rules in place and to implement the system in the summer of 2002.

As noted, the Commission established docket no. T2002–1 on October 24, 2001, as a vehicle for testing online

filing procedures. Participants in docket no. T2002–1 became account holders by submitting the application that was attached to the notice to participants in that docket. Those who became account holders in that docket should continue to test the Filing Online system until they are familiar with its procedures. Those who expect to represent participants in future Commission proceedings who are not account holders should apply to become account holders and become familiar with Filing Online procedures by filing test documents in docket no. T2002–1. An account holder may file documents in any active docket. An account holder application is provided with this notice of proposed rulemaking as attachment 2. A workshop for current and prospective account holders will be conducted by the Commission where instruction on Filing Online procedures will be provided. That workshop is scheduled for June 12, 2002, at 10:00 a.m. Those interested in participating are asked to notify the secretary by June 5, 2002.

Proposed Changes to the Commission's Rules of Practice

The changes to the Commission's rules of practice that implement Filing Online are set forth in attachment 1. Included in these changes are some that relate only indirectly to Filing Online.

The basic change that the Commission proposes is to revise rule 9 to make it mandatory that all documents that are filed with the Commission be filed via the internet through Filing Online, unless a waiver is obtained. To obtain a waiver, a participant must demonstrate that there are special circumstances that make it infeasible for it to use Filing Online to file a document.

The Commission proposes to revise rule 10 to include a list of documents that must be filed both through Filing Online and in hard copy form. The list consists of testimony and briefs that exceed 20 pages in length, and formal rate or classifications change requests. Such documents are likely to be cumbersome for participants to download and print because they are likely to be long, to include images or spreadsheets, or are likely to be submitted in large batches. Where supplementary hard copy filing is required, the form, content, and service requirements for hard copy documents that are set forth in proposed rules 9 though 12 must be followed. Among them is a requirement that hard copy documents filed with the Commission be printed from a text-based pdf version of the document, where possible. See proposed rule 10(b). The proposal that lengthy documents still be served in hard copy form reflects requests made by the attendees at the technical conference that was held at the Commission on July 11, 2001.

Documents that are filed through Filing Online will be posted on the Commission's Web site and will be available to participants and the public for downloading, normally on the same business day that they are submitted. When Filing Online becomes the standard form of filing documents with the Commission, documents filed online will be considered served when the document is posted by the Commission on the Daily Listing page of its Web site. Participants will not be required to serve those documents on other participants. This change in procedure is reflected in proposed rule 12(a). However, participants would still be required to serve documents in hard copy form on individuals found to be unable to receive service through the Commission's Web site.

Proposed rule 9 requires that each individual, whether representing himself or herself or a participant in Commission proceedings, become an account holder in order to file documents in Commission dockets. This requirement is set forth in proposed rule 9(b). As discussed above, account holders would assume a contractual obligation to warrant the authenticity and accuracy of the documents that they file through Filing Online. They would receive a user name and a password, and a dedicated user area on the Commission web server. Relying on account holders to warrant the authenticity and accuracy of the documents that they file through Filing Online would dispense with the need for the participant's representatives to sign specific documents that they file. This change in procedure is reflected in proposed rule 11(e).

With respect to interrogatory answers, the reliance on account holders to warrant the authenticity and accuracy of documents filed through Filing Online dispenses with the need for witnesses to specifically attest to the accuracy of their answers. It is contemplated that attestation will be not required until interrogatory answers are offered as evidence. This change in procedure is reflected in proposed rule 26(b).

As noted, there will be restrictions on the formats and computer technologies that account holders may use to submit documents via Filing Online in order to make them compatible with the Commission's data processing system. These will be prescribed by the secretary of the Commission in a set of instructions that will be maintained on the Commission's Web site. Chief among them, as discussed above, is the requirement that documents submitted via Filing Online be accompanied by a host document that is in text-based pdf format. Proposed rule 10(a)(2) would authorize the secretary to compile and maintain these instructions. These instructions are expected to be adapted over time to reflect new technology and to facilitate the use of Filing Online by all interested persons. A set of instructions in the form of a Filing Online user guide is available on the Commission's web site, and in hard copy form upon request.

While reviewing its proposal to require that documents filed with the Commission be in a standardized electronic form, the Commission also re-evaluated the form requirements that are set forth in its rules of practice with respect to library references and computer analyses. Current rule 31(b)(2)(vii) requires that material filed as a library reference be provided in an ''electronic version'' unless it is shown that an electronic version cannot be provided. The current rule is broad enough to permit material to be filed as a library reference even if it can only be read and executed on a mainframe or on a Macintosh computer. Neither of these is commonly available hardware. If material can only be accessed through such hardware, it imposes on participants and the Commission the undue burden of acquiring such hardware, or converting the files to a PC compatible form, in order to read and execute the files. To avoid this, the Commission proposes to revise this rule to require that material filed as a library reference be provided on ''PC media,'' unless it is shown that it cannot be provided in that form.

The Commission's evidence rule governing the submission of computer analyses requires that a listing of input data, output data, and source codes be provided, unless it is shown that they cannot be provided. See current rule 31(k)(3)(i). As with the current library reference rule, this is broad enough to allow such material to be submitted in a form that can only be read and executed by a mainframe or a Macintosh computer. To make such material reasonably accessible to participants and the Commission, the Commission proposes to revise this rule to require that a copy of input data, output data, and source codes be provided in a form that allows them to be replicated using a publicly available PC application.

Postal Rate Commission Filing Online Account Holder Application [1]

To file documents electronically, each account holder must have a login name and password. Upon submitting a completed application to the Commission, the account holder will receive a login name and password. The login name/password procedure is designed to ensure that material filed using the Filing Online system conforms to the Commission's rules of practice, is authorized by the account holder, that it is filed on behalf of the participant that it purports to represent, that the account holder has read the material filed and is familiar with its contents, and that the account holder warrants that it is authentic, accurate and otherwise in compliance with rule 11(e). If the account holder authorizes support staff to use his/her login name and password for purposes of filing documents with the Commission, the account holder remains ultimately responsible for ensuring that each filing submitted under his/her login name and password is in full compliance with rule 11(e). The Commission, therefore, cautions each account holder to employ suitable monitoring procedures to ensure that any material filed under his/her account fully conforms to that rule.

Account Holder Name
Affiliation
Address
Phone
Fax
Email Address

I, _____recognize that as the account holder I remain responsible for the authenticity and accuracy of all documents filed under my login name and password and undertake to monitor filings with the Commission to safeguard that no unauthorized filing is made under my login name and password.

Signature of account holder.

Privacy Act Notice: The collection of this information is authorized by 39 U.S.C. 3603. This information will be used for administering the filing of documents in electronic form by participants in Postal Rate Commission proceedings. It may be publicly disclosed under the routine uses given in the Privacy Act system notice published at 64 FR 56819 (1999).

For the reasons discussed above, the Commission proposes to amend subpart A of its rules of practice and procedure as set forth below.

Ordering Paragraphs

It is ordered:

1. Interested persons are invited to submit comments on the Commission's proposed Filing Online proposal and this notice of proposed rulemaking no later than June 21, 2002.

2. The Secretary shall cause this notice of proposed rulemaking to be published in the **Federal Register**.

3. A workshop for current and prospective account holders will be held on June 12, 2002, at 10:00 a.m., in the hearing room of the Commission, 1333 H Street NW., Washington, DC.

Steven W. Williams,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Commission proposes to amend 39 CFR part 3001—Rules of Practice and Procedure Subpart A—Rules of General Applicability as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24; 3661; 3662; 3663.

Subpart A—Rules of General Applicability

2. Revise §3001.6(c) to read as follows:

§ 3001.6 Appearances.

* * * * *

(c) *Notice of appearance and withdrawal of appearance.* An individual intending to appear before the Commission or its presiding officer in a representative capacity for a participant in a proceeding shall file with the Commission a notice of appearance in the form prescribed by the Secretary unless that individual is named in an initial filing of the participant whom he/she represents as a person to whom communications from the Commission in regard to the filing are to be addressed. A person whose authority to represent a participant in a specific Commission proceeding has been terminated shall file a timely notice of withdrawal of appearance with the Commission.

* * * * *

3. Revise §§ 3001.9 through 3001.13 to read as follows:

§ 3001.9 Filing of documents.

(a) *Filing with the Commission.* The filing of each written document required or authorized by these rules or any applicable statute, rule, regulation, or order of the Commission, or by direction of the presiding officer shall be made using the Internet (Filing Online) pursuant to § 3001.10(a) at the following url: *www.prc.gov,* unless a waiver is obtained. If a waiver is obtained, a hard copy document may be filed either by mailing or by hand delivery to the Office of the Secretary, Postal Rate Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 during regular business hours on a date no later than that specified for such filing.

(b) *Account holder.* In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a Filing Online account holder. The authority of the account holder to represent the participant on whose behalf the document is filed must be valid and current, in conformance with § 3001.6.

(c) *Acceptance for filing.* Only such documents as conform to the requirements of this part and any other applicable rule, regulation, or order of the Commission shall be accepted for filing. In order for a document to be accepted using Filing Online, it must be submitted to the Commission by a Filing Online account holder.

(1) Subject to rule 9(d):

(i) A document submitted through Filing Online is filed on the date indicated on the receipt issued by the Secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(ii) A hard copy document is filed on the date stamped by the secretary. It is accepted when the Secretary, after review, has posted it on the Daily Listing page of the Commission's Web site.

(2) Any document received after the close of regular business hours or on a Saturday, Sunday, or holiday, shall be deemed to be filed on the next regular business day.

(d) *Rejected filings.* Any filing that does not comply with any applicable statute, rule, regulation, or order may be rejected. Any filing that is rejected is deemed not to have been filed with the Commission. If a filing is rejected, the secretary or the secretary's designee will notify the person submitting the filing, indicating the reason(s) for rejection. Acceptance for filing shall not waive any failure to comply with this part, and such failure may be cause for

[1] This application appears as attachment 2 in the notice distributed to the service list and in the notice as posted on the Commission's web site. The changes proposed in the Code of Federal Regulations appear as attachment 1. The order of appearance has been reversed for purposes of publication in the **Federal Register**.

subsequently striking all or any part of any document.

§ 3001.10 Form and number of copies of documents.

(a) *Documents.* Each document filed with the Commission must be submitted through Filing Online by an account holder, unless a waiver is obtained. The text of documents filed with the Commission shall be formatted in not less than one and one-half spaced lines except that footnotes and quotations may be single spaced. Documents must be submitted in Arial 12 point font, or such program, format, or font as the presiding officer may designate.

(b) Attachments to documents filed online will be accepted in their native format (i.e., Excel, Lotus, et cetera). The form of documents filed as library references is governed by § 3001.31(b)(2)(iv).

(1) The following shall be filed both online and in hard copy form pursuant to paragraph (b):

(i) Requests for changes in rates or classifications, including supporting documentation.

(ii) Written testimony, including appendices and exhibits, that exceeds 20 pages in length.

(iii) Briefs that exceed 20 pages in length.

(2) Documents filed online must satisfy computer system compatibility requirements specified by the Secretary. They may be accessed from the Filing Online page on the Commission's Web site, *www.prc.gov.*

(3) Documents requiring privileged or protected treatment shall not be filed online.

(b) *Hard copies.* Each document filed in paper form must be produced on letter-size paper, 8 to 8½ inches wide by 10½ to 11 inches long, with left- and right-hand margins not less than 1 inch and other margins not less than .75 inches, except that tables, charts or special documents attached thereto may be larger if required, provided that they are folded to the size of the document to which they are attached. If the document is bound, it shall be bound on the left side. Copies of documents for filing and service must be printed from a text-based pdf version of the document, where possible. Otherwise, they may be reproduced by any duplicating process that produces clear and legible copies. Participants in proceedings conducted under subpart H who are unable to comply with these requirements may seek to have them waived. Each person filing a hard copy document with the Commission must provide an original and 24 fully conformed copies of the document required or permitted to be filed under this part, except for a document filed under seal, for which only the original and two (2) copies need be filed. The copies need not be signed but shall show the full name of the individual signing the original document and the certificate of service attached thereto.

(c) *Computer media.* A participant that has obtained a waiver of the online filing requirement of § 3001.9(a) may submit a document on standard PC media, simultaneously with the filing of one printed original and three hard copies, provided that the stored document is a file generated in either Acrobat (pdf), Word, or WordPerfect, or Rich Text Format (rtf).

§ 3001.11 General contents of documents.

(a) *Caption and title.* The caption of each document filed with the Commission in any proceeding shall clearly show the docket designation and title of the proceeding before the Commission. The title of such document shall identify each participant on whose behalf the filing is made and include a brief description of the document or the nature of the relief sought therein (e.g., motion for extension, brief on exceptions, complaint, notice of intervention, answer to complaint).

(b) *Designation of individuals to receive service.* Each notice of intervention filed pursuant to §§ 3001.20 or 20a must state the name, full mailing address, telephone number, and e-mail address of up to two individuals designated to receive service of hard copy documents relating to the proceeding.

(c) *Contents.* In the event there is no rule, regulation, or order of the Commission which specifically prescribes the contents of any document to be filed, such document shall contain a proper identification of the parties concerned and a concise but complete statement of the relief sought and of the facts and citations of authority and precedent relied upon.

(d) *Improper matter.* Defamatory, scurrilous, or unethical matter shall not be included in any document filed with the Commission.

(e) *Subscription.* Each document filed with the Commission shall be subscribed. Subscription constitutes a certification that he/she has read the document being subscribed and filed; that he/she knows the contents thereof; that if executed in any representative capacity, the document has been subscribed and executed in the capacity specified in the document with full power and authority so to do; that to the best of his/her knowledge, information and belief every statement contained in the document is true and no such statements are misleading; and that such document is not filed for purposes of delay.

(1) For a document filed via the Internet by an account holder, the subscription requirement is met when the document is filed with the Commission.

(2) For a hard copy document filed under either § 3001.10(b) or (c), the original shall be signed in ink by the individual filing the same or by an authorized officer, employee, attorney, or other representative and all other copies of such document filed with the Commission and served on the participants in any proceeding shall be fully conformed thereto.

(f) *Table of contents.* Each document filed with the Commission consisting of 20 or more pages shall include a table of contents with page references. For briefs see § 3001.34.

(g) *Certificate of service.* A certificate of service signed in ink must be attached to the original of each hard copy document filed with the Commission showing service on all participants in a proceeding as prescribed by § 3001.12. All copies filed and served shall be fully conformed thereto.

§ 3001.12 Service of documents.

(a) *Service by account holders.* Each document filed in a proceeding via the Internet by an Account Holder shall be deemed served on all participants upon its acceptance for filing by the Commission, except for:

(1) A document subject to § 3001.10(a)(1), which must meet the service requirements that apply to hard copy documents as well as those that apply to documents filed online.

(2) A document that must be served on a participant that the Commission or presiding officer has determined is unable to receive service through the Commission's Web site.

(b) *Service by others.* If the Commission or presiding officer has determined that a participant is unable to file documents online, documents filed by that participant must meet the service requirements that apply to hard copy documents.

(c) *Service by the Commission.* Except as provided in this section, each document issued by the Commission or presiding officer shall be deemed served upon the participants in the proceeding upon its posting by the Commission on its Web site. Service of Commission documents on any participant that the Commission or presiding officer has determined is unable to receive service

through the Commission Web site shall be by mail.

(d) *Hard copy documents.* Each participant filing a hard copy document in a proceeding shall serve such document upon each person on the proceeding's service list, unless the Commission or presiding officer otherwise directs.

(e) *Limitation on extent of hard copy service.* To avoid the imposition of an unreasonable burden upon participants, the Commission or the presiding officer may, by appropriate order, limit service of hard copy documents to service upon participants intending to actively participate in the hearing, or upon a person or persons designated for properly representative groups, or by requiring the making of documents available for convenient public inspection, or by any combination of such methods.

(f) *Service list.* The Secretary shall maintain a current service list in each proceeding which shall include the participants in that proceeding and up to two individuals designated for service of documents by each participant . The service list for each current proceeding will be available on the Commission's Web site, *www.prc.gov*. Each participant is responsible for ensuring that its listing on the Commission's Web site is accurate, and should promptly notify the Commission of any errors.

(g) *Method of hard copy service.* Service of hard copy documents may be made by First-Class Mail or personal delivery, to the address shown for the individuals designated on the Secretary's service list. Service of any hard copy document upon the Postal Service shall be made by delivering or mailing six copies thereof to the address shown for the individual designated in the Secretary's service list.

(h) *Date of hard copy service.* Whenever service is made by mail, the date of the postmark shall be the date of service. Whenever service is made by personal delivery, the date of such delivery shall be the date of service.

(i) *Form of hard copy certificate of service.* The certificate of service of hard copy documents shall show the name of the participant or his/her counsel making service, the date and place of service, and include the statement that ''I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.''

§ 3001.13 Docket and hearing calendar.

The Secretary shall maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The Secretary shall maintain a hearing calendar of all proceedings that have been set for hearing. Proceedings shall be heard on the date set in the hearing order, except that the Commission may for cause, with or without motion, at any time with due notice to the parties advance or postpone the date of hearing. All documents filed in a docket, other than matter filed under seal, and the hearing calendar may be accessed remotely via the Commission's Web site, or viewed at the Commission's docket section during regular business hours.

4. Amend § 3001.20 by revising paragraph (c) to read as follows:

§ 3001.20 Formal Intervention.

* * * * *

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of intervention shall conform to the requirements of §§ 3001.9 through 3001.12.

* * * * *

5. Amend § 3001.20a by revising paragraph (a) to read as follows:

§ 3001.20a Limited participation by persons not parties.

* * * * *

(a) *Form of Intervention.* Notices of intervention as a limited participator shall be in writing, shall set forth the nature and extent of the intervenor's interest in the proceeding, and shall conform to the requirements of §§ 3001.9 through 3001.12.

* * * * *

6. Amend § 3001.26 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.26 Interrogatories for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may propound to any other participant in a proceeding written, sequentially numbered interrogatories, by witness, requesting nonprivileged information relevant to the subject matter in such proceeding, to be answered by the participant served, who shall furnish such information as is available to the participant. A participant through interrogatories may require any other participant to identify each person whom the other participant expects to call as a witness at the hearing and to state the subject matter on which the witness is expected to testify. The participant propounding the interrogatories shall file them with the Commission in conformance with §§ 3001.9 through 3001.12. Follow-up interrogatories to clarify or elaborate on the answer to an earlier discovery request may be filed after the initial discovery period ends. They must be filed within 7 days of receipt of the answer to the previous interrogatory unless extraordinary circumstances are shown.

(b) *Answers.* Answers to discovery requests shall be prepared so that they can be incorporated as written cross-examination. Each answer shall begin on a separate page, identify the individual responding and the relevant testimony number, if any, the participant who asked the question, and the number and text of the question. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in the manner prescribed by paragraph (c) of this section. The participant responding to the interrogatories shall file the answers in conformance with §§ 3001.9 through 3001.12 within 14 days of the filing of the interrogatories or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an interrogatory, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the interrogatory, providing estimates of cost and work hours required, to the extent possible. An interrogatory otherwise proper is not necessarily objectionable because an answer would involve an opinion or contention that relates to fact or the application of law to fact, but the Commission or presiding officer may order that such an interrogatory need not be answered until a prehearing conference or other later time. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within 10 days of the filing of the interrogatories.

* * * * *

(e) *Compelled answers.* The Commission, or the presiding officer, upon motion of any participant to the proceeding, may compel a more responsive answer, or an answer to an interrogatory to which an objection has been raised if the objection is found not to be valid, or may compel an additional answer if the initial answer is found to be inadequate. Such compelled answers shall be filed in conformance with §§ 3001.9 through 3001.12 within 7 days of the date of the order compelling an answer or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing.

* * * * *

7. Amend § 3001.27 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.27 Requests for production of documents or things for purpose of discovery.

(a) *Service and contents.* In the interest of expedition and limited to information which appears reasonably calculated to lead to the discovery of admissible evidence, any participant may serve on any other participant to the proceeding a request to produce and permit the participant making the request, or someone acting in his/her behalf, to inspect and copy any designated documents or things that constitute or contain matters, not privileged, that are relevant to the subject matter involved in the proceeding and that are in the custody or control of the participant to whom the request is addressed. The request shall set forth the items to be inspected either by individual item or category, and describe each item and category with reasonable particularity, and shall specify a reasonable time, place, and manner of making inspection. The participant requesting the production of documents or things shall file its request with the Commission in conformance with §§ 3001.9 through 3001.12.

(b) *Answers.* The participant responding to the request shall file an answer with the Commission in conformance with §§ 3001.9 through 3001.12 within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer. The answer shall state, with respect to each item or category, that inspection will be permitted as requested unless the request is objected to pursuant to paragraph (c) of this section.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item or category, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state with particularity the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required, to the extent possible. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within ten days of the request for production.

* * * * *

(e) *Compelled answers.* Upon motion of any participant to the proceeding to compel a response to discovery, as provided in paragraph (d) of this section, the Commission or the presiding officer may compel production of documents or things to which an objection is found not to be valid. Such compelled documents or things shall be made available to the participant making the motion within 7 days of the date of the order compelling production or within such other period as may be fixed by the Commission or presiding officer, but before the conclusion of the hearing. When complying with orders to produce documents or things, notice shall be filed in conformance with §§ 3001.9 through 3001.12. The Commission or the presiding officer may, on such terms and conditions as are just and reasonable, order that any participant in a proceeding shall respond to a request for inspection, and may make any protective order of the nature provided in § 3001.26(g) as may be appropriate.

8. Amend § 3001.28 to revise paragraphs (a) through (c) and paragraph (e) to read as follows:

§ 3001.28 Requests for admissions for purpose of discovery.

(a) *Service and content.* In the interest of expedition, any participant may serve upon any other participant a written request for the admission, for purposes of the pending proceeding only, of any relevant, unprivileged facts, including the genuineness of any documents or exhibits to be presented in the hearing. The participant requesting the admission shall file its request with the Commission in conformance with §§ 3001.9 through 3001.12.

(b) *Answers.* Each matter of which an admission is requested shall be separately set forth and is admitted unless within 14 days after the request is filed, or within such other period as may be fixed by the Commission or presiding officer, the participant to whom the request is directed files a written answer or objection pursuant to paragraph (c) of this section. A participant who answers a request for admission shall file its answer with the Commission in conformance with §§ 3001.9 through 3001.12.

(c) *Objections.* In the interest of expedition, the bases for objection shall be clearly and fully stated. If objection is made to part of an item, the part shall be specified. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for its applicability. A participant claiming undue burden shall state with particularity the effort that would be required to answer the request, providing estimates of cost and work hours required to the extent possible. Objections shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12, within 10 days of the request for admissions.

* * * * *

(e) *Compelled answers.* Upon motion of any participant to the proceeding the Commission or the presiding officer may compel answers to a request for admissions to which an objection has been raised if the objection is found not to be valid. Such compelled answers shall be filed with the Commission in conformance with §§ 3001.9 through 3001.12 within 7 days of the date of the order compelling production or within such other period as may be fixed by the Commission or the presiding officer, but before the conclusion of the hearing. If the Commission or presiding officer determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be filed.

9. Amend § 3001.30 by revising paragraph (e)(3) to read as follows:

§ 3001.30 Hearings.

* * * * *

(e) * * *

(3) *Oral cross-examination.* Oral cross-examination will be permitted for clarifying written cross-examination and for testing assumptions, conclusions or other opinion evidence. Notices of intent to conduct oral cross-examination should be filed three or more working days before the announced appearance of the witness and should include specific references to the subject matter to be examined and page references to the relevant direct testimony and exhibits. Participants intending to use complex numerical hypotheticals, or to question using intricate or extensive cross-references, shall provide adequately documented cross-examination exhibits for the record. Copies of these exhibits should be filed at least two calendar days (including

one working day) before the scheduled appearance of the witness. If a participant has obtained permission to receive service of documents in hard copy form, hard copy notices of intent to conduct oral cross-examination of witnesses for that participant should be delivered to counsel for that participant and served three or more working days before the announced appearance of the witness, and cross-examination exhibits should be delivered to counsel for the witness at least two calendar days (including one working day) before the scheduled appearance of the witness.

* * * * *

10. Amend § 3001.31 by:

a. Revising the first sentence of paragraph (b)(2)(iv);

b. Revising paragraph (b)(2)(vii);

c. Removing and reserving paragraph (f);

d. Removing and reserving paragraph (g);

e. Revising paragraph (k)(3)(i); and

f. Revising paragraph (k)(3)(i)(*i*).

§ 3001.31 Evidence.

* * * * *

(b) * * *

(2) * * *

(iv) *Filing procedure.* Participants filing material as a library reference shall file contemporaneous written notice of this action in conformance with §§ 3001.9 through 3001.12. * * *

* * * * *

(vii) *Electronic version.* Material filed as a library reference shall also be made available on standard PC media, absent a showing of why a version on PC media cannot be supplied or should not be required to be supplied. The material provided on PC media must be submitted in a form that allows it to be replicated using a publicly available PC application. The library reference documentation shall include file names and corresponding descriptions of file contents, and shall identify the applications necessary to execute the files. This documentation should be included in both the hard copy and the electronic version of the library reference.

* * * * *

The revisions are to read as follows:

(k) * * *

(3) *Computer analyses.* (i) In the case of computer analyses that are being offered in evidence, or relied upon as support for other evidence, a foundation for the reception of such materials must be laid by furnishing a general description of the program that includes the objectives of the program, the processing tasks performed, the methods and procedures employed, and a copy of the input and output data and source codes (or a showing pursuant to paragraph (k)(3)(iii) of this section as to why such codes cannot be so furnished). The copy provided must be submitted in a form that allows it to be replicated using a publicly available PC application. For the purpose of completing such foundation, the following additional items shall be deemed presumptively necessary and shall be furnished upon request of a participant, the Commission, or the presiding officer, unless the presumption is overcome by an affirmative showing.

* * * * *

(i) An expert on the design and operation of the program shall be provided at a technical conference to respond to any oral or written questions concerning information that is reasonably necessary to enable independent replication of the program output. Machine-readable data files and program files shall be provided in a form that allows them to be replicated using a publicly available PC application. Any machine-readable data file or program file so provided must be identified and described in accompanying hard copy documentation. In addition, files in text format must be accompanied by hard copy instructions for printing them. Files in machine code must be accompanied by hard copy instructions for executing them.

* * * * *

11. Amend § 3001.42 by revising paragraph (a) to read as follows:

§ 3001.42 Public information and requests.

* * * * *

(a) *Notice and publication.* Service of intermediate and recommended decisions, advisory opinions and public reports upon parties to the proceedings is provided in §§ 3001.12(c) and 3001.39(d). Descriptions of the Commission's organization, its methods of operation, statements of policy and interpretations, procedural and substantive rules, and amendments thereto will be filed with and published in the **Federal Register**, and are available on the Commission's Web site, *www.prc.gov.* Commission recommended decisions, advisory opinions and public reports, orders, and intermediate decisions will be released to the press and made available to the public promptly, by posting on the Commission's Web site.

* * * * *

[FR Doc. 02–12644 Filed 5–20–02; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 438

[FRL–7213–7]

RIN 2040–AB79

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Announcement of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of meeting.

SUMMARY: EPA will conduct a public meeting on the upcoming Metal Products and Machinery (MP&M) Notice of Data Availability.

The Office of Science and Technology within EPA's Office of Water is holding the public meeting to inform all interested parties of the status of the MP&M effluent guidelines. EPA intends to finalize effluent limitations guidelines and standards for the Metal Products and Machinery Point Source Category in December 2002. At the meeting, EPA will report on the status of the rulemaking; new data and information available for public comment; revised economic and engineering models and methodologies used for estimating costs, pollutant loads, benefits, and economic impacts; revised limitations and standards; compliance alternatives we developed based on new information; and specific areas where EPA is seeking further comment.

EPA will also use this meeting to ask for informal public comment on any of the issues or information presented in the upcoming NODA and in the Administrative Record supporting that notice. The meeting does not include a pretreatment hearing nor will EPA record the meeting for the Administrative Record. The meeting is open to the public, and limited seating is available on a first-come, first-served basis. For information on the location, see the **ADDRESSES** section below.

DATES: EPA will conduct the MP&M public meeting on Friday, June 7, 2002, from 1 p.m. to 4 p.m. Central Standard Time.

ADDRESSES: The MP&M public meeting will be held at the EPA Region 5 Offices, 77 West Jackson Boulevard, Room 331, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: For additional information, call Mr. Carey A. Johnston at (202) 566–1014 or send

him an e-mail at *johnston.carey@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 3, 2001 (66 FR 424), EPA proposed technology-based effluent limitations guidelines and standards under the Clean Water Act (33 U.S.C. 1251 et. seq.) for the Metal Products and Machinery Point Source Category. You can find additional information on these proposed effluent guidelines at: *http://www.epa.gov/waterscience/guide/mpm.*

No meeting materials will be distributed in advance of the public meeting; all materials will be distributed at the meeting. If you need special accommodations at this meeting, such as wheelchair access or special audio-visual needs, you should contact Ms. Krista Durlas, (312) 886–3894, at least five business days before the meeting so that we can make appropriate arrangements. You can also use the EPA Region 5 website (www.epa.gov/region5/visitor/index.htm) for further information on directions, lodging, and transportation. Those who are unable to attend the meeting can get a copy of the presentation and meeting materials after the meeting by making an e-mail or telephone request to Mr. Carey A. Johnston, see the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: May 14, 2002.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 02–12706 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7528]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
Florida	Gulf County (Unincorporated Areas).	Gulf of Mexico	Along the coast of the Gulf of Mexico approximately 1,000 feet north of Eagle Harbor.	*13	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
			Along the Gulf of Mexico shoreline approximately 1,500 feet west of Indian Pass.	*14	*13
		St. Joseph Bay	Approximately 1,500 feet inland from St. Joseph Bay, along the shoreline of St. Joseph Bay.	*9	*8
			Along the St. Joseph Bay shoreline, approximately 3 miles southeast of Pig Island.	*10	*11
		Indian Lagoon	Along the shoreline of Indian Lagoon, approximately 1,000 feet west of Indian Pass.	*11	*9
			Approximately 500 feet west of Indian Pass.	*11	*10
Maps available for inspection at the Gulf County Courthouse, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida.					
Send comments to Mr. Nathan Peters, Jr., Chairman of the Gulf County Board of Commissioners, 1000 Cecil G. Costin, Sr., Boulevard, Room 302, Port St. Joe, Florida 32456.					
Florida	Port St. Joe (City). Gulf County.	St. Joseph Bay	Intersection of 11th Street and Palmer Boulevard.	None	*8
			Approximately 250 feet west of intersection of Constitution Drive and 14th Street.	*10	*12
			At intersection of 16th Street and Long Avenue.	*7	*8
		Shallow Flooding	Approximately 425 feet southeast of intersection of Fourth Street and Woodward Avenue.	*10	*8
Maps available for inspection at the City of Port St. Joe Chamber of Commerce Office, 105 West 4th Street, Port St. Joe, Florida.					
Send comments to The Honorable Frank Pate, Jr., Mayor of the City of Port St. Joe, 305 Cecil G. Costin, Sr., Boulevard, Port St. Joe, Florida 32456.					
Illinois	Champaign County (Unincorporated Areas).	Sangamon River	Approximately 1,000 feet downstream from the Township Road 2000 North (Shively) bridge.	None	*676
			At Lake of the Woods covered bridge	None	*689
Maps available for inspection at the Champaign County Department of Planning and Zoning, Brookens Administrative Center, 1776 East Washington Street, Urbana, Illinois					
Illinois	Mahomet (Village), Champaign County.	Sangamon River	Approximately 800 feet downstream of downstream corporate limits.	None	*677
			Approximately 1,800 feet downstream of upstream corporate limits.	None	*689
Maps available for inspection at the Mahomet Village Hall, 503 East Main Street, Mahomet, Illinois.					
Send comments to The Honorable Jeff Courson, Mayor of the Village of Mahomet, 503 Main Street, P.O. Box 259, Mahomet, Illinois 61853.					
Illinois	Milan (Village), Rock Island County.	Eckhart Creek (Zone AO).	East of Chaney Lane and approximately 500 feet south of Interstate Route 280.	None	#1
			Approximately 600 feet north of W 10th Avenue and approximately 450 feet east of 9th Street.	None	#1
			Northwest of Missouri Kansas and Texas Railroad and approximately 600 feet south of Interstate Route 280.	None	#1
Maps available for inspection at the Village of Milan Administrative Office, 321 West 2nd Avenue, Milan, Illinois.					
Send comments to Mr. Duane Dawson, Milan Village President, 321 West 2nd Avenue, Milan, Illinois 61264.					
Maine	Allagash (Town) Aroostook County.	St. John River	Approximately 3.68 miles downstream of State Route 161.	None	*603
			Approximately 550 feet upstream of confluence of Little Black River.	None	*627
		Little Black River	At the confluence with St. John River	None	*626
			Approximately 125 feet upstream of Route 161.	None	*626

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at the Allagash Town Office, Route 161, Allagash, Maine. Send comments to Mr. Roy Gardner, Town of Allagash First Selectman, Municipal Building, R.R. 1, P.O. Box 127, St. Francis, Maine 04774.					
Massachusetts	Scituate (Town), Plymouth County.	Massachusetts Bay	Approximately 500 feet east of intersection of Crescent Avenue and Peggotty Beach Road.	*25	*27
			Approximately 100 feet east of intersection of Wellesley Road and Jericho Road.	None	*10
			Approximately 150 feet west of Intersection of Wampatuck Way and Turner Road.	*11	Depth 3′
			Approximately 900 feet northeast of intersection of Circuit Avenue and Edward Foster Road.	Depth 2′	Depth 3′
			At intersection of Baileys Causeway and Glades Road.	Depth 1′	Depth 2′
Maps available for inspection at Scituate Town Hall, 600 Chief Justice Highway, Scituate, Massachusetts. Send comments to Mr. Richard Agnew, Scituate Town Administrator, 600 Chief Justice Cushing Highway, Scituate, Massachusetts 02066.					
Massachusetts	Worcester (City), Worcester County.	Broad Meadows Brook	Approximately 240 feet downstream of U.S. Highway 20.	None	*450
			Approximately 1.6 miles upstream of U.S. Highway 20.	None	*484
		Beaver Brook	Approximately 175 feet downstream of Mill Street bridge.	*480	*480
			At Maywood Street.	*484	*481
Maps available for inspection at the Worcester Environmental/Land Use Planner's Office, 25 Meade Street, Worcester, Massachussetts. Send comments to Mr. Thomas R. Hoover, Worcester City Manager, Worcester City Hall, 455 Main Street, Worcester, Massachusetts 01608.					
New Jersey	Weymount (Township), Atlantic County.	Tuckahoe River	At the downstream corporate limits	None	*56
			At the upstream corporate limits	None	*77
		Great Egg Harbor River	At the confluence of the South River	None	*9
			At the upstream corporate limits	None	*9
		South River	At Walkers Forge Avenue	None	*16
			Approximately 500 feet upstream of upstream corporate limits.	None	*38
Maps available for inspection at the Weymouth Township Hall, 45 South Jersey Avenue, Dorothy, New Jersey. Send comments to The Honorable Amelia A. Messina, Mayor of the township of Weymount, P.O. Box 53, Dorothy, New Jersey 08317.					
New York	Mina (Town), Chautauqua County.	Findley Lake	Entire shoreline of Findley Lake	None	*1,423
Maps available for inspection at the Mina Town Community Center, 2883 North Road, Findley Lake, New York. Send comments to Ms. Rebecca Brumagin, Mina Town Supervisor, P.O. Box 38, 2883 North Road, Findley Lake, New York 14736.					
New York	Sardinia (Town), Erie County.	Hosmer Brook	Approximately 0.83 mile downstream of State Route 39.	None	*1,320
			Approximately 80 feet upstream of Genesee Road.	None	*1,408
Maps available for inspection at the Sardinia Community Center, 12320 Savage Road, Sardinia, New York. Send comments to Mr. William Hare, Sardinia Town Supervisor, P.O. Box 219, 12320 Savage Road, Sardinia, New York 14134.					
Ohio	Bloomingburg (Village), Fayette County.	East Fork Paint Creek	Upstream side of Midland Avenue (State Route 38).	None	•973
			Approximately 0.5 mile upstream of State Route 38.	None	•974
Maps available for inspection at Bloomingburg Village Hall, 62 Main Street, Bloomingburg, Ohio. Send comments to The Honorable James Fabin, Mayor of the Village of Bloomingburg, 62 Main Street, Box 186, Bloomingburg, Ohio 43106.					
Ohio	Fayette County (Unincorporated Area).	East Fork Paint Creek	Approximately 300 feet upstream of confluence with Paint Creek.	*955	•954

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
			Approximately 0.90 mile upstream of Greene Road	None	•1,026
		Rattlesnake Creek	At Milledgeville-Octa Road	None	•1,038
			Approximately 130 feet upstream of State Route 734	None	•1,058
		Sugar Creek	Approximately 150 feet downstream of parrott Station Road	None	•1,025
			Approximately 1,500 feet upstream of Main Street	None	•1,048
Maps available for inspection at the Fayette County Building Department, 121 E. East Street, Washington Court House, Ohio.					
Send comments to Mr. John M. Schlichter, President of the Fayette County Commissioners, 133 South Main Street, Suite 401, Washington Court House, Ohio 43160.					
Ohio	Octa (Village), Fayette County.	Rattlesnake Creek	At the downstream side of Allen Road	None	*1,041
			Approximately 175 feet upstream of Allen	None	*1,041
Maps available for inspection at the Village of Octa Council House, Allen Street, Milledgeville, Ohio.					
Send comments to The Honorable Robert E. Ison, Mayor of the Village of Octa, P.O. Box 63, Milledgeville, Ohio 43142.					
Ohio	Washington Court House (City), Fayette County.	East Fork Paint Creek	Approximately 1,375 feet downstream of Washington Avenue.	*956	*954
			Approximately 1.2 miles upstream of Washington Avenue.	*960	*959
Maps available for inspection at the Washington Court House City Hall, 105 North Main Street, Washington Court House, Ohio.					
Send comments to Mr. Stephen J. Sobers, Washington Court House City Manager, 105 North Main Street, Washington Court House, Ohio 43160.					
Pennsylvania	Bullskin (Township), Fayette County.	Jacobs Creek	At the downstream corporate limits	*1,039	*1,037
			At a point approximately 250 feet upstream of State Route 31.	*1,143	*1,142
Maps available for inspection at the Bullskin Township Municipal Building, 178 Shenandoah Road, Connellsville, Pennsylvania.					
Send comments to Mr. Robert Butler, Chairman of the Township of Bullskin Board of Supervisors, 178 Shenandoah Road, Connellsville, Pennsylvania 15425.					
Pennsylvania	Everson (Borough), Fayette County.	Jacobs Creek	Approximately 2,400 feet downstream of 5th Avenue.	*1,027	*1,025
			Upstream corporate limits	*1,031	*1,029
Maps available for inspection at the Everson Borough Building, Brown Street, Everson, Pennsylvania.					
Send comments to The Honorable Timothy Shoemaker, Mayor of the Borough of Everson, Municipal Building, Brown Street, Everson Pennsylvania 15631.					
Pennsylvania	Timicum (Township), Bucks County.	Delaware River	Approximately 0.25 mile upstream of Uhlerstown Hill Road.	*126	*127
			Approximately 1.17 miles downstream of Upper Black Eddy Bridge.	*135	*134
		Delaware River	At confluence with the Delaware River	*127	*128
		Overland Flow	At divergence from the Delaware River	*135	*133
Maps available for inspection at the Tinicum Municipal Building, 163 Municipal Road, Pipersville, Pennsylvania.					
Send comments to Mr. Gary Pearson, Chairperson of the Township of Tinicum Board of Supervisors, 163 Municipal Road, Pipersville, Pennsylvania 18947.					
Pennsylvania	Upper Tyrone (Township), Fayette County.	Jacobs Creek	At State Route 819	*1,021	*1,020
			At upstream corporate limits	*1,039	*1,037
		Stauffer Run	At confluence with Jacobs Creek	*1,034	*1,030
			At upstream corporate limits	*1,034	*1,031
Maps available for inspection at the Upper Tyrone Township Building, 259 Montgomery Road, Scottdale, Pennsylvania.					
Send comments to Mr. Jack E. Fullem, Upper Tyrone Township Supervisor, 509 Hickory Square Road, Connellsville, Pennsylvania 15425.					
Tennessee	Chattanooga (City), Hamilton County.	North Chickamauga Creek	At confluence with the Tennessee River	*661	*660

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
			Approximately 200 feet downstream of Thrasher Pike.	*684	*682
		Tennessee River	Approximately 1,625 feet downstream of Shoal Creek.	*651	*650
			Just downstream of Chicakmauga Dam	*651	*660
		Mountain Creek	At the confluence wiht the Tennessee River.	*653	*652
			Approximately 1,109 feet upstream of the Norfolk Southern Railway.	*653	*652
		Lookout Creek	At the confluence with Tennessee River	*655	*654
			Approximately 160 feet upstream of the confluence of Black Creek.	*655	*654
		Black Creek	At the confluence with Lookout Creek	*655	*654
			At downstream side of Norfolk Southern Railway (first crossing).	*655	*654
		Shallow Flooding Areas	In the vicinity of the Tennessee River, south of Cherokee Boulevard.	*657	*656
		Stringers Branch	At the confluence with Mountain Creek	*653	*652
			At Signal Mountain Road	*653	*652
		Chattanooga Creek	Approximately 850 feet downstream of Market Street.	*656	*655
			At downstream side of 2nd crossing of Norfolk Southern Railway.	*656	*655
Maps available for inspection at the City of Chattanooga City Hall Annex, 101 East 11th Street, Room 44, Chattanooga, Tennessee.					
Send comments to The Honorable Bob Corker, Mayor of the City of Chattanooga, City Hall, East 11th Street, Room 100, Chattanooga, Tennessee 37402.					
Tennessee	East Ridge (City) Hamilton County.	Spring Creek	At Interstate 75	*678	*679
			At Spring Creek Road	*678	*679
		South Chickamauga Creek	Approximately 800 feet downstream of 4th crossing of Louisville and Nashville Railroad.	*677	*678
			At upstream state boundary	*691	*689
Maps available for inspection at the Building Department, 1517 Tombras Avenue, East Ridge, Tennessee.					
Send comments to The Honorable Fred Pruett, Mayor of the City of East Ridge, 1517 Tombras Avenue, East Ridge, Tennessee 37412.					
Tennessee	Hamilton County (Unincorporated areas).	Rogers Branch	At confluence with Wolftever Creek	*688	*687
			At Access/Mountain View Road	None	*748
		Rogers Branch Tributary	At confluence with Rogers Branch	None	*719
			Approximately 550 feet upstream of Interstate 75.	None	*742
		Wolftever Creek	At the confluence with Wolftever Creek Tributary.	*762	*761
			Approximately 2,200 feet upstream of Bill Reed Road.	None	*795
		Little Soddy Creek	At the City of Soddy-Daisy corporate limits.	None	*820
			Approximately 120 feet upstream of the City of Soddy-Daisy corporate limits.	None	*823
		Lookout Creek	Approximately 135 feet downstream of the Norfolk Southern Railway.	*655	*654
			Approximately 525 feet upstream of Cummings Highway.	*655	*654
		Tennessee River	At the county boundary	*649	*650
			At the confluence of Shoal Creek	*652	*650
		Fruedenberg Creek	Approximately 250 feet upstream of confluence with Middle Creek.	None	*1,670
			Approximately 0.9 mile upstream of confluence with Middle Creek.	None	*1,777
		Lick Branch	At confluence with North Chickamauga Creek.	*671	*670
			Approximately 50 feet downstream of Thrasher Pike.	None	*676
		Lick Branch	At confluence with Lick Branch	*671	*670

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
		Tributary	Approximately 100 feet downstream of Thrasher Pike.	None	*683
		Lick Branch	At confluence with Lick Branch	*671	*670
		Tributary 2	Approximately 50 feet downstream of Thrasher Pike.	None	*675
		Lick Branch	At confluence with Lick Branch	*671	*670
		Tributary 3	Approximately 50 feet downstream of Thrasher Pike.	None	*680
		Middle Creek	Approximately 1,100 feet downstream of Edwards Point Road.	None	*1,634
			Approximately 50 feet downsteam of Timesville Road.	None	*1,718
		North Chickamauga Creek	At the upstream side of Lower Mill Road	*670	*669
			Approximately 1 mile upstream of Dayton Pike.	*754	*753
		Possum Creek	At Lee Pike	*688	*687
			Approximately 1.4 miles upstream of Black Valley Road.	*861	*862
		Sale Creek	At the confluence with the Tennessee River.	*687	*688
			Approximately 1,580 feet upstream of the confluence with the Tennessee River.	*687	*688
Maps available for inspection at the Regional Planning Agency, County Courthouse, Room 208, Chattanooga, Tennessee.					
Send comments to Mr. Claude Ramsey, Hamilton County Executive, County Courthouse, Room 208, Chattanooga, Tennessee 37402.					
Tennessee	Red Bank (City), Hamilton County.	Stringers Branch	Approximately 400 feet downstream of Signal Mountain Road.	*653	*652
			At Barker Road	None	*785
Maps available for inspection at the Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee.					
Send comments to The Honorable Ronnie Moore, Mayor of the City of Red Bank, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee 37415.					
Virginia	Fairfax City (Independent Citry).	Accotink Creek	At the downstream corporate limits	*287	*289
			Approximately 50 feet upstream of Poplar Street.	*396	*397
		Dale Lestina Tributary	At the confluence with North Fork Accotink Creek.	*312	*313
			Approximately 500 feet upstream of Plantation Parkway.	None	*344
		Daniels Run	At the confluence with Accotink Creek	*295	*296
			Approximately 1,030 feet upstream of Sager Avenue.	*400	*406
		Draper Drive Tributary	Approximately 750 feet upstream of confluence with Accotink Creek.	None	*307
			Approximately 920 feet upstream of the confluence with Accotink Creek.	None	*311
		Little River Hills Tributary	Approximately 150 feet upstream of the confluence with Daniels Run.	None	*328
			Approximately 1,460 feet upstream of Ashby Road.	None	*379
		Mosby Woods Tributary	At the confluence with North Fork Accotink Creek.	*328	*332
			Approximately 1,940 feet upstream of confluence with North Fork Accotink Creek.	None	*342
		North Fork	At the confluence with Accotink Creek	*310	313
		Accotink Creek	Approximately 800 feet upstream of Howerton Avenue.	None	*382
		Ranger Road Tributary	At the confluence with Accotink Creek	*309	*312
			Approximately 260 feet upstream of Ranger Road.	None	*314
		Tusico Branch	At the confluence with Accotink Creek	*360	*362
			Approximately 570 feet upstream of Keith Avenue.	*377	*373
		Tusico Branch (area of shallow flooding).	Approximately 570 feet upstream of Keith Avenue.	*377	#2

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)	
				Existing	Modified
			Approximately 625 feet upstream of Scott Drive.	None	#2
Maps available for inspection at the Fairfax City Hall, 10455 Armstrong Street, Room 204, Fairfax, Virginia. Send comments to Mr. Robert Sissan, Fairfax City Manager, 10455 Armstrong Street, Fairfax, Virginia 22030.					
Virginia	Grottoes (Town), Augusta and Rockingham Counties.	Miller Run	Approximately 60 feet downstream of 21st Street.	None	*1,090
			Approximately 60 feet upstream of Cary Street.	None	*1,152
Maps available for inspection at the Grottoes Town Office, 601 Dogwood Avenue, Grottoes, Virginia. Send comments to Mr. Timonty E. Crider, Grottoes Town Superintendent, P.O. Box 146, Grottoes, Virginia 24441.					
Wisconsin	Lincoln County (Unincorporated Areas).	Wisconsin River	Approximately 1.37 miles downstream of Alexander Dam.	None	*1,258
			At downstream side of Alexander Dam	None	*1,261
		Prairie River	Approximately 528 feet downstream of Mill Street.	None	*1,263
			Approximately 0.9 mile upstream of U.S. Business Highway 51.	*1,273	*1,274
Maps available for inspection at the Lincoln County Zoning Office, 1110 East Main Street, Merrill, Wisconsin. Send comments to Mr. Phil Cohrs, Chairman of the Lincoln County Board, 1110 East Main Street, Merrill, Wisconsin 54452.					
Wisconsin	River Falls (City), St. Croix and Pierce Counties.	Kinnickinnic River	Approximately 1.1 miles downstream of the confluence of South Fork Kinnickinnic River.	None	*806
			Approximately 400 feet upstream of State Route 35/65.	*897	*898
		Rocky Branch	Approximately 850 feet upstream of confluence with Kinnickinnic River.	None	*805
			Approximately 2,230 feet upstream of confluence with Kinnickinnic River.	None	*814
		South Fork	At confluence with Kinnickinnic River	*837	*828
		Kinnickinnic River	Approximately 575 feet upstream of State Route 35/65.	*900	*906
		South Fork Kinnickinnic River.	At confluence with South Fork Kinnickinnic River.	*901	*906
		Tributary No. 2	Approximately 950 feet upstream of South Fork Kinnickinnic River.	None	*907
Maps available for inspection at the River Falls City Hall, 123 East Elm Street, River Falls, Wisconsin. Send comments to The Honorable Katie Chaffee, Mayor of the City of River Falls, 123 East Elm Street, River Falls, Wisconsin 54022.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12652 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7530]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
FLORIDA **Charlotte County**				
Auburn Waterway	At the confluence with Pellam Waterway	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*12	
Broad Creek	At the upstream side of Copley Drive	None	*8/9	Charlotte County
	Approximately 1 mile upstream of Airport Road.	None	*12	(Unincorporated Areas)
Broad Creek Tributary	At the confluence with Broad Creek	*8	*10	Charlotte County
	Just upstream of Piper Road	None	*23	(Unincorporated Areas)
Courtland Waterway ..	At the confluence with Auburn Waterway	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*13	
Crestview-Lionheart ...	At the confluence with Crestview Waterway	None	*16	Charlotte County (Unincorporated Areas)
Connector Waterway	At divergence from Lionheart Waterway	None	*16	
Crestview Waterway ..	At the confluence with West Spring Lake	None	*9	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*16	
Delavan Waterway	At the confluence with Fordham Waterway	None	*21	Charlotte County (Unincorporated Areas)
	Approximately 475 feet upstream of Comstock Boulevard.	None	*21	
Elkcam Waterway	Approximately 1,900 feet upstream of U.S. Route 41.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Peachland Boulevard.	None	*19	
Fordham Waterway ...	Approximately 1,750 feet upstream of U.S. Route 41.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 1.0 mile upstream of Peachland Boulevard.	None	*21	
Kings Highway East Outfall.	At the downstream side of Westchester Boulevard.	None	*9	Charlotte County (Unincorporated Areas)
	Approximately 780 feet upstream of Suncoast Boulevard.	None	*13	
Kings Highway West Outfall.	Approximately 150 feet upstream of Westchester Boulevard.	*9	*10	Charlotte County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 1,080 feet upstream of MacDougall Avenue.	None	*16	
Lionheart Waterway ...	At the county boundary	None	*19	Charlotte County
	Approximately 170 feet upstream of U.S. Route 41.	None	*9	(Unincorporated Areas)
Newgate Waterway	Approximately 1.2 miles upstream of the confluence with Early Waterway.	None	*8	Charlotte County (Unincorporated Areas)
	Approximately 2.2 miles upstream of Jenning's Boulevard.	None	*10	
Niagara Waterway	At the confluence with Fordham Waterway	None	*9	Charlotte County (Unincorporated Areas)
	At Peachland Boulevard	None	*19	
Pellam Waterway	Approximately 2.1 miles upstream of Holly Avenue.	None	*8	Charlotte County (Unincorporated Areas)
	At Hillsborough Boulevard	None	*14	
Pelton Circle Waterway.	At the confluence with Crestview Waterway	None	*16	Charlotte County (Unincorporated Areas)
	Approximately 0.5 mile upstream of confluence with Crestview Waterway.	None	*16	
Rampart Outfall	Approximately 0.3 mile upstream of Harborview Road.	None	*9	Charlotte County (Unincorporated Areas)
	Just upstream of Rampart Boulevard	None	*22	
Sunset Waterway	At the confluence with Lionheart Waterway	None	*13	Charlotte County (Unincorporated Areas)
	At County boundary	None	*20	
Yale Waterway	At the confluence with Fordham Waterway	None	*13	Charlotte County (Unincorporated Areas)
	Approximately 475 feet upstream of Sheehan Boulevard.	None	*14	
Gulf of Mexico	Approximately 1,200 feet southwest of the intersection of Gulf Boulevard and South Gulf Boulevard.	*17	*16	Charlotte County (Unincorporated Areas)
	Approximately 200 feet east of the intersection of County Route 775 and Cap Haza Drive.	*11	*10	

Charlotte County (Unincorporated Area)

Maps available for inspection at the Charlotte County Community Development, Charlotte County Administration Building, 18500 Murdock Circle, Port Charlotte, Florida

Send comments to Ms. Pamela Brangaccio, Charlotte County Administrator, 18500 Murdock Circle, Port Charlotte, Florida 33948.

WISCONSIN
Winnebago County

Arrowhead River	Approximately 300 feet upstream of County Highway M.	*750	*751	Winnebago County (Unincorporated Areas)
	Approximately 7,650 feet upstream of Woodland Road.	*755	*757	
Wolf River	Approximately 1.7 miles upstream of mouth at Lake Poygan.	*750	*751	Winnebago County (Unincorporated Areas)
	At County boundary	*754	*753	
Mud Creek.	Approximately 250 feet downstream of county boundary.	*743	*744	Winnebago County (Unincorporated Areas)
	At County boundary	*743	*744	
Eight Mile Creek	At the confluence with Rush Creek	None	*817	Winnebago County
	Approximately 2,000 feet upstream of Knott Road.	*843	*844	(Unincorporated Areas)
Rush Creek	At upstream side of State Highway 116	None	*780	Winnebago County
	At the confluence of Eight Mile Creek	None	*817	(Unincorporated Areas)
Sawyer Creek	Downstream side of North Westfield Street	*754	*753	Winnebago County (Unincorporated Areas)
	Approximately 1.2 miles upstream of Clairville Road.	None	*811	Oshkosh
Rush Lake	Entire shoreline within community	None	*823	Winnebago County (Unincorporated Areas)
Waukau Creek	At the confluence of Eight Mile Creek	None	*817	Winnebago County
	Approximately 1.8 miles upstream of confluence of Eight Mile Creek.	None	*818	(Unincorporated Areas)

Winnebago County (Unincorporated Areas)

Maps available for inspection at the Winnebago County Zoning Office, 448 Algoma Boulevard, Oshkosh, Wisconsin.

Send comments to Ms. Jane Van De Hey, Winnebago County Executive, P.O. Box 2808, Oshkosh, Wisconsin 54901.

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
City of Oshkosh				
Maps available for inspection at the Oshkosh City Hall. 215 Church Avenue, Oshkosh, Wisconsin. Send comments to The Honorable Jon Dell'Antonia, Mayor of the City of Oshkosh, 215 Church Avenue, Oshkosh, Wisconsin 54903.				

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 15, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12651 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7605]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
AR	Vadnais Heights, City of Ramsey County.	Ponding Area	Pond west of McMenemy Road, north of Meadowood Lane, and southeast Foothill Trail.	None	*889

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
			Ponding area northeast of the intersection of McMenemy Road and Commerce Court.	None	*892
		Ponding Area	Ponding area north of Commerce Court and south of Oak Grove Parkway and west of SOO Line Railroad.	None	*904
			Ponding area north of Oak Grove Parkway approximately 1,500 feet east of its intersection with McMenemy Road.	None	*918
			Ponding area east of the SOO Line Railroad, north of Spring Hill Road and west of Morningside Avenue.	None	*912
			Pond north of Willow Grove Lane and west of Greenhaven Drive.	None	*915
			Pond north of Clearbrook Lane, east of Bramblewood Avenue, west of Evergreen Drive and South of Birch Ridge Road.	None	*920
			Pond north of Heritage Court East and South of Valley Oaks Road.	None	*941
			Ponding area south of Westfield Lane, east and north of Oakcrest Drive and north of South Oak Drive.	None	*902
			Ponding area south of North Oak Drive, west of Thornhill Lane, and North of County Road ''F''.	None	*898
		Ponding area	Ponding area south of Bridgewood Terrace, east of Thornhill Lane and west of Centerville Road.	None	*907
			Ponding area north of County Road ''F,'' east of Thornhill Lane and west of Centerville Road.	None	*901
			Ponding area along Edgerton Street, south of Bear Avenue North and north of Stockdale Road.	None	*897
			Ponding area along Arcade Street and Stockdale Road, south of County Road ''F,'' north of Kohler Road, east of Stockdale Drive and west of Centerville Road.	None	*896
			Ponding area east of Interstate 35E, south of the Burlington Northern Railroad, west of Labore Road and north of County Road ''E''.	None	*908
			Ponding area north of Hiawatha Avenue, west of Greenbrier Street, and south of the Burlington Northern Railroad.	None	*904
			Ponding area east of Centerville Road, and north of Vadnais Road.	None	*900
			Pond south of Manor Street and north of Interstate 694.	None	*909
		Ponding area	Ponds south of Vadnais Center Drive, east of Interstate 35 and west of the intersection of Labore Road and Willow Lake Boulevard.	None	*915
			Willow Lake	None	*884
			Ponding area south of County Road ''E,'' east of Montmorency Street and north of Willow Lake Boulevard.	None	*949
Maps are available for inspection at City Hall, 800 East County Road E, Vadnais Heights, Minnesota. Send comments to the Honorable Susan Banovetz, Mayor, City of Vadnais Heights, 800 East County Road E, Vadnais Heights, MN 55127.					
IA	Marshall County (Unincorporated Areas).	Iowa River		*861	*881
Maps are available for inspection at the Marshall County Court House, 1 East Main Street, Marshalltown, Iowa. Send comments to The Honorable Gordie Johnson, Chairman, Marshall County Board of Supervisors, 1 East Main Street, Marshalltown, Iowa 50158.					

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD) ♦(NAVD)	
				Existing	Modified
MO	Madison County (Unincorporated Areas).	Little St. Francis River	Approximately 8,550 feet downstream of West Main Street.	None	*703
			Approximately 3,960 feet downstream of the Missouri Pacific Railroad.	None	*716
		Saline Creek	Approximately 530 feet upstream of the abandoned Railroad Spur.	None	*718
			Approximately 2,510 feet upstream of the abandoned Railroad Spur.	None	*726
		Village Creek	Just downstream of Catherine Mine Road	None	*707
			Just downstream of the Missouri Pacific Railroad.	None	*709
Maps are available for inspection at Madison County Courthouse, #1 Courthouse Square, Fredericktown, Missouri. Send comments to the Honorable Robert Mooney, Presiding Commissioner, Madison County Courthouse, #1 Courthouse Square, Fredericktown, Missouri 63645.					
TX	Corinth, Town of Denton County.	Swisher Creek	At North Shady Shores Road	*537	*537
	Lake Dallas, City of Denton County.	Swisher Creek	At Jean Street about 70 feet east of Fairview Drive.	None	*579
		GS–1	At North Shady Shores Road	*537	*537
	Shady Shores, Town of Denton County.	GS–1	About 100 feet upstream of Dobbs Road	None	*552
Maps are available for inspection at Denton County Government Center, 306 North Loop 288, Suite 115, Denton, Texas. Send comments to the Honorable Scott Armey, Court-House-on-the-Square, 110 West Hickory Street, Denton, Texas 76201. Maps are available for inspection at the Town Hall, 2003 South Corinth Street, Corinth, Texas. Send comments to The Honorable J. B. Troutman, Town Hall, 2003 South Corinth Street, Corinth, Texas 76205. Maps are available for inspection at City Hall, 303 Alamo, Lake Dallas, Texas. Send comments to The Honorable Steve Wohr, City Hall, 303 Alamo Avenue, Lake Dallas, Texas 75065. Maps are available for inspection at City Hall, 101 South Shady Shores Road, Shady Shores, Texas. Send comments to The Honorable Olive Stephens, P.O. Box 362, Lake Dallas, Texas 75065.					
TX	Town of Leona, Leon County.	Adkisson Branch		•298	•325
		Leona Branch		•300	•356
		Leona Branch Tributary 1		•315	•349
		Leona Branch Tributary 2		•299	•315
Maps are available for inspection at City Hall, Highway 75, Leona, Texas.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: May 14, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–12650 Filed 5–20–02; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 67, No. 98
Tuesday, May 21, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing 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 burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before July 22, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC, 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0004.

Form No.: AID 11.

Title: Application for Approval of Commodity Eligibility.

Type of Review: Renewal of Information Collection.

Purpose: USAID provides loans and grants to some developing countries in the form of Commodity Import Programs (CIPs). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1961, as amended, USAID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for approval of Commodity Eligibility (form AID 11), the supplier certifies to USAID information about the commodities being supplied, as required in section 604(f), so that USAID may determine eligibility.

Annual Reporting Burden:

Respondents: 260.

Total annual responses: 850.

Total annual hours requested: 425 hours.

Dated: May 13, 2002.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 02–12678 Filed 5–20–02; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Commodity Credit Corporation.

ACTION: Notice of request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Farm Service Agency (FSA) to request for reinstatement of the information collection previously approved for the Sugar Program.

DATES: Comments on this notice must be received on or before July 22, 2002 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Danielle Cooke, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0512; Washington, DC 20550–0512, telephone number (202) 720–1919. Comments may also be submitted by e-mail to: *Danielle Cooke@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Sugar Program, 7 CFR Part 1435.

OMB Control Number: 0560–0093.

Type of Request: Reinstatement of a Previously Approved Information Collection.

Abstract: The Secretary of Agriculture is authorized to make price support through the Commodity Credit Corporation (CCC) by eligible sugar processors or refiners on behalf of the grower delivering eligible sugar to them. Sugar loans provide eligible processors with interim financing on their inventory, facilitate the orderly distribution of sugar throughout the year, and provide a market floor through the set loan rate. Instead of selling the crop immediately at harvest, a loan allows a processor to store the production, pledging the crop itself as collateral.

Respondents: Sugar beet and Sugar Cane Processors.

Estimated Number of Respondents: 43.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 58 hours.

Proposed topics for comment include: (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 and protect the interests of CCC and the producer; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who respond, including the use of appropriated automated, electronic, mechanical, or techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Danielle Cooke, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0512; Washington, DC 20250–0512, telephone number (202) 720–1919. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC on May 14, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–12640 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Draft Environment Impact Statement, Lemolo Watershed Projects, Diamond Lake Ranger District, Umpqua National Forest, Douglas County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Supplement to a Draft Environmental Impact Statement.

SUMMARY: The USDA, Forest Service, will prepare a Supplement to the Draft Environmental Impact Statement (EIS) for a variety of connected resource projects within the Lemolo Watershed Projects planning area of the Diamond Lake Ranger District. The Draft Supplemental EIS will describe additional alternatives developed in response to public comments. The additional alternatives address issues related to old-growth forests, and recreation. The projects proposed within the range of alternatives include several timber sales, the construction of temporary and system roads, site preparation, planting, the burning of natural fuels, road decommissioning, and soil restoration. These projects are proposed for implementation in 2003 and 2004. The planning area is located approximately 80 miles east of Roseburg, Oregon. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they can participate in the process and contribute to the final decision.

ADDRESSES: Send written comments and suggestions concerning this proposal to John Ouimet, District Ranger, Diamond Lake Ranger District, 2020 Toketee Ranger Station RD, Roseburg, Oregon 97447–9704.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action, or EIS to Pat Williams, ID Team Leader/Project Planner, Diamond Lake Ranger District, 2020 Toketee Ranger Station RD, Idleyld Park, Oregon 97447–9704, or (541) 498–2531.

RESPONSIBLE OFFICIAL: Forest Supervisor James Caplan is the responsible official for this EIS. Mr. Caplan may be contacted at Umpqua National Forest, PO Box 1008, Roseburg, OR 97470.

SUPPLEMENTARY INFORMATION: The Lemolo Watershed Project proposed action was first published in the federal register on April 14, 1999. A public meeting was held at the Douglas County Library on April 21, 1999 along with a subsequent field trip to the planning area in August of 1999. The draft EIS was published in October, 2001. The Forest Service received many comments on the project during the 45 day comment period. Public comments identified issues related to harvest of old-growth timber, and protection of recreation values. Based on public comment, 2 additional alternatives to the proposed action have been developed to address these issues and will be described in the Supplement to the Draft Environmental Impact Statement. A total of 5 alternatives including the No Action and the Proposed Action alternative have been developed.

Public comments are appreciated throughout the analysis process. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by July 2002. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register.** The final EIS is scheduled to be available in October 2002.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environment review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* v. *Hodel,* 803 f.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Supplement to the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.)

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Responsible Official will document the decision and rationale for the decision in a Record of Decision. That decision will be subject to appeal under, 36 CFR Part 215.

Dated: May 7, 2002.

James Caplan,

Forest Supervisor, Umpqua National Forest.

[FR Doc. 02–12646 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on June 13, 2002, at the Convention Center, Horizon Casino and Resort, Highway 50, Stateline, NV. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held June 13, 2002, beginning at 9:00 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at the Convention Center, Horizon Casino and Resort, Highway 50, Stateline NV.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Federal Interagency Partnership. Items to be covered on the agenda include: Lands and Budget Subcommittee reports, the Federal Partnership perspective the Partnership, Lake Tahoe August Congressional Event, update on the USFS Lake Tahoe Restoration Act projected list, USACE update on Lade Tahoe projects, the status of Lake Tahoe atmospheric deposition, and public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: May 13, 2002.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 02–12701 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Kootenai National Forests' Lincoln County Resource Advisory Committee will meet Monday, June 3, 2002 at 6:30 p.m. in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: June 3, 2002.

ADDRESSES: The meeting will be held at the Kootenai National Forest Supervisor's Office, located at 1101 U.S. Highway 2 West, Libby, MT.

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator at (406) 293–6211.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing project proposals and receiving public comment.

Dated: May 13, 2002.

Bob Castaneda,

Forest Supervisor.

[FR Doc. 02–12629 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Clarification of Direction on Safety Priorities During Wildland Firefighting Activities and Procedures for Emergency Consultation under the Endangered Species Act

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency interim directives.

SUMMARY: The Forest Service is issuing two interim directives to provide internal administrative direction to guide its employees during wildland firefighting activities. The interim directive issued to Forest Service Manual chapter FSM 5130, Wildland Fire Suppression, as ID number 5130–2002–1, clarifies existing direction to ensure that the safety of firefighters, other personnel, and the public is always the first priority in fire suppression. While this is already the current agency policy, the agency believes that the direction should be clarified and better stated. The interim directive issued to Forest Service Manual chapter FSM 2670, Threatened, Endangered, and Sensitive Plants and Animals, as ID number 2670–2002–1, clarifies and expands existing direction to facilitate emergency consultation under the Endangered Species Act. This interim directive makes clear that human safety is the highest priority for every emergency response action, and under no circumstances should an emergency response action be delayed in order to contact the Fish and Wildlife Service or the National Marine Fisheries Service for initiating emergency consultation or during an ongoing consultation. The agency will consider any comments received in the development of final directives.

DATES: The interim directives are effective May 21, 2002.

ADDRESSES: The interim directives are available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the interim directives also are available for ID 5130–2002–1 by contacting Shelly Steen, National Interagency Fire Center, 3833 South Development Avenue, Boise, Idaho 83705 (telephone 208–387–5100), and for ID 2670–2002–1 by contacting Tina Kingsberry, Forest Service, USDA, Watershed, Fish, Wildlife, Air, and Rare Plants Staff, Stop Code 1121, 1400 Independence Avenue SW., Washington, DC 20250–1121 (telephone 202–205–1205). Members of the public who wish to comment on the interim directives may mail their written comments in paper format to these addresses or send them electronically to *directivecomment@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Shelly Steen (208–387–5100) or Tina Kingsberry (202–205–1205).

Dated: May 14, 2002.

Sally Collins,

Associate Chief.

[FR Doc. 02–12719 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East River Electric Power Cooperative, Inc., Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact in connection with a request from East River Electric Power Cooperative (EREPC) for assistance from RUS to finance the construction of an electrical substation, a short segment of 230kV transmission line, and a communication tower in Lincoln County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Rural Utilities Service, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–1414, Fax (202) 720–0820, e-mail *nislam@rus.usda.gov.* Information is also available from Mr. Ronald W. Golden, Land Agent, East River Electric Power Cooperative, Inc., 121 Southeast First Street, Madison, South Dakota 5704, telephone (605) 256–4536, Fax (605) 256–8058, e-mail *rgolden@eastriver.coop.*

SUPPLEMENTARY INFORMATION: East River Electric Power Cooperative (EREPC) proposes to construct an electrical substation, a short segment of 230 kV transmission line and a communication

tower in Lincoln County, South Dakota. The proposed Virgil Fodness 230 kV Substation will be located in the southwest corner of the Southeast Quarter (SE1/4) of Section two, Township 99 North, Range 51 West in Lincoln County. The overall height of the communication tower with antenna will be 285 feet. The tower will be a self-supporting type with red obstruction lighting. The existing 230 kV transmission line will be rerouted and it will need the addition of four steel poles. The height of the poles will vary between 95 feet and 145 feet. The facility will require 20 acres to construct. It will make it possible for EREPC to provide transmission and transformation service to meet the increasing power requirements of its member distribution system. RUS may provide financial assistance to EREPC for this project. RUS has concluded that the impacts of the proposed project would not be significant and the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary. RUS, in accordance with its environmental policies and procedures, required that EREPC prepare an Environmental Report reflecting the potential impacts of the proposed facilities. The Environmental Analysis, which includes input from federal, state, and local agencies, has been reviewed and accepted as RUS' Environmental Assessment (EA) for the project in accordance with 7 CFR 1794.41. EREPC published notices of the availability of the EA and solicited public comments per 7 CFR 1794.42. The 30-day comment period on the EA for the proposed project ended May 6, 2002. No comments were received on the EA.

Based on the EA, RUS has concluded that the proposed action will not have a significant effect on various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air and water quality, and noise. RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project.

The EA is available for public review at the RUS or the headquarters of EREPC at the addresses provided in this notice and at the following location: Lincoln County Courthouse, County Auditor's Office, 100 East Fifth Street, Canton, South Dakota 57013.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–12639 Filed 5–20–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Stolz at (202) 482–4474, Michele Mire at (202) 482–4711, or Crystal Crittenden at (202) 482–0989, AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Time Limits:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 31, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC), covering the period December 1, 1999 through November 30, 2000 (66 FR 8378). On December 4, 2001, the Department published an extension of time limit for the preliminary results. On January 17, 2002, we published the preliminary results of review (67 FR 2402). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than 120 days from the date of publication of the preliminary results.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the final results until no later than July 16, 2002. See Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: May 8, 2002.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 02–12724 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Final Determination of Sales at Less Than Fair Value: IQF Red Raspberries from Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: The Department of Commerce has conducted an antidumping duty investigation of IQF red raspberries from Chile. We determine that individually quick frozen (''IQF'') red raspberries from Chile are being sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. On December 31, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of IQF red raspberries from Chile. Based on the results of verification and our analysis of the comments received, we have made changes in the margin

calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled **Continuation of Suspension of Liquidation**.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1503, or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to 19 CFR Part 351 (April 2001).

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: IQF Red Raspberries From Chile*, 66 FR 67510 (December 31, 2001) (''*Preliminary Determination*'')), the following events have occurred:

On January 9, 2002, the petitioners and the respondents submitted ministerial error allegations regarding the Department's preliminary margin calculations. For a detailed discussion of the allegations and the Department's analysis, *see*Memorandum to Richard W. Moreland, ''Ministerial Errors in the Preliminary Determination in the Antidumping Duty Investigation of Individually Quick Frozen (IQF) Red Raspberries from Chile'' (''*Ministerial Errors Memo*'') dated January 15, 2002, which is on file in the Import Administration's Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building.

In January and February 2002, we conducted verifications of the questionnaire responses submitted by Comercial Fruticola (''Comfrut''), Exportadora Frucol (''Frucol''), and Fruticola Olmue (''Olmue'') (collectively, ''the respondents''). We issued verification reports in March and April 2002. *See* ''Verification'' section of this notice for further discussion.

The petitioners and respondents filed case and rebuttal briefs, respectively, on April 15 and April 18, 2002. At the request of the petitioners, the Department held a public hearing on April 22, 2002.

Scope of Investigation

The products covered by this investigation are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under section 0811.20.2020 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than fair value, we compared export price (''EP'') to normal value (''NV''). Our calculations follow the methodologies described in the *Preliminary Determination*, except as noted below and in each individual respondent's calculation memorandum, dated May 15, 2002, which are on file in the Department's CRU.

Export Price

For sales to the United States, we used EP as defined in section 772(a) of the Act. We calculated EP based on the same methodologies described in the Preliminary Determination, with the following exceptions:

Comfrut

We corrected certain ministerial errors from the preliminary determination (*see* the January 15, 2002 *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to international freight, shipping date, and direct selling expenses based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Comfrut (''*Comfrut Calculation Memorandum*'') and the March 22, 2002 sales verification report for Comfrut (''*Comfrut Sales Verification Report*'').

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts, where appropriate, with respect to payment date, inland freight, indirect selling expenses, credit expenses, gross unit price, and brokerage expenses based on information collected at verification. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the May 15, 2002 calculation memorandum for Frucol (''*Frucol Calculation Memorandum*'') and the March 7, 2002 sales verification report for Frucol (''*Frucol Sales Verification Report*'').

Olmue

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). We revised reported amounts for international freight, gross unit price, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amount for indirect selling expenses and inventory carrying costs. For further information, *see* the May 15, 2002 calculation memorandum for Olmue (''*Olmue Calculation Memorandum*'') and the April 3, 2002 sales verification report for Olmue (''*Olmue Sales Verification Report*'').

Normal Value

We used the same methodology as that described in the preliminary determination to determine the cost of production (''COP''), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

1. Cost of Production Analysis

Comfrut

We made adjustments to Comfrut's costs based on verification findings (*see Comfrut Calculation Memorandum* and the March 6, 2002 cost verification report for Comfrut). We are not making the major input adjustment made in the preliminary determination. For further information, *see* the *Comfrut Calculation Memorandum.*

Frucol

We have calculated a single, weighted-average cost of fresh raspberries for Frucol. For the reasons

discussed in our response to Comment 1 in the May 15, 2002 *Issues and Decision Memorandum for the Antidumping Duty Investigation of IQF Red Raspberries from Chile; Final Determination*(''*Decision Memorandum*''), we have used market prices for the berries grown by Frucol and, for the reasons discussed in response to Comment 3 in the *Decision Memorandum*, we have used the higher of market or transfer prices for the berries purchased by Frucol's affiliated supplier. Also, based on our findings at verification, we made revisions to Frucol's interest expense and total cost of manufacturing, including, direct labor, SG&A, variable overhead, and fixed overhead. *See* the *Frucol Calculation Memorandum*, the April 2, 2002 cost verification report for Frucol (''*Frucol's Cost Verification Report*'') and Comments 1, 2, 4, 5, and 6 of the *Decision Memorandum*).

Olmue

Based on our findings at verification, we made revisions to Olmue's total cost of manufacturing, including raw materials, direct labor, variable overhead, and fixed overhead. See the Olmue Calculation Memorandum and the Olmue Cost Verification Report.

2. Calculation of NV

Comfrut

We revised the reported amounts for billing adjustments and credit expenses for certain sales based on information obtained at verification. We also revised the reported amounts for warehousing expenses, indirect selling expenses, and inventory carrying costs. For further information, *see* the *Comfrut Calculation Memorandum* and the *Comfrut Sales Verification Report*.

Frucol

We corrected certain ministerial errors from the preliminary determination (*see* the *Ministerial Errors Memo*). Based on information collected at verification, we revised the reported form, control number, commissions, and customer code for certain sales. We also revised the reported amounts for packing and direct selling expenses. For further information, *see* the *Frucol Calculation Memorandum* and the *Frucol Sales Verification Report* at Exhibit S–1.

Olmue

We revised reported amounts for gross unit price, brokerage and handling, and direct selling expenses for several sales based on information obtained at verification. We also revised the reported amounts for indirect selling expenses and inventory carrying costs. For further information, see the *Olmue Calculation Memorandum* and the *Olmue Sales Verification Report* at Exhibit S–1.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the preliminary determination.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by all responding companies during January and February 2002. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all imports of IQF red raspberries from Chile (except for entries from Comercial Fruticola and Exportadora Frucol) that are entered, or withdrawn from warehouse, for consumption on or after December 31, 2001, the date of publication of the *Preliminary Determination* in the Federal Register. Comercial Fruticola and Exportadora Frucol have de minimis and zero margins, respectively, and will be excluded from the antidumping duty order, if issued. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Comercial Fruticola	0.50 percent (de minimis)
Exportadora Frucol	0.00 percent
Fruticola Olmue	5.98 percent
All Others	5.98 percent

Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all others rate margins which are zero or *de minimis*.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments in the Issues and Decision Memorandum

Frucol

*Comment 1:*COP Methodology
Comment 2: Production Quantities
Comment 3: Frucol's Purchases of Fresh Raspberries
Comment 4: Extraordinary Costs
Comment 5: Unreconciled Differences
Comment 6: General and Administrative Expense Ratio

Comment 7: Third Country Sales
Comment 8: Billing Adjustment

Comfrut

Comment 9: Direct Material Costs
Comment 10: Raw Material Costs

Olmue

Comment 11: COM
Comment 12: Sales to Third Country
Comment 13: CV Profit Rate

[FR Doc. 02–12725 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302E]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazard Investigations in Washington State

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to collecting marine seismic reflection data to investigate the earthquake hazard in the Straits of Georgia region of Washington State by the U.S. Geological Survey (USGS) during May, 2002.

DATES: This authorization is effective from April 30, 2002, through September 30, 2002.

ADDRESSES: A copy of the application and an Environmental Assessment (EA) may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

In May, 2002, the USGS, in cooperation with the Geological Survey of Canada and the University of Victoria, will collect marine seismic reflection data to investigate the earthquake hazards in the Straits of Georgia. For approximately 2 to 4 days this research will be in U.S. waters and about 17 to 19 days will be in Canadian waters. Geological features around the Straits of Georgia that might produce earthquakes lie obscured beneath water, urban areas, forest, and thick glacial deposits. As a result, investigators must use sound waves that are produced by either a single airgun or more usually an array of airguns to indirectly view these features. Because seismic noise from the proposed survey's airguns could potentially affect marine mammals due to disturbance by sound (i.e., acoustic harassment), an IHA under the MMPA is warranted.

Throughout western Washington state and southwest British Columbia (BC), geological faults that might produce earthquakes lie hidden beneath the dense forest and the waters of Puget Sound and the Strait of Georgia. Although some faults are known from limited exposures on land and from marine seismic surveys, such as the Lummi Island and Outer Islands faults (see Figure 1 in the USGS application), more may have eluded detection in this little-studied area. Furthermore, the amount of recent (<50,000 years) motion on these faults, if any, is unknown. Estimating the frequency and sizes of earthquakes on both the known and unknown faults is crucial to understanding the earthquake risk to the cities of Bellingham and Anacortes, WA to Vancouver and Victoria, BC and to the more rural parts of the region. For more detailed information on the geological faults in this area, please refer to the USGS application.

Seismic reflection data will be collected during May, 2002 by the Canadian research vessel *J. P. Tully*. Seismic profiling will be done by towing a 600–m (1,968.5–ft) long hydrophone streamer for sensing and recording pressure changes from the airgun echos. The streamer will be towed at a depth of 5 m (16.4 ft). Near the forward end of the streamer, an airgun will be towed about 10 m (32.8 ft) behind the ship at a depth of about 5 m (16.4 ft). The hydrophone streamer, which is connected to a computer recording system, will record echos coming from the strata beneath the sea bottom. These recordings will be computer-processed to create an image of the subsurface strata, including any faults that are crossed during the profiling. The seismic operation will operate 24 hours/day while in U.S. waters and will be traveling at a speed of 6 to 8 knots (6.9 to 9.2 miles/hr; 11.1 to 14.8 km/hr).

The sound source will be either a single, 120 inch^3 airgun or, more likely, a small array of airguns consisting of two 40- in3 and two 20–in^3 guns being fired within several milliseconds (1/1000 second) of each other. The source will be chosen after tests at the beginning of the cruise. Either way, this sound source, as measured by the volume of the chamber, is only 2 percent of the size of the airgun array

used in the USGS survey conducted in 1998 in Puget Sound (see 63 FR 2213, January 14, 1998). Both of the USGS' potential sources for this activity will produce similar levels of sound pressure, which is estimated to be about 225 dB. An array of small airguns increases the frequency of the sound over that from a single gun, and an array better directs the sound downward. This array has been used previously in the inland waters of Canada (Reidel *et al.*, 1999), and the characteristics of this sound source have been measured (see Figure 3 in the USGS application).

The airgun does not emit a prolonged sound source; rather, it emits an impulsive noise burst (<10 milliseconds) with a peak-to-peak (P-P) sound pressure level (SPL) estimated to be between 220 dB and 230 dB. The USGS best estimate is that the source will have an SPL of about 225 dB (P-P). This compares to an estimated SPL of 240 dB (P-P) for the 6730 inch^3 airgun array used in the 1998 Puget Sound seismic survey project (Fisher, 1997). The airgun will be fired almost continuously 3 to 6 times per minute.

There is about a 16–dB difference between measuring the P-P sound pressure and the more commonly used root-mean-square (RMS) measurement for assessing sound pressure impacts on marine mammals (6 dB converts P-P to peak-to-zero values, and an additional 10 dB converts peak-to-zero to RMS values). NMFS' criteria for safety radii based on pressure measurements are based on the RMS or the average received level over the duration of the sound pulse. These conversions mean that the USGS airgun array will be approximately equivalent to a source with a RMS sound pressure of about 204 to 214 dB (relative to 1 μPa), with a best estimate being about 209 dB (RMS). This compares with the continuous noise from freighters and other ship traffic in the area, which is estimated to be 150 to 205 dB RMS (Richardson *et al.*, 1995).

The frequency spectrum of the sound emission was measured when the array was used in a previous study (Reidel et al., 1999). The airgun's energy is concentrated below 200 Hz, with a rapid decrease in amplitude with increasing frequency between 200 and 400 Hz. Frequencies above 400 Hz have amplitudes that are less than 10 percent of the lower frequencies. Frequencies below 1,000 Hz (1 kHz) are considered low frequency (LF).

Comments and Responses

A notice of receipt of the application and proposed authorization was published on February 7, 2002 (67 FR 5792), and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC) and Lifeforce.

Comment 1: Lifeforce advises that all activities that could produce any undetermined impact on marine wildlife must not be permitted. This should be of special concern regarding the southern community of resident orca. They are in the planned research area during April and May. In 2001 all three pods were present in May. The abundance of orcas is high. Noise from these tests could interrupt foraging, socializing, and resting periods. These types of disturbance are believed to jeopardize the survival of this population. The population was recently designated as an endangered species by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and the U.S. Government is considering similar action.

Response: The proposed authorization notice did not state that impacts could not be determined, but that impacts from noise were variable. If NMFS finds that the taking will be small, have a negligible impact on the species or stock(s) of affected marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, the taking by incidental harassment can be authorized under section 101(a)(5)(D) of the MMPA. Due to the fairly low SPL for the single airgun or small airgun array (approximately 209 dB RMS) and the mitigation monitoring required under the IHA, marine mammal injury and mortality is unlikely. Impacts, therefore, would be limited to Level B harassment. Because behavioral reactions to the seismic airgun sounds and/or the USGS vessel could occur, the USGS applied for an IHA under the MMPA. Provided certain findings are made, as here, the MMPA allows marine mammals to be harassed, injured or killed incidental to conducting maritime activities.

The killer whale, however, appears to be fairly insensitive to LF sounds, with hearing ability approximately 100–140 dB for LF-sound (Richardson *et al.*, 1995). This means that it would be unlikely for killer whales to behaviorally respond to the sounds unless the sounds are about 20 dB or higher above those levels. For the airgun(s) planned to be used by this activity, this means being close to the source. In addition, due to the short duration of the activity under consideration here and the mitigation required to be conducted, it is unlikely that impacts on killer whales would cause more than a short-term disturbance on a very few animals and would therefore have a negligible impact on the killer whale population or stock.

On August 13, 2001 (66 FR 42499), NMFS announced that a petition to list the eastern North Pacific southern resident stock of killer whales as endangered or threatened species under the Endangered Species Act (ESA) and to designate critical habitat for this stock under the ESA presented substantial scientific information indicating that a listing may be warranted and would initiate an ESA status review. In accordance with section 4(b)(3)(B) of the ESA, NMFS is completing its status review on this stock.

Comment 2: There has been evidence from necropsies on marine mammals that damage to auditory systems can be caused by loud noises and can be fatal. As in humans, hearing impairment can be caused by short term and/or long term exposure to loud noises. Therefore, any exposure from these tests could have an immediate or accumulative impact.

Response: Injury to both auditory and non-auditory organs can be caused by loud impulse noise and by explosions as noted in the proposed authorization document and this document. However, the acoustic sources proposed for use by this activity are unlikely to result in an SPL sufficient to cause Level A harassment (i.e., injury). In addition, Diercks et al. (1971), as reported in Richardson *et al.* (1995) recorded killer whale echo-location clicks at 180 dB in the 12 to 25-kHz frequency. For the proposed airgun, 180 dB (P-P) is approximately 50 m (32.8 ft) from the source, at which distance the SPL on an RMS basis would be approximately 164 dB (180 dB would be less than 10 m (32.8 ft) from the acoustic source). Therefore, since marine mammals are unlikely to be injured by their own vocalizations or vocalizations of conspecifics, it is unlikely that animals would be injured by sounds from this acoustic source unless the animal is significantly closer to the airgun than 10 m (32.8 ft). Finally, because the activity will be less than 19 days long, no long-term impacts are anticipated.

Comment 3: Seals should be regarded as any other species in the mitigation and monitoring plans. It is known that seal bombs and noise deterrents used on fish farms frighten seals and can cause hearing damage. Lifeforce assumes that continuous noise from airguns would create similar problems.

Response: Under section 101(a)(5)(D) of the MMPA, it is NMFS' responsibility to ensure that the impact on marine

mammals due to an activity is reduced to the lowest level practicable. In reviewing the information available, NMFS has determined that it is not practicable to require applicants to delay surveys in order to provide more protection for curious seals than has been proposed by the applicant, unless the animal indicates a significant adverse effect (see response to comment (RTC) 4 in this document). Delays due to shutdowns lengthen the time necessary for completing surveys, requiring additional survey time and resulting in a potential increase in impacts on more sensitive marine mammal species, and raise the potential for either increased costs for conducting surveys or continuing surveys in future years. As mentioned in this document and in prior **Federal Register** notices, seals and sea lions are believed to be less likely to be harmed by underwater noise than cetaceans, and have even been observed swimming in the bubbles of large seismic airgun arrays, a source significantly more powerful than the one proposed for use by this activity. For impulse noise such as the one under consideration here, it has been determined through scientific workshops that pinnipeds would need to be closer than 190 dB (RMS) before there is even the potential for injury. Because an SPL of 190 dB would be within about 5 m (16.4 ft) of the airgun, a requirement under the IHA of a 100–m (328-ft) shutdown is unnecessary for those seals and sea lions approaching the airgun.

Comment 4: Regarding monitoring the impact on marine mammals by the activity, the MMC believes the program (if funded) is adequate to verify that animals are taken only as authorized. The MMC notes however, that, in monitoring pinniped approaches to the active airgun array, transmissions be suspended if there is any indication that the animals are being adversely affected.

Response: NMFS concurs and has made that recommendation a part of the IHA. However, these seals and sea lions need to be actively approaching the vessel (itself moving forward at about 3–5 knots) from the side of the vessel or the stern, meaning that the animal is voluntarily approaching a noise source that is increasing in strength as the animal gets closer. Therefore, if a pinniped approaches the USGS vessel, the IHA requires the USGS to monitor the interaction to ensure the animal does not show signs of distress. If the pinniped(s) show obvious distress, the USGS is to suspend airgun operations until the pinniped moves outside of the safety zone and to continue to conduct observations on effects on all pinnipeds after the airgun is again powered up.

Comment 5: When cetaceans, such as orcas, gray whales, humpback whales, minke whales and other slower moving cetaceans are sighted at any distance, the tests should be suspended until they are a safe distance from, and are clearly moving away from the test site. When faster dolphins and porpoises are sighted at any distance near the safety zone the tests should be suspended until they are clearly heading in a direction away from the research activity.

Response: The USGS has recommended, and NMFS has adopted, shutdown criteria for this activity at 100 m (328 ft) for all cetaceans and pinnipeds. At 100 m (328 ft), the SPL from the proposed airgun(s) will be approximately 170 dB (P-P) or 154 dB (RMS). This shutdown distance is significantly greater than is necessary to protect marine mammals from the potential for injury. As noted in RTC 3, suspension of activities whenever a marine mammal is sighted is not practical due to the potential number of shutdowns that could be required, and is not necessary because of the low SPL of the acoustic source.

Comment 6: Tests during darkness must not be permitted. Proper monitoring of marine wildlife at night is impossible and may not meet MMPA requirements. The use of night vision equipment only works if you know where to look and scanning the areas would miss marine wildlife during their dive periods. By the time they are spotted, they could be within the safety zone. Operation should only be allowed from sunrise to sunset.

Response: During nighttime, observers are required to monitor a minimum of 50–m (164–ft) radius around the source whenever the airgun or small airgun array is powered up, to protect marine mammals. This distance is sufficient to ensure that marine mammals are detected prior to getting close enough to the airgun array to be injured. As discussed in the proposed authorization, suspension of night-time operations is impractical and costly to the USGS, and it may not result in reduced impacts to marine mammals by extending surveys either into a period of greater marine mammal abundance or into a future year when funding and ship time become available, or both. NMFS believes that because the vessel is underway, resulting in a de-facto ramp-up for marine mammals at distances forward of the vessel, no marine mammals will be injured by the airgun or small airgun array. However, because a mitigation requirement of the IHA is for the safety zone to be monitored for 15 minutes prior to the time the source is turned on, if the source is powered up at night or in inclement weather, the entire 50–m (164–ft) safety zone needs to be visible to the biological observers. Otherwise, the source must remain below 160 dB re 1 micro Pa-m (RMS), until sufficient light is available to observe the safety zone(s). Alternatives to night-vision equipment would include lighting the safety zone with high intensity lights or use of infra-red scopes, which operate differently than most light-enhancement devices. Infra-red scopes were tested by biologists in 1997 and found to be useful in detecting marine mammals at night; however, they are expensive to rent or purchase and may not be warranted for this short duration survey.

Comment 7: The applicants have stated that their monitoring plans would probably not meet MMPA requirements. They state that funding would be required to meet adequate monitoring objectives.

Response: The USGS will be capable of conducting the monitoring program required under the IHA for this activity.

Comment 8: Lifeforce recommends that observers on the seismic team should have experience and training in spotting marine wildlife.

Response: In order to monitor shutdown areas and to make observations on marine mammal behavior, at least one observer on watch needs to be trained in making at-sea observations of marine mammals. For this activity, the USGS has contracted with a private company to provide a minimum of three biological observers. In addition, crewmembers will also assist in watching for marine mammals.

Comment 9: The MMC recommends that NMFS advise the USGS that, if there is any indication that other types of taking (e.g., mortalities) may be occurring, survey activities be suspended while NMFS considers whether an authorization under section 101(a)(5)(A) is needed.

Response: Because the survey time is limited to 2 days in U.S. waters, suspension of an IHA would likely result in termination of that portion of the scientific research being conducted in U.S. waters. It is also unlikely that a cause-and-effect relationship would be able to be determined within a reasonable length of time to affect the work schedule. Even though it is a standard requirement in all IHAs to suspend activities if a taking occurred in a manner that was not authorized, mortality by this activity, caused either by a ship strike (because of the relatively low speed) or by seismic noise

(because of low SPL), is highly improbable. NMFS notes that the SPLs made by this activity are comparable to the vocalizations made by many species of marine mammals. If marine mammals vocalize at high SPL levels, it is realistic to believe that these species have also evolved mechanisms to protect themselves and conspecifics from high SPL vocalizations.

Comment 10: Lifeforce has studied behavior and travel patterns of orcas over a 9-year period. This allows it to be able to locate and track orcas on a daily basis and to predict estimated times of their arrival in certain areas. Communication between Lifeforce and the research team would reduce many conflicts resulting from the merging and crossing of routes taken by the research team and the endangered orcas.

Response: To the extent possible, NMFS recommends that the monitoring team for this activity coordinate with Lifeforce so that the acoustic harassment incidental to conducting a 2-day seismic program in U.S. waters is reduced to the lowest level practicable. However, this should not be interpreted to mean that the USGS can not conduct its activity without the participation of Lifeforce. Since the USGS will have an NMFS-approved observation team onboard the vessel, additional monitoring tasks are not needed, but would be useful.

Comment 11: Many of the species which could be affected by this research are transboundary species making their homes in both the U.S. and Canadian waters. Lifeforce urges NMFS to advise both American and Canadian participants that they must follow all requirements to protect marine wildlife as stated in the MMPA and all requirements set forth in any permit.

Response: The MMPA is effective in U.S. waters and, for U.S. citizens, on the global commons; it is not effective within the waters of another nation. As a result, NMFS is recommending that the USGS follow Canadian law while operating within that nation's waters. To the extent possible, NMFS recommends that the USGS follow the mitigation requirements of the IHA while within these waters, unless required by Canada to comply with other methods for protecting marine mammals.

Comment 12: Lifeforce recommends that a new Environmental Impact Study should be considered because during the past 6 years there has been a 20–percent decrease in the southern orca community. The last EIS was conducted 5 years ago.

Response: In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact (FONSI). As a result of that finding, in accordance with Council on Environmental Quality regulations (40 CFR 1501.3) and NOAA Administrative Order 216–6 (i.e., NOAA's guidelines implementing the National Environmental Policy Act (NEPA)), an Environmental Impact Statement was not prepared. This seismic survey will operate in approximately the same geographic area as the 1998 survey, and affect the same species of marine mammals. However, the airgun sources used in this action are significantly less intense the 1998 array and only 2 percent of the size of the earlier acoustic array. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. A change in the status of a marine mammal stock does not necessarily require a new NEPA analysis; a new NEPA review would be required if either the impact of the action was different than assessed under the proposed action or alternatives in the EA, or if new knowledge became available that called into question the impact assessments made in the EA. Since neither situation is relevant here, a new NEPA analysis is unnecessary.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected habitat and its associated marine mammals can be found in the USGS application and in several documents issued previously for acoustic research in Washington State waters (NMFS, 1996, 1997).

Marine Mammals

The species of marine mammals that are likely to be present in the region of the Straits of Georgia include the harbor porpoise (Phocoena phocoena), killer whale (Orcinus orca), Dall's porpoise (*Phocoenoides dalli*), harbor seal (*Phoca vitulina*) California sea lion (*Zalophus californianus*), elephant seal (Mirounga angustirostris) (Calambokidis and Baird, 1995) and Steller sea lion (*Eumetopias jubatus*) (NMFS data). Additional species that are rare or only occasionally seen in the area at the time of the survey include: Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), minke whale (*Balaenoptera acutorostrata*) humpback whale (*Megaptera novaengliae*) and gray whale (*Eschrichtius robustus*). However, because of the short duration of this project in waters under the jurisdiction of the United States, it is very unlikely that these latter species would be subject to harassment as a result of conducting seismic surveys.

General information on the marine mammal species can be found in the USGS application and the previously mentioned documents prepared under NEPA. Information on marine mammal species in this area can also be found in Caretta *et al.* (2002). In addition, a general synopsis of marine mammal presence and abundance in the Straits of Georgia area has been provided by NMFS' National Marine Mammal Laboratory for the determinations made here. That paper and the NEPA documents are available upon request (see **ADDRESSES**); Caretta *et al.* (2002) is available at the following URL: *http://www.nmfs.noaa.gov/prot__res/readingrm/MMSARS/*FinalPacSar2001.pdf. Please refer to these documents for information on marine mammal species.

Potential Effects of Seismic Surveys on Marine Mammals

Discussion

Disturbance by seismic noise is the principal means of taking incidental to this activity. Vessel noise may provide a secondary source. Also, the physical presence of vessel(s) could also lead to some non-acoustic effects involving visual or other cues.

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) any noise that is strong enough to be heard has the potential to reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as storms and surf noise; (5) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with

situations that the animal perceives as a threat); and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., temporary threshold shift (TTS) or permanent threshold shift (PTS), respectively). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained. However, in terrestrial mammals (and presumably in marine mammals), received sound levels must far exceed the animal's hearing threshold for there to be any TTS and must be even higher for there to be risk of PTS (Richardson *et al.*, 1995).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by large-scale open-water seismic operations may be detectable some substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or masking a signal of comparable frequency. Incidental harassment is presumed to occur when marine mammals in the vicinity of the seismic source (or vessel) show a significant behavioral response to the generated sounds or visual cues.

High-intensity LF seismic pulses are known to cause some species of whales, including gray and bowhead whales, to behaviorally respond within a distance of several kilometers of the source (Richardson *et al.*, 1995). Although some limited masking of low-frequency sounds is a possibility for those species of whales using low frequencies for communication, the intermittent nature of seismic source pulses limit the extent of masking. Bowhead whales, for example, are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.*, 1986).

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations and season. Behavioral changes may be subtle alterations in surface-dive-respiration cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors such as feeding, socializing or mating are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening.

Neither hearing damage nor nonauditory trauma are expected to occur as a result of this project. While TTS is a theoretical possibility for marine mammals close to an acoustic source, if the SPL of the source is of sufficient intensity, planned monitoring and mitigation measures (described later in this document) are designed to detect marine mammals occurring near the airgun array and to avoid, to the greatest extent practicable, exposing them to sound pulses that have any possibility of causing TTS.

Two factors determine the effect of the airgun array on marine mammals: (1) The intensity of the sound (mentioned previously in this document), and (2) the frequency range of the sound. The airgun sound spreads laterally in the water as the radius of the sound wave increases, resulting in a decrease in amplitude with distance of 20Log(R) or greater (R= distance in meters). Given this estimate of decay, a 230 dB(P-P) sound pressure decays to 180 dB(P-P) at a distance of about 300 m (984.3 ft)(see Figure 4 in the USGS application) from the source.

The 300–m (984.3–ft) distance, however, is clearly an overestimate for an estimation for a zone of potential injury (i.e., 180 db) because (1) it is based on a P-P measurement and not the accepted RMS measurement and (2) the frequency range of the airgun lies primarily outside the hearing range of most marine mammals. Data on hearing thresholds for odontocetes and pinnipeds show that the most sensitive hearing is in the 1,000– to 100,000–Hz frequency range (see Figure 5 in the USGS application; Richardson *et al.*, 1995; Kastack and Schusterman, 1995). The USGS airgun source rapidly decreases in strength above 200 Hz, resulting in the source strength above 400 Hz being less than 10 percent of the amplitude at lower frequencies.

The USGS has estimated the SPL of its airgun source as a function of frequency. The P-P sound pressure is created by the sum of waves of all the frequencies emitted by the airguns, with each frequency contributing only a portion of the total sound. If the maximum P-P SPL is divided by the frequency spectrum of the airgun array, the amplitude of the individual frequency components can be estimated at several distances, as shown in Figure 5 of the USGS application. The results indicate that the noise from any specific frequency emitted from the airgun array lies below the TTS of marine mammals at all distances (see Fig. 5 in the application).

The latter estimate of the strength of the individual frequency components is an underestimate, however, because it assumes that all the frequencies are exactly in phase to produce the sound pulse. In reality, the system is not perfectly efficient as implied in this calculation, and the individual frequency components are somewhat larger than shown in Figure 4 in the USGS application. If it is assumed that the USGS source is about 70 percent efficient, the individual frequency components would be about 1.43 times what the USGS estimates assuming perfect efficiency. By this calculation, the sound levels from the airgun lie below the temporary hearing shift of most marine mammals at any distance greater than 50 m (164 ft)(USGS, 2001).

NMFS concurs with the USGS that the best estimate of the strength of the airgun source is the 209 dB(RMS) measure of sound pressure. Using this RMS measure, the ''annoyance'' or behavioral-response threshold is reached at a distance of 300 m (984.3 ft) from the airguns based on a P-P measurement (Table 4 in the USGS application) and less than 50 m (164 ft) on an RMS measurement (subtracting 16 dB from each of the Y-axis SPL designations). This implies that animals 50 m (164 ft) from the USGS airguns may become annoyed (harassed), but TTS would potentially not occur unless the USGS airguns were within about 5–10 m (16.4–32.8 ft) of a mammal.

In light of the above information and recent scientific information that indicates that nonauditory injury is unlikely at SPL levels below 190 dB (Crum and Mayo, 1996); and frequencies below 300 Hz (Ketten, 2001), nonauditory injury is also unlikely for marine mammals exposed to this acoustic source.

Mitigation

Several mitigation measures to reduce the potential for marine mammal harassment will be implemented by USGS as part of their proposed activity. These include:

(1) Scheduling the survey during May, when marine mammal abundance in the Straits of Georgia is low;

(2) Keeping the vessel's speed between 6 and 8 knots to permit marine mammals that hear the ship and airgun noise to be able to move out of the area of the ship's track if they find the

approaching vessel and accompanying noise annoying;

(3) Establishing a safety zone of 100 m (328 ft) around the seismic airguns; the USGS will shut down the airgun operation if any marine mammal enters the safety zone. The 100–m (328–ft) distance is double the 50–m (164–ft) estimate of the distance for harassment. This safety zone radius compares with a 100–m (328–ft) safety radius for marine mammals that was used successfully in the 1998 Puget Sound seismic experiment using much larger airguns (Fisher, 1997; Calambokidis and Osmek, 1998; Bain, 1998). Given that the current USGS airgun source is only 2 percent of the size of the 1998 source as measured in chamber volume (120 $inch^3$ versus 6730 $inch^3$), NMFS concurs with the USGS that a 100–m (328–ft) safety radius is overly conservative to ensure that no marine mammals would be injured and that the potential even for marine mammal harassment is unlikely.

(4) For all seals and sea lions, if the seismic vessel approaches a pinniped, a safety radius of 100 m (328 ft) will be maintained from the animal(s). However, if a pinniped (except Steller sea lions) approaches the towed airgun array during airgun transmissions, the USGS will not be required to shutdown the airguns, unless the animal(s) shows signs of distress. Therefore, if a pinniped (except Steller sea lions) approaches the USGS vessel, the IHA requires the USGS to monitor the interaction to ensure the animal does not show signs of distress. If the pinniped(s) show obvious distress, the USGS is to suspend airgun operations until the pinniped moves outside of the safety zone and to continue to conduct observations on effects on all pinnipeds after the airgun is again powered up. Experience indicates that pinnipeds will come from great distances to scrutinize seismic operations. Seals have been observed swimming within airgun bubbles, 10 m (33 ft) away from active arrays and, more recently, Canadian scientists, who were using a high-frequency seismic system that produced sound closer to pinniped hearing than will the USGS airgun array, describe how seals frequently approached close to the seismic source, presumably out of curiosity. Therefore, the above-mentioned mitigation plan has been proposed. In addition, the USGS will gather information on how often pinnipeds approach the airgun array on their own volition, and what effect the airguns appear to have on them.

(5) To ensure no marine mammals are inadvertently harmed when data collection first begins or resumes after operations have ceased temporarily, the airguns will be turned on sequentially (if an array is used), so that peak power is achieved gradually to give marine mammals a chance to move away from the source.

(6) Upon notification by a local stranding network that a marine mammal has been found dead within the waters of the Straits of Georgia or nearby U.S. waters when the array is operating within that body of water, NMFS will investigate the stranding to determine whether a reasonable chance exists that the USGS seismic survey project caused the animal's death. If NMFS determines, based upon a necropsy of the animal(s), that the death was likely due to the seismic source, the survey must cease U.S. operations until procedures are altered to eliminate the potential for future deaths.

Monitoring

To monitor the 100–m (328–ft) safety zone when in U.S. waters, the USGS will have two trained observers, one on each side of the ship, specifically watching for marine mammals at all times that the airguns are operating. Members of the crew, specifically the ship's pilot, will also be instructed to immediately notify the observers if any marine mammals are sighted. However, in order for 24–hour operations to be undertaken, a sufficient number of biological observers must be available so that no single observer is on active watch for more than 3 consecutive hours.

Observations will begin at least 15 minutes before airguns are turned on. The observers will be equipped with binoculars during the day and night-vision equipment during the night, both of which are believed adequate to monitor the 100–m (328–ft) safety zone while standing on the ship. The observers will order the airgun operations to cease if the vessel approaches within 100 m (328 ft) of a marine mammal during daylight hours and 50 m (164 ft) during nighttime operations.

The objectives of the proposed monitoring program will be: to mitigate potential harassment of marine mammals, to document the number of animals of each species present in the vicinity of the sound transmissions, and to evaluate the reactions of marine mammals to these transmissions.

Reporting

The USGS will provide an initial report to NMFS within 120 days of the completion of the Straits of Georgia marine seismic survey project. This report will provide dates and locations of seismic operations, details of marine mammal sightings, and estimates of the amount and nature of all takes by harassment. A final technical report will be provided by USGS within 1 year of completion of the project. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

NEPA

In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a FONSI. This proposed seismic survey will operate in the same geographic area as the 1998 survey and as the seismic airgun sources used in this proposed action are significantly less intense. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. Therefore, a new EA will not be prepared. A copy of the 1997 EA is available upon request (see **ADDRESSES**).

Consultation

Under section 7 of the ESA, NMFS has completed consultation on the issuance of this IHA. NMFS has concluded that this action is unlikely to adversely affect listed marine mammals because those species of whales that are listed under the ESA are not expected to be present in the inshore waters of the Straits of Georgia at the time of the year that the activity will take place. Steller sea lions, which are more common in British Columbia than the Straits of Georgia, are unlikely to be affected by low frequency seismic sources unless fairly close to the source. However, the acoustic source that will be used during this project is of low intensity and will not have a large zone of influence. Therefore, even though Steller sea lions may be fairly abundant in these waters in late spring, because of the small zone of influence for this source (less than 50 m (164 ft)), no Steller sea lions are expected to be taken during this short acoustic survey.

Conclusions

NMFS has determined that the short-term impact of conducting a marine seismic survey in the Straits of Georgia will result, at worst, in a temporary modification in behavior by certain species of pinnipeds, and possibly some individual cetaceans. While behavioral modifications may be occur in certain species of marine mammals to avoid the resultant noise from airgun arrays, this behavioral change is expected to result in the harassment of only small

numbers of each of several species of marine mammals and would have no more than a negligible impact on the affected species or stocks of marine mammals.

In addition, no take by injury and/or death is anticipated and takes by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously. No known rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

Authorization

As a result of these determinations, NMFS has issued an IHA to the USGS for the possible harassment of small numbers of several species of marine mammals incidental to collecting marine seismic data in Straits of Georgia region of Washington State, provided the above-mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 15, 2002.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–12718 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Romania

May 15, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2000). Also see 66 FR 63033, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 15, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 21, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	10,529 dozen.
444	44,829 numbers.
604	1,652,800 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–12632 Filed 5–20–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, June 7, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12814 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, June 14, 2002.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSONS FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12815 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

DATES: *Time and Date:* 11:00 a.m., Friday, June 21, 2002

PLACE: 1155 21st St., NW., Washington, DC., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12816 Filed 5–17–02; 2:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, June 28, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–12817 Filed 5–17–02; 2:40 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed collection; comment request

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(2)(B) of the Paperwork Reduction act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 22, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Denver, (PDSA) ATTN: Ms. Sue Debevec, 6760 East Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Sue Debevec, 303–676–3126.

Title, Associated Form, and OMB Number: Custodianship Certification to Support Claim on Behalf of Minor Children of Decreased Members of the Armed Forces, DD Form 2790, OMB License Number 0730–0010.

Needs and Uses: Per DoD Financial Management Regulation 7000.14–R, Volume 7B, Chapter 46, paragraph 460103A(1), an annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child then is considered an adult for annuity purposes and a custodian or legal fiduciary is not required.

Affected Public: Individuals.

Annual Burden Hours: 120 hours.

Number of Respondents: 300.

Responses per Respondent: 1.

Average Burden per Response: 24 minutes.

Frequency: 1.

SUPPLEMENTARY INFORMATION:

Summary of Informaiton Collection

The form is used by the Directorate of Annuity Pay, Defense Finance and Accounting Service Denver, (DFAS–DE), in order to pay the annuity to the correct person on behalf of a child under the age of majority. If the form with the completed certification is not received, the annuity payments are suspended. Since the funds for annuity are paid by members there are no consequences to the Federal Government.

Dated: May 15, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–12670 Filed 5–20–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: June 17 and 18, 2002.

ADDRESSES: Conference Center, Room C, Government Center South, 302 W. Washington Street, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its Web site at *http://www.rand.org/organization/nsrd/terrpanel;* it can also be reached at (703) 413–1100 extension 5321.

SUPPLEMENTARY INFORMATION:

Proposed Schedule and Agenda

Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 12:00 p.m. until 5:30 p.m. on June 17, 2002 and from 8:30 am. until 3:00 p.m. on June 18, 2002. Time will be allocated for public comments by individuals or organizations at the end of the meeting on June 18.

Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Nancy Rizor, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: May 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–12671 Filed 5–20–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: May 20–22, 2002.

Time(s) of Meeting: 0800–1700—May 20, 2002, 0800–1700—May 21, 2002, 0800–1700—May 22, 2002.

Place: Institute for Defense Analysis.

1. AGENDA: The Integration and Analysis Panel of the Army Science Board FY02 Summer Study on ''Ensuring the Financial Viability of the Objective Force'' is holding a meeting on 20–22 May. The meeting will be held at IDA—4850 Mark Center Drive. The meeting will begin at 0800 hours on the 20th and will end at approximately 1700 hours on the 22nd. For further information, please

contact LTC Mark Malcolm—703–604–7047 or e-mail: Malcolm, Mark A LTC DUSA(OR).

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 02–12700 Filed 5–20–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for Improvements to the Sabine-Neches Ship Channel Near Beaumont and Port Arthur, Texas as Published in a Resolution of the Senate Committee on Environment and Public Works, dated June 5, 1997, 105th Congress, 2nd Session

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The proposed action to be addressed in the Draft Environmental Impact Statement (DEIS) is to evaluate several widening and deepening alternatives to improve a deep-draft navigation channel that connects harbor facilities in the Beaumont and Port Arthur area with the Gulf of Mexico. The study will focus on circulation and salinity changes associated with an improved channel and develop dredged material disposal options that will include an evaluation of beneficial uses of dredged material. The project is being maintained at its authorized depth of 40 feet and includes about 56 nautical miles of deep-draft channel. The Beaumont/Port Arthur area is located about 90 miles northeast of Houston, Texas. The local sponsor for the project is the Jefferson County Waterway and Navigation District.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Ms. Lizette Richardson, (409) 766–3123, Project Manager, Project Management Branch, or Ms. Janelle Stokes, (409) 766–3039, Environmental Lead, Environmental Section, Planning Branch, Planning Environmental and Regulatory Division, P.O. Box 1229, Galveston, Texas 77553–1229.

SUPPLEMENTARY INFORMATION:

(1) *Background.* The study began in 1997 when Congress directed the Secretary of the Army to study the feasibility of modifying the channels serving the Ports of Beaumont, Port Arthur, and Orange, Texas in the interests of commercial navigation. A reconnaissance study evaluated a deepening and widening plan to establish a Federal Interest in the project. The study concluded that there was a Federal Interest in continuing studies in 1998. The feasibility study began in March 2000 and will determine the most cost-effective alternative for improving the channel while protecting the Nation's environment.

(2) a. *Alternatives.* The construction alternatives that will be evaluated in the feasibility phase are: (1) Deepening the channel to 45 ft from offshore to the Beaumont turning basin; (2) deepening the channel to 48 ft from offshore to the Beaumont turning basin ; (3) deepening the channel to 50 ft from offshore to the Beaumont turning basin ; (4) various combinations of selective widening and turning basins; 5) various combinations of selective widening and turning basins with each one of the above depths.

b. *No Action.* A ''No Action'' alternative will be evaluated and presented for comparison purposes in evaluating the various construction alternatives.

(3) *Scoping.* The scoping process will involve Federal, State and local agencies, and other interested persons and organizations. Scoping meetings are scheduled for May 28 and 29, 2002 in Lake Charles, Louisiana, and Beaumont, Texas. The time and place of these meetings will be announced in local newspapers and mailings. Issues to be discussed at these meetings include, but are not limited to, changes in salinity and circulation, changes in fresh and saltwater marshes, water and sediment quality, erosion along the channel, threatened and endangered species impacts, opportunities for ecosystem restoration, and the beneficial use of dredged material. Any person or organization wishing to provide information on issues or concerns should contact the Corps of Engineers at the above address.

4. *Coordination.* Further coordination with environmental agencies will be conducted under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Clean Water Act, the Clean Air Act, the National Historic Preservation Act, the Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat), and the Coastal Zone Management Act under the Texas Coastal Management Program and the Louisiana Coastal Resources Program. An Interagency Coordination Team (ICT) has been formed to provide guidance and counsel on matters relating to the evaluation of environmental impacts of this project. The ICT is composed of representatives from 4 Federal agencies, 7 regulatory agencies from the States of Texas and Louisiana, the local sponsor, and the U.S. Army Corps of Engineers.

5. *DEIS Preparation.* It is estimated that the DEIS will be available to the public for review and comment in January 2004.

Carolyn E. Murphy,

Chief, Environmental Section.

[FR Doc. 02–12647 Filed 5–20–02; 8:45 am]

BILLING CODE 3710–52–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–517–002, et al.]

UtiliGroup, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 14, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. UtiliGroup, Inc.

[Docket No. ER02–517–002]

Take notice that on May 3, 2002, UtiliGroup, Inc. (UtiliGroup) tendered for filing with the Federal Energy Regulatory Commission (Commission) additional information to its original Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority filed December 10, 2001 and Amendment filed February 4, 2002.

Comment Date: May 24, 2002.

2. San Diego Gas & Electric Company

[Docket No. ER02–613–001]

Take notice that on April 30, 2002, San Diego Gas and Electric Company (SDG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) revised tariff sheets in Docket No. ER02–613–000, dated December 24, 2001, reflecting its proposed recovery of revenue requirements. Since making its filing, SDG&E determined that the revenue requirement submitted did not include recovery of franchise fees paid to the cities and counties in its service territory.

SDG&E is requesting the Commission to approve the revised revenue requirements and rates effective July 1, 2002 through December 31, 2002.

Comment Date: May 24, 2002.

3. Oncor Electric Delivery Company

[Docket No. ER02–1029–001]

Take notice that on May 9, 2002, Oncor Electric Delivery Company (Oncor) tendered for filing with the Federal Energy Regulatory Commission (Commission), its Sixth Revised Tariff for Transmission Service To, From and Over Certain HVDC Interconnections to modify the tariff to change the name of TXU Electric Company to Oncor Electric Delivery Company and otherwise conform the tariff to the requirements of Order No. 614 in compliance with the Commission's April 15, 2002 order in Docket No. ER02–1029–000 regarding Oncor's Notice of Succession.

Oncor states that this filing has been served upon each customer taking service under the tariff and the Public Utility Commission of Texas.

Comment Date: May 30, 2002

4. Oncor Electric Delivery Company

[Docket No. ER02–1029–002]

Take notice that on May 9, 2002, Oncor Electric Delivery Company (Oncor) tendered for filing with the Federal Energy Regulatory Commission (Commission), its Second Revised Tariff for Transmission Service for Tex-La Electric Cooperative of Texas, Inc. to modify the tariff to change the name of TXU Electric Company to Oncor Electric Delivery Company and otherwise conform the tariff to the requirements of Order No. 614 in compliance with the Commission's April 15, 2002 order in Docket No. ER02–1029–000 regarding Oncor's Notice of Succession.

Oncor states that this filing has been served upon each customer taking service under the tariff and the Public Utility Commission of Texas.

Comment Date: May 30, 2002.

5. Continental Electric Cooperative Services, Inc.

[Docket No. ER02–1118–001]

Take notice that on May 9, 2002, Continental Electric Cooperative Services, Inc. (CCS) tendered for filing with the Federal Energy Regulatory Commission (Commission), modified FERC Electric Rate Schedule No. 1 in compliance with the Commission's Letter Order issued April 24, 2002.

Comment Date: May 30, 2002.

6. Garnet Energy LLC

Docket No. ER02–1119–001]

Take notice that on May 9, 2002, Garnet Energy LLC (Garnet) filed with the Federal Energy Regulatory Commission (Commission), a Clarification and Compliance Filing of Supplemental Information regarding the Application for Market-Based Rate Authority filed February 26, 2002, with the Commission seeking acceptance of Garnet's FERC Rate Schedule No. 1 and the granting of certain blanket approvals, including the authority to sell energy and capacity at market-based rates and the waiver of certain Commission regulations. The filing was submitted in compliance with the letter order issued April 22, 2002.

Comment Date: May 30, 2002.

7. Tampa Electric Company

Docket No. ER02–1177–001]

Take notice that on May 8, 2002, Tampa Electric Company (TEC) tendered for filing an amendment to an executed Interconnection and Operating Agreement between TEC and Auburndale Peaker Energy Center, L.L.C. in accordance with the April 8, 2002 letter order issued by the Director of the Division of Tariffs and Rates—East.

Comment Date: May 29, 2002.

8. Midwest Independent Transmission System Operator, Inc.

Docket No. ER02–1422–002]

Take notice that on May 7, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing the average loss factor for the Joint Open Access Transmission Tariff for the Midwest Independent Transmission System Operator, Inc. for the Transmission System (Michigan), FERC Electric Tariff, Original Volume No. 2 (JOATT).

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading ''Filings to FERC'' for other interested parties in this matter. Customers served under the existing JOATT will be served with paper copies of this filing by U.S. mail.

Comment Date: May 28, 2002.

9. Pinnacle West Capital Corporation

Docket No. TX02–1–001]

Take notice that on May 7, 2002, Electrical District No. 3 of Pinal County, State of Arizona, (ED3) filed with the Federal Energy Regulatory Commission (Commission), a transmission service agreement (TSA) between ED3 and Pinnacle West Capital Corporation (PWCC), pursuant to which ED3 will provide transmission services to PWCC pursuant to Section 211 of the Federal Power Act, in accordance with the Commission's Proposed Order Directing Transmission Services and Ordering Further Proceedings in *Pinnacle West Capital Corp.*, 98 FERC ¶ 61,039 (2002).

ED3 requests an effective date of October 9, 2001 for the TSA. PWCC concurs in ED3's filing.

Comment Date: June 13, 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. 02–12660 Filed 5–20–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised FY 2002 Power Repayment Studies which show the need for an increase in annual revenues to meet cost recovery criteria. Such increased

revenues are needed primarily to cover increased investments and replacements in hydroelectric generating and high-voltage transmission facilities, increased operation and maintenance expenses and increased transmission service expenses. The Administrator has developed proposed Integrated System rates, which are supported by a rate design study, to recover the required revenues. Beginning October 1, 2002, and thereafter, the proposed rates would increase annual system revenues approximately 5.6 percent from $109,463,500 to $115,602,003, which includes an increase in the purchased power adder.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end August 19, 2002.

1. Public Information Forum—June 6, 2002, 1 p.m.,Tulsa, OK.
2. Public Comment Forum—July 10, 2002, 1 p.m.,Tulsa, OK.

ADDRESSES: The forums will be held in Southwestern's offices, Room 1402, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. Ten copies of the written comments together with a diskette in MS Word or Corel Word Perfect, regarding the proposed rate change should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma, 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696, *reeves@swpa.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of Interior to the Department of Energy, effective October 1, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2, Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR 903).

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are Southwestern's transmission facilities which consist of 1,380 miles of high-voltage transmission lines, 24 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two Corps of Engineers projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid under separate rate schedules and are not addressed in this notice.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using existing system rates. The Study indicates that Southwestern's legal requirement to repay the investment in power generating and transmission facilities for power and energy marketed by Southwestern will not be met without an increase in revenues. The need for increased revenues is primarily due to increased investments and replacements in hydroelectric generating and high-voltage transmission facilities, increased operation and maintenance expenses and increased transmission services expenses. The Revised Power Repayment Study shows that additional annual revenues of $5,542,676, (a 5.1 percent increase), beginning October 1, 2002, are needed to satisfy repayment criteria.

A Rate Design Study has also been completed which allocates the revenue requirement to the various system rate schedules for recovery, and provides for transmission service rates in conformance with FERC Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). The proposed new rates would increase estimated annual revenues from $109,463,500 to $115,602,003 and would satisfy the present financial criteria for repayment of the project and transmission system investments within the required number of years. As indicated in the Integrated System Rate Design Study, this revenue would be developed primarily through increases in the charges for generation and transmission services, to include some of the ancillary services for deliveries of both Federal and non-Federal power and associated energy from the transmission system of Southwestern. There are also increased charges for transformation services for deliveries at voltages of 69 kV (kilovolt) or less.

A second component of the Integrated System rates for power and energy, the purchased power adder, produces revenues which are segregated to cover the cost of power purchased to meet contractual obligations. The purchased power adder is established to reflect what is expected to be needed by Southwestern to meet purchased power needs on an average annual basis. It has been increased from the existing rate to reflect the projected power costs based on present market rates. The Administrator's authority to adjust the purchased power adder annually at his/her discretion, plus or minus $0.0011 per kilowatthour (kWh), will remain the same.

Below is a general comparison of the existing and proposed system rates:

	Existing rates	Proposed rates
GENERATION RATES	Rate Schedule P–98D (System Peaking)	Rate Schedule P–02 (System Peaking)
Capacity:		
Grid or 138–161kV	$2.56/kW/Mo + up to $0.0146/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services + $0.04/kW/Mo for deliveries within control area	$2.72/kW/Mo + up to $0.0112/kW/Mo (ancillary services) for generation within control area: Regulation Ancillary Services + $0.06/kW/Mo for deliveries within control area
69 kV	Transformation Service + $0.25/kW/Mo (applied to usage, not reservation)	Transformation Service + $0.28/kW/Mo (applied to usage, not reservation)

	Existing rates	Proposed rates
GENERATION RATES	Rate Schedule P–98D (System Peaking)	Rate Schedule P–02 (System Peaking)
Energy	$0.0048/kWh of Peaking Energy and Supplemental Peaking Energy + a Purchased Power Adder of $0.0011 of Peaking Energy (± 0.0011 annually at Administrator's discretion).	$0.0050/kWh ofr Peaking Energy and Supplemental Peaking Energy + a Purchase Power Adder or $0.0025 of Peaking Energy (± 0.0011 annually at Administrator's discretion).
TRANSMISSION RATES	Rate Schedule NFTS–98D (Transmission)	Rate Schedule NFTS–02 (Transmission)
Capacity-Firm Reservation with energy). Grid of 138–161 kV.		
69 kV and below	$0.69/W/Mo $0.173/kW/Week $0.0314/kW/Day + Required Ancillary Services: $0.06/kw/Mo, or $0.016/kW/Week, or $0.0028/kW/Day + Reserve Ancillary Services: up to: $0.00146/kW/Mo, or $0.00366/kW/Week, or $0.00066kW/Day, for generation in control area + Regulation & Freq Response Ancillary Service up to: $0.04/kW/Mo, or $0.010/kW/Week, or $0.0018/kW/Day, for deliveries within control area	$0.73/kW/Mo $0.183/kW/Week $0.0332/kW/Day + Required Ancillary Services: $0.08/kW/Mo, or $0.021/kW/Week, or $0.0037/kW/Day + Reserve Ancillary Services: up to: $0.00112/kW/Mo, or $0.0028/kW/Week, or $0.00050/kW/Day, for generation in control area + Regulation & Freq Response Ancillary Service up to: $0.06/kW/Mo, or $0.015/kW/Week, or $0.0027/kW/Day, for deliveries within control area
Capacity (Non-firm with energy):.	Transformation Service + 40.25/kW/Mo no separate charge (applied on usage, not reservation). Weekly and daily rates not applied.	Transformation Service + $0.28/KW/Mo no separate charge (applied on usage, not reservation). Weekly and daily rates not applied.
Network Service	no separate capacity charge $0.55/kW/Mo, or $0.138/kW/Week, or $0.0251/kW/Day, or $0.00157/kWh, delivered $0.72/kW/Mo of Network Load + Required Ancillary Services: $0.06/kW/Mo, or + Reserve Ancillary Services: up to: $0.00146/kW/Mo, for generation in control area + Regulation & Freq Response	no separate capacity charge 80% of firm monthly charge divided by 4 for weekly rate, divided by 22 for daily rate and divided by 352 for hourly rate. $0.73/kW/Mo of Network Load + Required Ancillary Services: $0.08/kW/Mo, or + Reserve Ancillary Services: up to: $0.00112/kW/Mo, for generation in control area +
	Rate Schedule EE–98 (Excess Energy)	Rate Schedule EE–02 (Excess Energy)
Energy	$0.0048/Wh + $0.0018/kWh (transmission) + Required ancillary services $0.00018/kWh + $0.00018/kWh (anciullary service) for generation in control area + $0.00011/kWh (ancillary service) + for deliveries in control area:	$0.0050/kWh + $0.0021/kWh (transmission) + Required ancillary services $0.00023/kWh + $0.00004/kWh (ancillary service) for generation in control area + .000017/kWh (ancillary service) + for deliveries in control area:

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Integrated System Studies. If you desire a copy of the Integrated System Power Repayment Studies and Rate Design Study Data Package, submit your request to Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third, Tulsa, OK 74103 (918) 595–6696.

A Public Information Forum is scheduled to be held on June 6, 2002, to explain to customers and the public the proposed rates and supporting studies. The proceeding will be transcribed. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Questions concerning the rates, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing, except that questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by May 31, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled to be held on July 10, 2002, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The proceeding will be transcribed. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in attending the Public Comment Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by July 3, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held. Persons interested in speaking at the Forum should submit a request to Mr. Forrest E. Reeves, Assistant Administrator, Southwestern, at least five (5) days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from Southwestern upon request for a fee.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will submit the amended Integrated System Rate Proposal, Power Repayment Studies, and Rate Design Study in support of the proposed rates to the Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate increase before making a final decision.

Issued in Tulsa, Oklahoma, this 6th day of May 2002.

Michael A. Deihl,

Administrator.

[FR Doc. 02–12683 Filed 5–20–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of public review and comment.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has prepared Current and Revised 2002 Power Repayment Studies which show the need for a decrease in annual revenues to meet cost recovery criteria. Such decreased revenues are required primarily due to decreased investments and operations and maintenance expenses at the project. The Administrator has developed a proposed Sam Rayburn Dam rate schedule, which is supported by a power repayment study, to recover the required revenues. Beginning October 1, 2002, the proposed rates would decrease annual revenues approximately 3.1 percent from $2,077,632 to $2,013,024.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end August 19, 2002.

1. Public Information Forum—June 6, 2002, 9 a.m. central time,Tulsa, OK.

2. Public Comment Forum—July 10, 2002, 9 a.m. central time,Tulsa, OK.

ADDRESSES: The forums will be held in Southwestern's offices, Room 1402, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. Ten copies of the written comments, together with a diskette in MS Word or Corel Word Perfect, regarding the proposed rate change should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6696.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and Southwestern's power marketing activities were transferred from the Department of Interior to the Department of Energy, effective October 1, 1977. Guidelines for preparation of power repayment studies are included in DOE Order No. RA 6120.2, Power Marketing Administration Financial Reporting. Procedures for Public Participation in Power and Transmission Rate Adjustments of the Power Marketing Administrations are found at title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR 903).

Southwestern markets power from 24 multi-purpose reservoir projects with hydroelectric power facilities constructed and operated by the U.S. Army Corps of Engineers. These projects are located in the states of Arkansas, Missouri, Oklahoma, and Texas. Southwestern's marketing area includes these States plus Kansas and Louisiana. The costs associated with the hydropower facilities of 22 of the 24 projects are repaid via revenues received under the Integrated System rates, as are Southwestern's transmission facilities which consist of 1,380 miles of high-voltage transmission lines, 23 substations, and 46 microwave and VHF radio sites. Costs associated with the Sam Rayburn and Robert D. Willis Dams, two projects that are isolated hydraulically, electrically, and financially from the Integrated System are repaid by separate rate schedules.

Following Department of Energy guidelines, the Administrator, Southwestern, prepared a Current Power Repayment study using the existing Sam Rayburn Dam rate. The Study indicates that Southwestern's legal requirement to repay the the investment in the power generating facility for power and energy marketed by Southwestern will be over-collected without a decrease in revenues. The need for decreased revenues is primarily due to the decreased costs for project investments, together with decreased costs for operations and maintenance expenses. The Revised Power Repayment Study shows that a reduction in annual revenue of $64,608 (a 3.1 percent decrease), beginning October 1, 2002, is needed to satisfy repayment criteria.

Opportunity is presented for Southwestern customers and other interested parties to receive copies of the Sam Rayburn Dam Studies and the proposed rate schedule. If you desire a copy of the Sam Rayburn Dam Power Repayment Data Package with the proposed Rate Schedule, submit your request to Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third Street, Tulsa, OK 74103, (918) 595–6696 or via e-mail to reeves@swpa.gov.

A Public Information Forum is scheduled to be held on June 6, 2002, to explain to customers and the public

the proposed rate and supporting studies. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Questions concerning the rate, studies, and information presented at the Forum will be answered, to the extent possible, at the Forum. Questions not answered at the Forum will be answered in writing, except that questions involving voluminous data contained in Southwestern's records may best be answered by consultation and review of pertinent records at Southwestern's offices.

Persons interested in attending the Public Information Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by May 31, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held.

A Public Comment Forum is scheduled to be held on July 10, 2002, at which interested persons may submit written comments or make oral presentations of their views and comments related to the rate proposal. The Forum will be conducted by a chairman who will be responsible for orderly procedure. Southwestern's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in attending the Public Comment Forum should indicate in writing by letter or facsimile transmission (918–595–6656) by July 3, 2002, their intent to appear at such Forum. If no one so indicates their intent to attend, no such Forum will be held. Persons interested in speaking at the Forum should submit a request to the Administrator, Southwestern, at least five (5) days prior to the Forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each Forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from Southwestern upon request for a fee. Written comments, together with a diskette in MS Word or Corel Word Perfect, on the proposed Sam Rayburn Dam Rate are due on or before August 19, 2002. Ten copies of the written comments should be submitted to the Administrator, Southwestern, at the above-mentioned address for Southwestern's offices.

Following review of the oral and written comments and the information gathered in the course of the proceedings, the Administrator will submit the amended Sam Rayburn Dam Rate Proposal, and Power Repayment Studies in support of the proposed rate to the Secretary of Energy for confirmation and approval on an interim basis, and subsequently to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The FERC will allow the public an opportunity to provide written comments on the proposed rate decrease before making a final decision.

Issued in Tulsa, Oklahoma, this 6th day of May, 2002.

Michael A. Deihl,

Administrator.

[FR Doc. 02–12682 Filed 5–20–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0014; FRL–7177–1]

TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment on the following Information Collection Request (ICR): TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies (EPA ICR No. 0575.09, OMB Control No. 2070–0004). This ICR involves a collection activity that is currently approved and scheduled to expire on October 31, 2002. The information collected under this ICR relates to requirements that manufacturers and processors submit lists and copies of health and safety studies relating to the health and/or environmental effects of chemical substances and mixtures listed in the TSCA section 8(d) rule (40 CFR part 716). Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket ID number OPPT–2002–0014, must be received on or before July 22, 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–2002–0014 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: Paul Campanella, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8091; fax number: (202) 564–4765; e-mail address: campanella.paul@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
Chemical manufacturing	325
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 4094 and 4095 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket ID number OPPT–2002–0014. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0014 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPPT–2002–0014. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: TSCA Section 8(d) Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies.

ICR numbers: EPA ICR No. 0575.09, OMB No. 2070–0004.

ICR status: This ICR is currently scheduled to expire on October 31, 2002. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 8(d) of the Toxic Substances Control Act (TSCA) and 40 CFR part 716 require manufacturers and processors of chemicals to submit lists and copies of health and safety studies relating to the health and/or environmental effects of certain chemical substances and mixtures. In order to comply with the reporting requirements of section 8(d), respondents must search their records to

identify any health and safety studies in their possession, copy and process relevant studies, list studies that are currently in progress, and submit this information to EPA.

EPA uses this information to construct a complete picture of the known effects of the chemicals in question, leading to determinations by EPA of whether additional testing of the chemicals is required. The information enables EPA to base its testing decisions on the most complete information available and to avoid demands for testing that may be duplicative. EPA will use information obtained via this collection to support its investigation of the risks posed by chemicals and, in particular, to support its decisions on whether to require industry to test chemicals under section 4 of TSCA.

Responses to the collection of information are mandatory (see 40 CFR part 716). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 4.1 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 569.

Frequency of response: On occasion.

Estimated average number of responses for each respondent: 12.5.

Estimated total annual burden hours: 2,344.

Estimated total annual burden costs: $203,512.

VI. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 2,198 hours (from 4,542 hours to 2,344 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This change results from an updated analysis of the historical reporting patterns and the number of chemicals listed on the section 8(d) reporting rule (adjustment). Specifically, because no new chemicals were added to the rule during the previous ICR reporting period, the number of chemicals added during the 1993 through 1996 period were averaged over 8 years (1993 through 2000) to provide an estimate of expected reporting over the coming 3 year period of this ICR renewal. Unit burden estimates have not changed.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: May 10, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–12714 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–9]

Proposed Alternative Tier 2 Requirements for PuriNO__ Diesel Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed requirements.

SUMMARY: The Lubrizol Corporation (Lubrizol) has developed a motor-vehicle diesel fuel, known as PuriNO$_X$, that contains significant amounts of water and methanol. The purpose of this notice is to announce that EPA has notified Lubrizol, by certified letter, of proposed Alternative Tier 2 testing requirements for PuriNO$_X$ Generation 2 Winter Diesel Fuel Emulsion (Winter PuriNO$_X$) under the fuel and fuel additive registration testing requirements. EPA is also proposing that testing performed by Lubrizol on Winter PuriNO$_X$ and a warm-climate PuriNO$_X$ is sufficient to cover intermediate versions of PuriNO$_X$. A copy of the letter has been placed in the public record. The purpose of these proposals is to assist in characterizing potential health risks associated with the use of this fuel. The public is invited to comment on these proposals.

DATES: Comments must be submitted on or before June 20, 2002. Comments on the proposed Alternative Tier 2 provisions must be received from Lubrizol within 60 days of Lubrizol's receipt of the notification letter.

ADDRESSES: Written comments should be addressed to Public Docket No. A–2002–07, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC, 20460–0001. Relevant materials have been placed in this docket. It may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Environmental Engineer, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, Mail Code 6406J, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460–0001, (202) 564–9303, fax (202) 565–2085, *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: Regulated Entity. The entity potentially regulated by this action is Lubrizol.

I. Introduction

Pursuant to sections 211(b)(2) and 211(e) of the Clean Air Act (CAA) EPA promulgated regulations requiring manufacturers of designated fuels and fuel additives (F/FA) to conduct tests to determine the potential health effects of the F/FA emissions. The final rule, promulgated May 27, 1994, established new health-effects testing requirements for the registration of designated F/FAs (59 FR 33042).

The registration requirements are organized within a three-tier structure. Tier 1 requires F/FA manufacturers to supply to EPA (1) the identity and

concentration of certain emission products, and (2) any available information regarding the health and welfare effects of the whole and speciated emissions. 40 CFR 79.52. Tier 2 requires that combustion emissions of each F/FA subject to the testing requirements be tested for subchronic systemic and organic toxicity, as well as the assessment of specific health-effect endpoints. 40 CFR 79.53. Tier 3 testing may be required, at EPA's discretion, when remaining uncertainties as to the significance of observed health or welfare effects, or emissions exposures, interfere with EPA's ability to reasonably assess the potential risks posed by the emissions from a F/FA. 40 CFR 79.54. EPA's regulations permit submission of adequate existing test data in lieu of conducting new, duplicative tests. 40 CFR 79.53(b).

At its discretion, EPA may modify the standard Tier 2 health-effects testing requirements for a F/FA (or group thereof) by substituting, adding, or deleting testing requirements, or changing the underlying vehicle/engine specifications. 40 CFR 79.58(c). EPA will not, however, delete a testing requirement for a specific end point in the absence of existing adequate information, or an alternative testing requirement for that endpoint. 40 CFR 79.58(c).

II. Proposed Alternative Tier 2 Requirements for PuriNO$_X$

The purpose of this document is to announce that EPA has notified Lubrizol of proposed Alternative Tier 2 testing requirements under 40 CFR 79.58(c) for Lubrizol's Winter PuriNO$_X$ formulation. The proposed Alternative Tier 2 testing requirements are identical to the standard Tier 2 requirements with the exception that the test fuel will be the Winter PuriNO$_X$ formulation, consisting of 74% diesel fuel, 16.8% water, 5.7% methanol, and 3.5% PuriNO$_X$ Generation 2 Additive Package. Under the standard Tier 2 requirements the water and methanol would have been tested separately in diesel fuel. EPA believes that, since such separate formulations will never occur in the production of Winter PuriNO$_X$, testing of the proposed test fuel, which corresponds with its commercial composition, will produce more meaningful health-effects testing results.

Lubrizol has already conducted standard Tier 2 testing on a warm-climate PuriNO$_X$ formulation, consisting of 77% diesel fuel, 20% water, and 3% PuriNO$_X$ 1121A Additive Package. We propose that this testing, in conjunction with the Alternative Tier 2 testing for Winter PuriNO$_X$, will be sufficient to meet the Tier 2 requirements for intermediate PuriNO$_X$ combinations of diesel fuel, water, methanol, and additive package.[1]

EPA requests public comment on these proposals. A copy of the notification to Lubrizol has been placed in Public Docket No. A–2002–07 noted above. The notification is also available from the contact noted above and at *www.epa.gov/otaq/fuels.*

III. Environmental Impact

This document will result in no immediate environmental impact, but may provide a basis for further regulatory action, should the collected data indicate that there may be a risk to public health or welfare.

IV. Economic Impact

This document will reduce the testing expense for Lubrizol by reducing the number of test fuels. Since this applies only to Lubrizol, which is not a small entity, there is no economic impact on small entities.

Dated: May 14, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02–12707 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

[1] Thus, if the Winter PuriNO$_X$ Alternative Tier 2 testing is successfully completed, the Tier 2 health effects testing requirements would be met for PuriNO$_X$ formulations consisting of 100%–74% diesel fuel, 0%–20%water, 0%–5.7% methanol, 0%–3.5% PuriNO$_X$ Generation 2 Additive, or 0%–3% PuriNO$_X$ 1121A.

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–7214–3]

California State Motor Vehicle Pollution Control Standards; Request for Waiver of Federal Preemption; Within the Scope Request; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Opportunity for public hearing and comment.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its Low-Emission Vehicle (LEV) regulations including amendments to its exhaust emission standards, evaporative emission standards, its certification requirements, and to its Zero-Emission-Vehicle (ZEV) program (collectively the ''LEVII'' amendments; the ZEV amendments are referred to as the ''1999 ZEV amendments''). By letter dated May 30, 2001, California requested that EPA grant a waiver of preemption under section 209(b) of the Clean Air Act (CAA), 42 U.S.C. 7543(b) for the LEVII amendments. By letter dated February 7, 2002, California requested that EPA confirm CARB's determination that a limited portion of the LEVII amendments, the 1999 ZEV amendments, are within-the-scope of previously issued waivers granted by EPA. This notice announces that EPA has tentatively scheduled two successive public hearings concerning California's requests and that EPA is accepting comments on these requests. EPA invites comments on all relevant aspects of California's requests, in particular, whether EPA should waive preemption of California's LEVII amendments, and whether the 1999 ZEV amendments are within the scope of previous waivers and, if not, whether EPA should waive preemption for the 1999 ZEV amendments.

DATES: EPA has tentatively scheduled a public hearing concerning the 1999 ZEV amendments on June 20, 2002 beginning at 10:00 a.m. EPA has also tentatively scheduled a public hearing concerning the LEVII amendments to commence immediately following the hearing for the 1999 ZEV amendments and may carry over until the following day. EPA will hold hearings only if a party notifies EPA by June 10, 2002, expressing its interest in presenting oral testimony regarding the 1999 ZEV amendments and/or the LEVII amendments. By June 17, 2002, any person who plans to attend the hearing(s) should call David Dickinson at (202) 564–9256 to learn if either hearing will be held. If EPA does not receive a request for one or both public hearings, then EPA will not hold one or both hearings, and instead consider CARB's requests based on written submissions to the docket. Any party may submit written comments by July 22, 2002.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket and Information Center written comments received from interested parties, in addition to any testimony given at the public hearing. The Air Docket is open during working hours from 8 a.m. to 4 p.m. at EPA, Air Docket (6102), Room M–1500, Waterside Mall, 401 M St., SW., Washington, DC 20460. The reference number for this docket is A–99–26. Parties wishing to present oral testimony at either public hearing should provide written notice to David Dickinson at the address noted below;

parties should submit any written comments to David Dickinson. If EPA receives a request for a public hearing, EPA will hold the public hearing in the first floor conference room at 501 3rd Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Certification and Compliance Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Telephone: (202) 564–9256, Fax: (202) 565–2057, e-mail address: *Dickinson.David@EPA.GOV.* EPA makes available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage *(http://www.epa.gov/otaq/).* Users can find this document by accessing the OTAQ homepage and looking at the path entitled ''Regulations.'' This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary website: *(http://www.epa.gov/docs/fedrgstr/EPA–AIR/).*

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

SUPPLEMENTARY INFORMATION:

(A) Procedural History

On January 13, 1993, EPA published a Notice Regarding Waiver of Federal Preemption granting California a waiver of federal preemption for the California LEV program (58 FR 4166). The California LEV waiver included California's original ZEV requirements.

In March 1996, CARB amended the LEV program by eliminating the ZEV sales requirement for model years 1998 through 2002 (1996 ZEV amendments). On February 26, 1997, CARB submitted to the Administrator a request that EPA confirm the CARB Board's determination that the 1996 ZEV amendments to its LEV program (primarily repealing the ZEV requirements for 1998 through 2002), but also creating multiple ZEV credits for vehicles produced prior to the 2003 model year and test procedures for determining All-Electric Vehicle Range) are within-the-scope of the existing California LEV program which had previously received a waiver. On January 25, 2001, EPA published a document (66 FR 7751) confirming CARB's within the scope determination.

On May 30, 2001, CARB submitted to the Administrator its request that EPA grant a waiver of preemption for its LEVII regulations. (May 2001 letter) These LEVII regulations include amendments to its exhaust emission standards, evaporative emission standards, certification requirements, and to its Zero-Emission Vehicle program. Subsequently, on February 7, 2002, CARB submitted to the Administrator its request that EPA confirm CARB's determination that the limited portion of the previously submitted LEVII amendments that pertains to ZEVs does not require a new waiver of preemption but rather is within the scope of previously issued waivers. (February 2002 letter)

(B) Background and Discussion

Section 209(a) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emission from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. California is the only state that is qualified to seek and receive a waiver under section 209(b). The Administrator must grant a waiver unless she finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

CARB's May 2001 letter to the Administrator notified EPA that it had adopted amendments to its LEV program. These amendments include (1) imposing passenger car exhaust emission standards on most sport utility vehicles (SUVs), pick-up trucks, and mini-vans; (2) lower exhaust emission standards for all light- and medium-duty vehicles; (3) reductions in evaporative emission standards; (4) additional mechanisms for the generation of ZEV credits; and (5) establishment of ''CAP 2000'' certification requirements.

When EPA receives new waiver requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment and then publishes a decision in the **Federal Register** following the public comment period. In contrast, when EPA receives within the scope waiver requests from CARB, EPA traditionally publishes a decision in the **Federal Register** and concurrently invites public comment if an interested part is opposed to EPA's decision.

Because CARB seeks a new waiver for nearly all of the requirements in its LEVII regulations, and because EPA has already received written comment on CARB's within the scope request for its 1999 ZEV amendments, EPA invites comment on the following issues: (1) Whether California's 1999 ZEV amendments (a) undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, and (c) raise new issues affecting EPA's previous waiver determinations; and (2) Whether (a) California's determination that its standards (including its LEVII standards and including the 1999 ZEV amendments to the extent they are not within the scope of previous waivers), as referenced in its May 2001 request letter, are at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the CAA?

Procedures for Public Participation

In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If hearing(s) are held, the Agency will make a verbatim record of the

proceedings. Interested parties may arrange with the reporter at the hearing(s) to obtain a copy of the transcript at their own expense. Regardless of whether public hearing(s) are held, EPA will keep the record open until July 22, 2002. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing(s), if any, relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at EPA Air Docket. (Docket No. A–99–26).

EPA requests that parties wishing to submit comments specify which issue, noted above, they are addressing. Commenters may submit one document which addresses several issues but they should separate, to the extent possible, those comments that relate to the 1999 ZEV amendments from those that relate to the LEVII amendments.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as ''Confidential Business Information'' (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: May 14, 2002.

Robert D. Brenner,

Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 02–12709 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7215–2]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings; Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of three meetings of the Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel (TCE Review Panel) of the US EPA Science Advisory Board (SAB). The Panel will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. For teleconference meetings, available lines may also be limited. *Important Notice*: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

Background: The background for this review and the charge to the panel were published in the **Federal Register** (66 FR 54768–54769) on October 30, 2001. The notice also included a call for nominations for members of the panel in certain technical expertise areas needed to address the charge and described the process to be used in forming the panel.

1. Environmental Health Committee's Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Review Panel—June 5, 2002 Teleconference

The TCE Review Panel will meet on June 5, 2002 via teleconference from 1:00 pm to 3:00 pm Eastern Time. This teleconference meeting will be hosted out of Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, but, due to limited space, seating will be on a first-come basis. The public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting—The purpose of this public teleconference meeting is to: (a) Discuss the charge and the adequacy of the review materials provided to the TCE Review Panel; (b) to clarify any questions and issues relating to the charge and the review materials; (c) to discuss specific charge assignments to the TCE Review Panelists; and (d) to clarify specific points of interest raised by the Panelists in preparation for the face-to-face meeting to be held on June 18 and June 19, 2002. This teleconference meeting of the TCE Review Panel will provide focus on the charge and issues prior to the June 18–19, 2002 meeting of the Panel.

See below for availability of review materials, the charge to the review panel, and contact information.

2. Environmental Health Committee's Trichloroethylne (TCE) Health Risk Assessment Synthesis and Characterization Review Panel—June 18 and 19, 2002 Meeting

The TCE Review Panel of the Science Advisory Board (SAB) will conduct a public meeting on June 18 and June 19, 2002. The meeting will begin on June 18, 2002 at 9:00 am and adjourn no later than 5:30 pm that day. On June 19, 2002, the meeting may begin at 9:00 am and adjourn no later than 1:00 pm. The meeting will take place at RESOLVE, 1255 23rd Street, Suite 275, NW Washington, DC 20037. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

The need for subsequent meetings of the Review Panel will be discussed at this meeting and schedules of any future meetings to complete review of this topic will be discussed. However, a contingency date of July 18, 2002 from 1:00 pm to 3:00 pm Eastern Standard Time has been reserved for a conference call. Information concerning any future public meetings will appear in **Federal Register** notices as appropriate.

Purpose of the Meeting—The purpose of this meeting is to conduct a review of an Agency draft document, Trichlorethylene Health Risk Assessment: Synthesis and Characterization, Draft Report, Prepared for the U.S. Environmental Protection Agency, Office of Research and Development, EPA/600/P–01/002A, August 2001 External Review Draft. In particular, the Review Panel will: (1) Engage in dialogue with appropriate officials from the Agency who are responsible for its preparation; (2) begin to prepare responses to the charge questions; (3) receive public comments as appropriate; and (4) plan and schedule subsequent meetings (if needed) to complete this review.

See below for availability of review materials, the charge to the review panel, and contact information for both meetings.

3. Environmental Health Committee Review of the Trichloroethylene (TCE) Health Risk Assessment Synthesis and Characterization Draft Document—July 18, 2002 Teleconference

Purpose of the Meeting—Depending on progress achieved in developing its report from the June 18–19, 2002 meeting, the TCE Review Panel of the Executive Committee of the Science Advisory Board (SAB) may convene in a public teleconference on July 18, 2002 from 1 p.m. to 3 p.m. Eastern Standard Time as a contingency date to conduct a public meeting to reach closure on a draft report. The purpose of reserving this date is to provide an opportunity for the Review Panel to reach closure on a consensus draft in a public forum. This will be coordinated through a teleconference connection hosted out of Conference Room 6013, US EPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The meeting is open to the public, but due to limited space, seating will be on a first-come basis—the public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

For Further Information about Public Participation in the meetings identified above must contact Dr. Angela Nugent, Designated Federal Officer, TCE Review Panel, USEPA Science Advisory Board (1400A), Suite 6450BB, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4562; fax at (202) 501–0323; or via e-mail at *nugent.angela@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Nugent no later than noon Eastern Time on the following dates: for the June 5 teleconference call, requests must be received by May 29; for the June 18–19 face to face meeting, requests must be received by June 4; and for the July 18 teleconference call, requests must be received by July 11.

The SAB will have a brief period (no more than 30 minutes) available during the Teleconference meetings for applicable public comment. At the Teleconferences, the oral public comment period will be limited to 30 minutes divided among the speakers who register. At the June 18–19th face to face meeting, the oral public comment will be limited to ninety minutes divided among the speakers who register. Registration is on a first come basis. Speakers who have been granted time on the agenda may not yield their time to other speakers. Speakers who are unable to register in time may provide their comments in writing.

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference before June 30, 2002, must contact *Ms. Diana Pozun, Program Specialist* EPA Science Advisory Board (1400A), Suite 6450N, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4544; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov.*

A copy of the draft agenda for each meeting will be posted on the SAB Web site (*www.epa.gov/sab*) (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Material—There is one primary document that is the subject of the review. The review document is available electronically at the following site *http://oaspub.epa.gov/eims/eimscomm.getfile?p—download—id=4580.* For questions and information pertaining to the review documents, please contact Dr. V. James Cogliano (Mail Code 8623D), U.S. Environmental Protection Agency, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460; tel. (202) 564–3269, Fax (202) 565–0079, e-mail: *cogliano.jim@epa.gov.* Dr. Cogliano will refer you to the appropriate contact for the particular issue of interest. The review document which is the subject of this review is cited as follows: *Trichloroethylene Health Risk Assessment: Synthesis and Characterization,* Draft Report, Prepared for the U.S. Environmental Protection Agency, Office of Research and Development, EPA/600/P–01/002A August 2001 External Review Draft.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than 3 minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Nugent at least 5 business days prior to the meeting so that appropriate arrangements can be made.

General Information—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the *Science Advisory Board FY2001 Annual Staff Report* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: May 16, 2002.

A. Robert Flaak,

Acting Staff Director, EPA Science Advisory Board.

[FR Doc. 02–12823 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7214–5]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended,

42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in the following consolidated cases: Assoc. of Irritated Residents, *et al.* v. *U.S.* EPA, *et al.* No. 02–70160, Medical Alliance for Healthy Air, *et al.* v. *Whitman, et al.,* No. 02–70177, *Communities for a Better Environment* v. *U.S.* EPA, No. 02–70191 (9th Circuit). These cases concern the U.S. Environmental Protection Agency's (EPA) full approval of the part 70 operating permit programs in 34 air districts in the State of California, published at 66 FR 63503 (December 7, 2001). The proposed settlement agreement was signed by the last party on May 14, 2002.

DATES: Written comments on the proposed settlement agreement must be received by June 20, 2002.

ADDRESSES: Written comments should be sent to Carol S. Holmes, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A copy of the proposed settlement agreement is available on EPA's Web Page at *http://www.epa.gov/region09/air.* You may also obtain a copy from Phyllis J. Cochran, (202) 564–7606.

SUPPLEMENTARY INFORMATION:

EPA granted full approval of the 34 California part 70 operating permit programs (also known as ''title V'' permit programs) on November 29, 2001. 66 FR 63503 (December 7, 2001). The following groups of petitioners filed a timely petition for review: (1) Association of Irritated Residents (AIR) and Communities for Land, Air and Water (CLAW); (2) Natural Resources Defense Council (NRDC), Sierra Club, Medical Alliance for Healthy Air; and (3) Citizens for a Better Environment (CBE) and Our Children's Earth Foundation (OCEF). Petitioners challenged EPA's action due to California Health and Safety Code section 42310(e), which provides in relevant part that ''a permit shall not be required for * * * * (e) any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals * * * .'' (Petitioners CBE and OCEF made additional challenges to the Bay Area Air Quality Management District part 70 program that are not a part of this proposed settlement agreement.) The parties engaged in settlement discussions and entered the Ninth Circuit Mediation Program.

The proposed settlement agreement provides that EPA will send a Notice of Deficiency (NOD) for publication to the Office of the Federal Register by May 15, 2002. Such NOD will provide notice to the State of California that the 34 local air districts covered by the December 2001 rule are not adequately administering or enforcing their part 70 programs because the districts lack adequate authority to issue permits to, and assure compliance by, all major agricultural sources required to have a permit under Title V of the Clean Air Act as a result of the exemption in section 42310 of the California Health and Safety Code. The proposed settlement agreement also provides that no later than July 19, 2002, the Regional Administrator of EPA Region 9 shall sign and forward to the Office of the Federal Register a Notice of Proposed Rulemaking (''NPRM'') that will propose, pursuant to 40 CFR 70.10(b)(2)(i), to partially withdraw approval of those portions of the 34 part 70 programs that relate to major sources using equipment involved in the growing of crops or raising of fowl or animals that would be subject to Title V but for the state agricultural exemption (''state-exempt agricultural sources''). In such NPRM, the Regional Administrator also shall propose that EPA will implement a partial federal operating permits program under 40 CFR part 71 (''Part 71 program'') for major state-exempt agricultural sources. A signed, final rule must to sent to the Office of the Federal Register no later than October 2, 2002. Finally, the proposed settlement agreement sets forth application deadlines for sources subject to the part 71 federal permit program in the event the final rule implements such a program, as well as the deadline for EPA to act on any such part 71 permit applications.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

Dated: May 14, 2002.

Alan W. Eckert,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 02–12708 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7213–8]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation and Liability Act; Robesonia Mercury Spill Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania. The administrative settlement was signed by the United States Environmental Protection Agency, Region III's Acting Regional Administrator on May 6, 2002, and is subject to review by the public pursuant to this document.

The Environmental Protection Agency is proposing to enter into a settlement pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(h). The proposed settlement resolves EPA's claim for past response costs under section 107 of CERCLA, 42 U.S.C. 9607 against the UGI Corporation for response costs incurred at the Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania. The proposed settlement requires UGI Corporation to pay $13,499.42 to the EPA Hazardous Substance Fund.

The UGI Corporation, as the Settling Party, has executed binding certifications of its consent to participate in this settlement. UGI Corporation has agreed to pay $13, 499.42 subject to the contingency that the Environmental Protection Agency may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this document.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the

proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before June 20, 2002.

ADDRESSES: Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, and should reference Robesonia Mercury Spill Site, Robesonia, Berks County, Pennsylvania, U.S. EPA Docket No. CERCLA 03–2002–0082. The proposed settlement agreement is available for public inspection at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. A copy of the proposed settlement agreement can be obtained from Suzanne Canning, Regional Docket Clerk (3RCOO) Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, telephone number (215) 814–2476.

FOR FURTHER INFORMATION CONTACT: Charles Hayden, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Office of Enforcement, Compliance, and Environmental Justice (3EC00) 1650 Arch Street, Philadelphia, Pennsylvania, 19103, telephone number (215) 814–2668.

James W. Newson,

Acting Regional Administrator, Region III.

[FR Doc. 02–12710 Filed 5–20–02; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Proposed Guidelines.

SUMMARY: This notice requests comment on proposed guidelines implementing Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2002 (Public Law 106–554; H.R. 5658). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines under sections 3504(d)(1) and 3516 of Title 44, and require each Federal agency to issue agency-specific guidelines, to ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency and to establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with such guidelines. Each agency must also report periodically to the OMB director on the number, nature, and resolution of complaints received by the agency in regards to these requirements. The proposed guidelines published below would implement these requirements for the Council on Environmental Quality. They are intended to comply with both the statutory requirements noted above and the final guidelines published by OMB on February 22, 2002 (67 FR 36, at 8452).

DATES: Public comments must be submitted by July 1, 2002.

ADDRESSES: Please submit comments to Dinah Bear, General Counsel of the Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Comments can be emailed to *informationquality@ceq.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Telephone: (202) 395–7421.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) was established by Congress in 1969 through passage of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* and is an agency within the Executive Office of the President (EOP). The Chairman of CEQ, who is appointed by the President with the advice and consent of the Senate, serves as the principal environmental policy adviser to the President. CEQ coordinates federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives. CEQ also oversees federal agencies implementation of NEPA through promulgation of regulations implementing the procedural provisions of NEPA (40 CFR 1500–1508) and through interpretation of statutory requirements. CEQ also has a variety of other responsibilities under NEPA, the Environmental Quality Improvement Act of 1970 and other statutes.

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554, hereinafter referred to as Section 515) directs the Office of Management and Budget to issue government-wide guidelines that ''provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.'' OMB has required agencies to publish draft guidelines no later than May 1, 2002. The Council on Environmental Quality's guidelines will be published in the **Federal Register** and posted on the agency's Web site at *www.whitehouse.gov/ceq.*

The following are CEQ's ''Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Council on Environmental Quality'':

A. CEQ Will Ensure That All Information It Disseminates to the Public Meets All Applicable Standards of Quality, Including Objectivity, Utility and Integrity. CEQ Hereby Adopts This Standard of Quality, as a Performance Goal, and Adopts the Following Procedures for the Incorporation of Information Quality Criteria Into CEQ Information Dissemination Activities

1. Objectivity and Utility of Information

As defined in Section C, below, ''objectivity'' is a measure of whether disseminated information is ''accurate, clear, complete, and unbiased;''. ''Utility'' refers to the usefulness of the information to its intended audience. CEQ is committed to disseminating reliable and useful information. Before disseminating information, CEQ staff and officials will ensure that the information has been reviewed in an information quality review process that is proportional to the importance of the information. It is the primary responsibility of the professional staff person drafting information intended for dissemination, or supervising the preparation of such information, to use the most knowledgeable and reliable sources reasonably available to confirm the objectivity and utility of such information.

2. Much of the information CEQ disseminates consists of or is based on information submitted to CEQ by other Federal agencies. Prior to dissemination of such information, responsible CEQ staff will obtain a written statement from the agency submitting the information attesting that the

information meets the agency of origin's information quality guidelines.

3. In seeking to assure the ''objectivity'' and ''utility'' of the information it disseminates, CEQ will generally follow the basic clearance process established internally by the Chief of Staff and, where appropriate, the government-wide clearance process coordinated by OMB. Where appropriate, substantive input will be sought from within CEQ, other offices within the EOP, other government agencies, non-government organizations, and the public. When CEQ determines that the transparency of information is relevant for assessing the information's usefulness from the perspective of the users of the information, including the public, CEQ shall ensure that transparency has been appropriately addressed and provided. In determining the appropriate level of transparency, CEQ should consider the types of data that can practicably be subjected to a reproducibility requirement given ethical, feasibility, and confidentiality constraints.

4. The CEQ staff member or official responsible for the dissemination of information should generally take the following basic steps to assure the ''objectivity'' and ''utility'' of the information to be disseminated:

a. Preparing a draft of the document after consulting the necessary parties, including government and non-government sources, as appropriate;

b. Determining necessary clearance points;

c. Determining where the final decision shall be made;

d. Determining whether peer review would be appropriate and, if necessary, coordinating such review;

e. Obtain clearances; and

f. Overcoming delays and, if necessary, presenting the matter to higher authority.

5. For information regarding risks to human health, safety and the environment and information that CEQ determines is ''influential'' as defined in Section D(3) of these guidelines, CEQ adapts the standards set forth by Congress in the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. 300g–1(b)(3)(A) & (B) to CEQ's information quality review process. Thus, CEQ will use the ''best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices'', and ''data collected by the accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).'' Such information shall be presented in a manner that is comprehensive and informative. CEQ will also determine whether peer review would be appropriate and, if necessary, coordinate such review. Further, CEQ will provide sufficient information about such methods as related to influential information that a qualified member of the public could reproduce the analysis, subject to an acceptable degree of imprecision and subject to ethical, feasibility and confidentiality constraints.

6. CEQ will disseminate information only after appropriate internal clearances are obtained from the Office of the General Counsel and the Chief of Staff.

7. ''Integrity'' refers to be protection of information from unauthorized, unanticipated, or unintentional modification, thus preventing information from being compromised by corruption of falsification. Within the EOP, the Office of Administration has substantial responsibility for ensuring the ''integrity'' of information as defined in these guidelines. CEQ also has an Administrative Officer that coordinates and works with the EOP Office of Administration to ensure the integrity of information. These offices implement and maintain new computer software and hardware systems and provide operational support for systems and system users.

8. Computer security is the responsibility of the EOP Office of Administration's Chief Information, Information Assurance Directorate. This Office oversees all matters relating to information integrity, including the design and implementation of the security architecture for the EOP, periodic audits of security architecture components, and review and approval of changes to the technical baseline.

9. As an agency under the EOP, CEQ is an integral part of the overall EOP network, and is an active participant in all aspects of information integrity at EOP. CEQ adheres to both law and OMB IT security policies, along with EOP security policies and operational processes for the protection of data and information.

10. Information quality standards applicable to the dissemination of information by CEQ may be waived temporarily by the Chair of CEQ, the General Counsel, the Chief of Staff, or his/her designee in urgent situations (e.g., imminent threats to public health, homeland security, or of significant environmental impact) to the extent necessary to respond to the urgent situation. Any waiver shall provide for public notice, to the extent practicable under the circumstances of the waiver, and a determination of the point at which the normal application of information quality standards will resume.

B. Administrative Process for Correction of Information

1. Any person who is affected by information disseminated by CEQ that he or she believes does not comply with these guidelines may seek correction of that information by submitting a request for correction to CEQ within 90 days of CEQ's dissemination of the information.

2. Any request for correction must be submitted by mail to the Deputy General Counsel, CEQ, 722 Jackson Place, NW., Washington, DC 20503 or via electronic mail at *informationquality@ceq.eop.gov.* The request for correction should be as specific as possible regarding the information that is the subject of the concern and the reason(s) for the concern. Affected persons shall clearly indicate that the communication is a ''Request for Correction'' under Section 515 of the Treasury and General Government Appropriation Act for Fiscal Year 2001. Persons should specify the information that is being contested, the aspect of the information that needs to be corrected, explain how they are affected by the information, how the information identified does not comply with applicable information quality guidelines, and what corrective action is sought. Persons should provide all supporting information necessary for CEQ to correct the information. CEQ may decline to respond to requests that appear to be frivolous and/or duplicative.

3. CEQ will respond to any request within 60 days of receipt of the request in accordance with paragraph C.1, and may at that time provide an initial response that additional time is necessary to consider the request, to consult with the source of the information or other agencies, or to obtain additional information from the requestor or the public. If CEQ finds that additional time is necessary, CEQ shall seek a mutually agreed-upon extension of time and, if agreement is not obtained, shall include in its initial response a deadline for a final CEQ response based upon the factors that require additional time.

4. CEQ's final response will set forth whether CEQ agrees or disagrees with the concern expressed and, if it believes that concern has validity, how CEQ will correct the information or otherwise address the concern. Subject to applicable law, rules and regulations, CEQ may take corrective measures through any appropriate and effective means, including personal contacts via letter or telephone, form letters, press

releases, or postings on the CEQ Web site to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of such correction.

5. If CEQ responds that the information meets the requirements of the applicable guidelines and no correction is needed, the affected person may request reconsideration of the response from the CEQ General Counsel within 60 days of receipt of the response. Such a request for reconsideration shall clearly indicate that the communication is a ''Request for Reconsideration'' under Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 and set forth, as specifically as possible, the reasons for the affected person's disagreement with CEQ's response. The request for reconsideration should be mailed to the CEQ General Counsel, 722 Jackson Place, NW., Washington, DC 20503 or e-mailed to *informationquality@ceq.eop.gov.*. CEQ will respond to any such request for reconsideration within 60 days of receipt of the request.

C. Definitions

1. ''Affected'' persons are those who use, or may benefit from or be harmed by, the disseminated information.

2. ''Dissemination'' means agency-initiated or sponsored distribution of information to the public, whether in written, electronic, or audiovisual form. Dissemination does not include distribution of information or materials that are:

a. Intended for government employees or agency contractors, consultants or volunteers;

b. Intended for U.S. government agencies;

c. Produced in response to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or similar law, or requests from Congress or other government officials;

d. Correspondence or other communication limited to individuals or to other persons within the meaning of ''person'' as forth in paragraph 7, below;

e. Archival records;

f. Responses to subpoenas or other compulsory document productions;

g. Documents prepared for adjudicative proceedings.

3. ''Influential'' when used in the phrase ''influential information'' refer to disseminated information that CEQ determines will have a clear and substantial impact on important public policies or important private sector decisions.

4. ''Information,'' for purposes of these guidelines, means any communication or representation of facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition does not include:

a. Opinions, where the presentation makes clear that the statements are subjective opinions, rather than facts; however, any underlying information disseminated by CEQ upon which the opinion is based may be subject to these guidelines;

b. Information originated by, and attributed to, non-CEQ sources, provided CEQ does not expressly rely upon it. Examples include: non-U.S. Government information reported and duly attributed in materials prepared and disseminated by CEQ; hyperlinks on CEQ's Web site to information that others disseminate; and reports of advisory committees published on CEQ's Web site;

c. Statements related solely to the internal personnel rules and practices of CEQ and other materials produced for CEQ employees, contractors, agents, volunteers or alumni;

d. Descriptions of the agency, its responsibilities and its organizational components;

e. Statements, the modification of which might cause harm to the national security, including harm to the national defense or foreign relations of the United States;

f. Statements of Administration policy; however, any underlying information disseminated by CEQ upon which a statement is based may be subject to these guidelines;

g. Testimony or comments of CEQ officials before Congress, courts, administrative bodies, or the media;

h. Investigatory material compiled pursuant to U.S. law or for law enforcement purposes in the United States; or

i. Statements which are, or which reasonably may be expected to become, the subject of litigation, whether before a U.S. or foreign court, or in a dispute resolution proceeding.

5. ''Integrity'' refers to the security of information—protection of the information from unauthorized access or revision, to prevent the information from being compromised through corruption or falsification.

6. ''Objectivity'' addresses whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner, including background information where warranted by the circumstances.

7. ''Person'' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a regional, national, State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision, or an international organization;

8. ''Quality'' encompasses ''utility'', ''objectivity'', and ''integrity''. Thus, the government-wide guidelines and CEQ's guidelines may refer to these four statutory terms, collectively, as ''quality''.

9. ''Utility'' refers to the usefulness of the information to its intended users, including the public.

Dated: May 15, 2002.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. 02–12643 Filed 5–20–02; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 13, 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 22, 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.:* 3060–0214.

Title: Section 73.3526, Local Public Inspection File of Commercial Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10,780 commercial radio licensee recordkeepers; 1,310 commercial TV licensee recordkeepers; 1,310 commercial TV stations making must-carry/retransmission consent elections.

Estimated Time Per Response: 104 ours per year for radio recordkeeping; 130 hours per year for TV recordkeeping; 5 hours per election statement per TV station.

Frequency of Response: Recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 1,356,920 hours.

Total Annual Cost: N/A.

Needs and Uses: Section 73.3526 requires that each licensee/permittee of a commercial broadcast station maintain a file for public inspection. The contents of the file vary according to type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny filed against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, letters received from members of the public, etc. The data are used by the public and FCC to evaluate information about the broadcast licensee's performance, to ensure that broadcast stations are addressing issues concerning the community to which it is licensed to serve and to ensure that radio stations entering into time brokerage agreements comply with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws. Broadcasters are required to send each cable operator in the station's market a copy of the election statement applicable to that particular cable operator. Placing these retransmission consent/must-carry elections in the public file provide public access to documentation of station's elections which are used by cable operators in negotiations with television stations and by the public to ascertain why some stations are/are not carried by the cable systems.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12668 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 16, 2002.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Marie Moyd, Federal Communications Commission, (202) 418–2111.

Federal Communications Commission

OMB Control No.: 3060–0422.

Expiration Date: 10/31/2004.

Title: Section 68.5, Waivers (Application for Waiver of Hearing Aid Compatibility Requirements).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 30 respondents; 3 per response (avg.); 30 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: Section 710(b) of the Communications Act of 1934, as amended, requires that almost all telephones manufactured in or imported into this country after August 16, 1989 be hearing aid compatible. Refurbished, repaired or resold telephones, telephones used with public and private mobile radio services, and secure telephones used for classified communications are exempt. The Hearing Aid Compatibility (HAC) Act provides a three-year grace period for cordless telephones before they must comply with the requirement. Congress recognized, however, that there may be technological and/or economical reasons some new telephones may not meet the hearing aid compatibility requirement. Therefore, it provided for a waiver requirement for new telephones based on technological and economical grounds. Telephone manufacturers seeking a waiver of 47 CFR 68.4 which requires that certain telephones be hearing aid compatible must demonstrate that compliance with the rule is technologically infeasible or too costly. 47 CFR 68.5 provides the criteria to be used to assess waivers. Applicants seeking waivers must submit sufficient information for the Commission to make an informed decision. Information is used by FCC staff to determine whether to grant or dismiss the request. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–00992

Expiration Date: 12/31/2004.

Title: Request for Extension of the Implementation Deadline for Non-Recurring Services, CC Docket No. 96–45 (FCC 01–195) and 47 CFR 54.507(d)(1)–(4).

Form No.: N/A.

Respondents: Not-for-profit institutions; Business or other for-profit.

Estimated Annual Burden: 850 respondents; 1 per response (avg.); 850 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: 47 CFR 54.507(d) provides additional time for recipients under the schools and libraries universal service support mechanism to implement contracts or agreements with service providers for non-recurring services. 47 CFR 54.407(d) extends the deadline for receipt of non-recurring services from 6/30 to 9/30 following the close of the funding year. 47 CFR 54.507(d) establishes a deadline for the implementation of non-recurring services for certain qualified applicants who are unable to complete

implementation by the September 30 deadline. The rule provides schools and libraries with more time to install non-recurring services. The information will be used by the Commission to determine whether schools and libraries qualify for additional time to implement non-recurring services. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0986

Expiration Date: 01/31/2005.

Title: Federal-State Joint Board on Universal Service '' Plan for Reforming the Rural Universal Service Support Mechanism, CC Docket No. 96–45.

Form No.: N/A.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Annual Burden: 7099 respondents; .81 per response (avg.); 5770 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Quarterly; Annually; One-time; Third Party Disclosure.

Description: In the Fourteenth Report and Order, Twenty-Second Order on Reconsideration in CC Docket No. 96–45 and Report and Order in CC Docket No. 00–256, released May 23, 2001 (FCC 01–157), consistent with the recommendation of the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopts rules for determining high-cost universal service support for rural telephone companies for the next five years based upon the proposals made by the Rural Task Force. The Commission also addresses certain proposals made by the Multi-Association Group (MAG) for reforming universal services rules applicable to rural carriers. As part of its proposal to reform the Federal universal service support mechanism for rural carriers, the Rural Task Force proposed that rural carriers be permitted to depart from study area averaging and instead disaggregate and target per-line high-cost universal service support, including high-cost loop support, LTS, and LSS, into geographic areas below the study area level. The Rural Task Force concluded that the disaggregation and targeting of support is necessary to eliminate the economic distortions that may result from the delivery of support on a uniform per-line basis under the current mechanism. At the same time, however, the Rural Task Force stated that rural carriers need flexibility in the manner in which support is disaggregated and targeted in light of the widely varying characteristics and operating environments of rural carriers. Recognizing that a disaggregation and targeting system must meet the unique regulatory and competitive environments in each state, the Rural Task Force recommended a disaggregation system consisting of three paths. a. Election of Disaggregation Plan and Change in Path: Carriers are required to elect one of three paths within 270 days of the effective date of the Order implementing rural high-cost reform through a submission to the state commission. Rural carriers not subject to the jurisdiction of the state are required to make such submission to the Commission. Carriers failing to do so will not be permitted to disaggregate and target support unless ordered to do so by a state commission or other appropriate regulatory authority either on its own motion or in response to a request by an interested party. *See* 47 CFR 54.315(a). (Number of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). b. Notification of Disaggregation Methodology: 1. Path One: Carriers Not Disaggregating and Targeting High-Cost Support. Path One provides that a carrier may choose not to disaggregate. This Path is intended to address those instances where a carrier determines that given the demographics, cost characteristics, and location of its service territory, and the lack of a realistic prospect of competition, that disaggregation is not economically rational. A carrier must certify to the state commission, or other appropriate regulatory authority, that it does not want to disaggregate support. Carriers electing Path One must submit to USAC a copy of the certification of the state commission or appropriate regulatory authority certifying that it will not disaggregate and target support. *See* 47 CFR 54.315(b). (No. of respondents: 500; hours per response: .5 hours; total annual burden: 250 hours).2. Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support. Path Two provides that a carrier may seek approval of its disaggregation and targeting plan from the appropriate regulatory authority. Because there are no constraints on disaggregation and targeting proposals under this path, for example a carrier could disaggregate and target support to multiple levels below a wire center, a disaggregation and targeting method can be tailored with precision, subject to state approval, to the cost and geographic characteristics of the carrier and the competitive and regulatory environment in which it operates. A carrier that chooses this path would file a disaggregation plan with the state commission, or other appropriate regulatory authority. Carriers selecting Path 2 must submit a copy to USAC of the Order approving the disaggregation plan submitted by the carriers to the state commission or appropriate regulatory authority and a copy of the disaggregation plan approved by the state commission or appropriate regulatory authority. *See* 47 CFR 54.315(c), (e), and (f). (No. of respondents: 873; hours per response: .666 hours; total annual burden: 582 hours). 3. Path 3. Self-Certification of the Disaggregation and Targeting of Support: The Commission adopts the Path Three self-certification process that permits carriers to choose (1) a disaggregation plan of up to two cost zones per wire center, or (2) a disaggregation plan that complies with a prior regulatory determination. A carrier must provide, among other things, the state and USAC with a description of the rationale used to disaggregate support, including the methods and data and a discussion of how the plan complies with the self-certification guidelines. In addition, if the plan uses a benchmark, it must be generally consistent with how the total study area level of support for each category of costs (high-cost loop support, LSS and LTS) is derived, to enable a competitor to compare the disaggregated costs used to determine support for each zone. *See* 47 CFR 54.315(d), (e) and (f). (No. of respondents: 873; hours per response: .666 hours; total annual burden: 582 hours). c. Reporting Working Loops at Cost-Zone Level: Rural carriers that elect to disaggregate and target per-line support under either Path Two or Three are required to report loops at the cost-zone level. If there is no competition in the service area the carrier is required to file annually. If competition exists in the service area than the carrier is required to file quarterly. *See* 47 CFR 54.307(b) and (c). (No. of respondents: 864 filing annually; 9 filing quarterly; hours per response: 2 hours; total annual burden: 1746 hours). d. State Certification Letter Under 254(e): The Commission also concludes that states should be required to file annual certifications with the Commission to ensure that carriers use universal service support ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended'' consistent with section 254(e). The Commission concludes that the mandate in section 254(e) applies to all carriers, rural and non-rural, that are

designated as eligible to receive support under section 214(e) of the Act. States that wish to receive federal universal service high-cost support for rural carriers within their boundaries to file a certification with the Commission and USAC stating that all federal high-cost funds flowing to rural carriers in that state will be used in a manner consistent with section 254(e). The Commission recognizes that some state commissions may have only limited regulatory oversight to ensure that federal support is reflected in intrastate rates. In the case of non-rural carriers, the Commission concluded that states nonetheless may certify to the Commission that a non-rural carrier in the state had accounted to the state commission for its receipt of federal support, and that such support will be used ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended.'' The Commission determined that, in states in which the state commission has limited jurisdiction over such carriers, the state need not initiate the certification process itself. Instead, non-rural local exchange carriers, and competitive eligible telecommunications carriers serving lines in the service area of the non-rural local exchange carriers, may formulate plans to ensure compliance with section 254(e), and present those plans to the state, so that the state may make the appropriate certification to the Commission. Absent the filing of such certification, carriers will not receive support. *See* 47 CFR 54.313(b) and 54.314. (No. of respondents: 60 respondents; hours per response: 3 hours; total annual burden: 180 hours). e. Support in Competitive Study Areas: Under our existing rules, rural carriers and their competitors currently are required to file line count data annually, and may file quarterly updates on a voluntary basis. Quarterly updates are required in non-rural carrier study areas. Under the current rules, if an incumbent rural carrier does not update its line count data but its competitor does, the competitor's more recent data may include lines captured from the incumbent since the incumbent's last filing. Thus the incumbent may continue to receive support for the year based on an overstated number of lines. To prevent an overpayment of support, the Commission requires the filing of line count data on a regular quarterly basis upon competitive entry in rural carrier study areas. The Commission emphasizes that this requirement will not apply in rural carrier study areas in which an eligible telecommunications carrier has not been designated. *See* 47 CFR 36.611 and 36.612. To ensure that the interval between the submission of data and receipt of support is as short as possible in rural carrier study areas, the Commission clarifies that competitive eligible telecommunications carriers may submit initial line count data and receive support on a regular quarterly basis under section 54.307(c). Rural telephone companies that incorporate acquired exchanges into existing study areas should exclude the costs associated with the acquired exchanges from the cost associated with the pre-acquisition study areas in annual universal service data a submissions used to determine eligibility for high-cost loop supports. Acquiring rural carriers shall separately provide the information listed in section 47 CFR section 36.611 for both acquired and existing exchanges, as if these two categories of exchanges constitute separate study areas. *See* 47 CFR section 36.611. (No. of respondents: 20; hours per response: 24 hours; total annual burden: 480 hours). f. Safety Net Additive: Safety net additive support would only be available in years in which support levels would otherwise exceed the new indexed cap on the high-cost loop support fund. To receive such support in a particular study area, a carrier would need to show that growth in telecommunications plant in service (TPIS) per line is at least 14 percent greater than the study area's TPIS per line in the prior year, or the ''base year.'' Any study area that initially qualifies for safety net additive support would also qualify for such support in each of the four succeeding years if the cap is again triggered, regardless of whether the study area meets the 14 percent criterion in the succeeding years. Carriers must provide written notice to the Commission and USAC in conjunction with their annual or quarterly submissions to NECA indicating that a study area meets the 14 percent TPIS trigger. If a carrier should fail to provide written notification to the Commission and USAC, the study area that otherwise would have qualified for safety net additive will not be eligible. *See* 47 CFR 36.605(c)(2). (No. of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). g. Safety Valve: Once relevant regulatory approvals are obtained and the transaction is closed, the rural carrier shall provide written notice to USAC that they have acquired access lines that may become eligible for safety value support. In order to assist USAC in the administration of the safety valve mechanism, rural carriers shall also provide written notice to USAC of when their index year has been established for purposes of calculating eligibility for safety valve support. *See* 47 CFR 54.305 (f). (No. of respondents: 1300; hours per response: .5 hours; total annual burden: 650 hours). The Commission will use the information requirements to determine whether and to what extent rural telecommunications carriers providing the data are eligible to receive universal service support. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0149

Expiration Date: 01/31/2005.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01 –63.601.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 35 respondents; 5 per response (avg.); 175 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. Part 63 of title 47 of the CFR implements section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video programming by telephone common carriers. In the Report and Order for Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 (214 Streamlining Order), released on June 30, 1999, the Commission modified part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. Among other things, carrier filing requirements in the following area were either reduced, altered, or entirely eliminated: (1) entry certification for common carriers; (2) applications for line extensions; (3) reports identifying proposed small projects; (4) applications for new lines; and (5) applications for exit from the market. By making these revisions, the Commission substantially reduced the amount of time carriers had to spend in order to fully comply with Part 63's requirements. The Commission also entirely eliminated the requirement

for line extensions because Congress exempted such ''extensions'' from the requirements of 47 U.S.C. 214, under Section 402(b)(2)(A) of the Act. Furthermore, the Commission eliminated reporting requirements by domestic non-dominant carriers, small carriers, and carriers proposing small projects because Congress enacted section 214 to prevent unnecessary duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers. Moreover, the Commission reduced, but did not entirely eliminate, submission requirements for domestic dominant rate-of-return carriers in applications for ''new'' lines because the information was either collected elsewhere, was found to be unnecessary and/or confusing in light of the provisions of section 402(b)(2)(A), or was no longer of decisional significance to the Commission. The Commission significantly streamlined the carrier exit procedures this process because of its desire to eliminate unnecessary barriers to carriers wanting to exit the market. *See* 47 CFR part 63. The Commission will use the information to determine if affected respondents are in compliance with its rules and the requirements of Section 214 of the Communications Act of 1934, as amended. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 02–12726 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 13, 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 20, 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.: 3060–0987.

Title: 911 Callback Capability: Non-initialized Phones.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government.

Number of Respondents: 3,137.

Estimated Time Per Response: .50–2 hours (average).

Frequency of Response: Third party disclosure requirement, and other one-time requirements.

Total Annual Burden: 4,481 hours.

Total Annual Cost: $661,125.

Needs and Uses: The Report and Order in CC Docket No. 94–102, FCC 02–120, released April 29, 2002, imposes requirements on wireless and wireline carriers and equipment manufacturers aimed at responding to the problem of the inability of emergency workers and the public to contact for further critical information a 911 caller may be using a non-initialized wireless telephone or a ''911-only'' phone, which do not have dial-able numbers. To advise the public and emergency workers of this limitation and to thus advise them using such phones in emergency situations to provide as much critical information, particularly regarding location, the Commission adopted labeling, software modification, and public education requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12669 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2553]

Petitions for Reconsideration of Action in Rulemaking Proceedings

May 15, 2002.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by June 5, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of the pay telephone reclassification and compensation provision's of the Telecommunications Act of 1996 (CC Docket No. 96–128), Amendment of FM Table of Allotments (MM Docket No. 01–120, RM–10126).

Number of Petitions Filed: 3.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12667 Filed 5–20–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Forms SF–424, SF–270 (LM–6), (LM–8), SF–269a (LM–7),

(LM–9), and (LM–3) submitted for an emergency extension and review to the Office of Management and Budget.

SUMMARY: This notice announces that six information collection requests contained in the Federal Mediation and Conciliation Service (FMCS) agency forms are coming up for renewal. FMCS submitted to the Office of Management and Budget (OMB) a request for an emergency review of six FMCS forms: SF–424 Application for Federal Assistance, SF–270 (LM–6)—Request for Advance or Reimbursement, (LM–8)—Project Performance, SF–269 (LM–7)—Financial Status Report, (LM–9)—FMCS Grants Program Grantee Evaluation Questionnaire, and (LM–3)—Accounting System and Financial Capability Questionnaire. The request seeks OMB approval for a three-year expiration date of Forms SF–424, SF–269a (LM–6), (LM–8), SF–270a (LM–7), (LM–9) and (LM–3) until December 31, 2004. FMCS is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before *June 24, 2002.*

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to the Office of Information and Regulatory Affairs of Office of Management and Budget, Attn: Desk Office for the Federal Mediation and Conciliation Service, Room 10235, Washington, DC 20503. Copies of the complete agency forms may be obtained from the Labor Management Grants Program at Federal Mediation and Conciliation Service, the Labor Management Grants Program, 2100 K Street, NW., Washington, DC 20427 or by contacting the person whose name appears under the section headed, **FOR FURTHER INFORMATION CONTACT.**

Comments and data may also be submitted by fax at (202) 606–3434 or electronically by sending electronic (e-mail) to *lstubbs@fmcs.gov* or *jlorber@fmcs.gov.* All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as ''CBI''. Information so marked will not be disclosed but a copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by FMCS without prior notice. All written comments will be available for inspection in Room 211 at the Washington, DC address above from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, Director, Labor Management Grants Program or Linda E. Stubbs, Grants Management Specialist, FMCS 2100 K Street, NW., Washington, DC 20427. Telephone (202) 606–8181; Fax: (202) 606–3434.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Labor-Management Grants Program, by calling, faxing, or writing, Ms. Linda Stubbs at the above address. Please ask for the form by title and agency form number.

I. Information Collection Requests

FMCS is seeking comments on the following information collection requests contained in FMCS agency forms.

Agency: Federal Mediation and Conciliation Service.

Form Number: OMB No. 3076–0006.

Type of Request: Emergency Extension of Expiration date of a currently approved collection without any change in the substance or method of collection.

Affected Entities: Potential applicants/grantees who received our grant application kit. Also, applicants/grantees who have received a grant from FMCS.

Frequency:

a. Three of the forms, the SF–424, LM–6, and LM–9 are submitted at the applicant/grantee's discretion.

b. To conduct the quarterly submissions, LM–7/LM–8 forms are used. Less than quarterly reports would deprive FMCS of the opportunity to provide prompt technical assistance to deal with those problems identified in the report.

c. Once per application. The LM–3 is the only form to which a ''similar information'' requirement could apply. That form takes the requirement into consideration by accepting recent audit reports in lieu of applicant completion of items C2 through 9 and items D1 through 3.

Burden: SF–424 Application for Federal Assistance, SF–270 (LM–6) Request for Advance or Reimbursement—30 minutes, (LM–8) Project Performance—60 minutes, SF–269a (LM–7) Financial Status Report—30 minutes, (LM–9) FMCS Grants Program Evaluation Questionnaire—60 minutes, and (LM–3) Accounting System and Financial Capability Questionnaire 60 minutes.

Abstract: Except for the FMCS Forms LM–3 and LM–9, the forms under consideration herein are either required or recommended in OMB Circulars. The two exceptions are non-recurring forms, the former a questionnaire sent only to non-governmental potential grantees and the latter a questionnaire sent only to former grantees for voluntary completion and submission.

The collected information is used by FMCS to determine annual applicant suitability, to monitor quarterly grant project status, and for on-going program evaluation. If the information were not collected, there could be no accounting for the activities of the program. Actual use has been the same as intended use.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the appropriate performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g. permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper records maintained at the address in **ADDRESSES** at the beginning of this document. FMCS will transfer all electronically received comments into printed form as they are received. These records are available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

List of Subjects

Labor-Management Cooperation Program and Information collection requests.

Dated: May 14, 2002.

C. Richard Barnes,

Director.

[FR Doc. 02–12659 Filed 5–20–02; 8:45 am]

BILLING CODE 6372–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–02–08]

Fiscal Year 2002 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Extension of deadline to apply for funds under the Older Americans Act, Title VI, Grants for Native Americans, Part A—Indian Program, stated in the **Federal Register** Program Announcement dated September 17, 2001.

SUMMARY: Because of continuing needs of Tribal elders, the Administration on Aging is extending the date for which the Title VI grant applications for the grant period April 1, 2002–March 31, 2005 are due. Applications will be accepted from Tribes with grants that ended on March 31, 2002. Please note, since the Older Americans Act allows only one grant per Tribal organization, the program announcement applies only to Tribes that did not receive a grant under the program announcement of September 17, 2001.

DATES: The deadline date for the submission of applications is June 20, 2002.

ADDRESSES: Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Yvonne Jackson, Director, Office for American Indian, Alaska Native and Native Hawaiian Programs, 330 Independence Ave., SW., Washington, DC 20201 or by calling 202/619–2713. Applications must be postmarked on or before June 20, 2002. An original and two copies of the application are to be mailed to Margaret Tolson, Director, Office of Grants Management, 330 Independence Ave., SW., Washington, DC 20201.

Dated: May 15, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–12679 Filed 5–20–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02033]

Improving Effectiveness of Tuberculosis Prevention and Control in Lithuania; Notice of Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of $105,000 in fiscal year (FY) 2002 funds for a Cooperative Agreement to provide education and technical assistance to improve the quality, efficiency, and effectiveness of programs for the prevention and control of tuberculosis (TB) with the National Tuberculosis Control Program (NTP), Ministry of Health of the Government of Lithuania. The award is anticipated to begin in May 2002, with a 12-month budget period within a five-year project period. This program addresses the ''Healthy People 2010'' priority areas of Immunization and Infectious Diseases.

The National Tuberculosis Control Program (NTP), Ministry of Health of the Government of Lithuania is the most appropriate and qualified agency to conduct the activities under this Cooperative Agreement because:

1. The NTP is uniquely positioned, in terms of legal authority, ability, track record, and credibility in Lithuania to develop and implement TB control activities in both public sites throughout the country.
2. The NTP is currently involved in TB treatment services in Lithuania, enabling it to immediately become engaged in the activities listed in this announcement.
3. The purpose of the announcement is to utilize and build upon the existing framework of TB control activities that the NTP has developed or initiated.
4. The NTP has been mandated by the Ministry of Health in Lithuania to coordinate and implement TB treatment and control activities including Multi-Drug Resistant Tuberculosis (MDR–TB) within the country.

The purpose of this Cooperative Agreement is to assist the recipient in conducting an anti-tuberculosis drug resistance survey in Lithuania based on WHO/IUATLD Global Project on Anti-Tuberculosis Drug Resistance Surveillance protocols (''The Global Project'').

B. Where To Obtain Additional Information

To obtain business management technical assistance, contact: Dorimar Rosado, Lead Grants Management Specialist. International Grants & Contracts Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, MS E–09, Atlanta, GA 30341–4146, Telephone number: (770) 488–2782, FAX: (770) 488–2866, Email address: *dpr7@cdc.gov.*

For program technical assistance, contact: Charles Wells, Email address *ccw2@cdc.gov,* Puneet Dewan, Email address *phd8@cdc.gov,* Michael Qualls, Email address *muq1@cdc.gov,* National Center for HIV/STD/STD and TB Prevention, Division of Tuberculosis Elimination, 1600 Clifton Road, MS E–10, Atlanta, GA 30333, Telephone: (404) 639–8120, Fax: (404) 639–8961.

Dated: May 15, 2002.

Sandra R. Manning, CGFM,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–12648 Filed 5–20–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Control of Arthropod Vectors of Parasitic Diseases

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7 (a) (1) (i) that the Centers for Disease Control and Prevention (CDC), Technology Transfer Office, Department of Health and Human Services (DHHS), is contemplating the grant of a worldwide exclusive license to practice the inventions embodied in the patent application referred to below to Aventis Environmental Sciences, a business unit of Aventis CropScience, of Montvale, New Jersey. The patent rights in these inventions have been assigned to the government of the United States of America. The patent application to be licensed is:

Title: Use of Fipronil to Control Ixodes Ticks and Control Lyme Disease. U.S. Patent Application Serial No. 09/595,035 Filing Date: 06/16/00

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

This invention comprises a method of controlling Lyme disease by preventing the maturation of deer ticks on white-footed mice by exposing the mice to fipronil as they enter food-baited boxes.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments, and other materials relating to the contemplated license should be directed to Andrew Watkins, Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop K–79, Atlanta, GA 30341, telephone: (770) 488–8600; facsimile: (770) 488–8615. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by CDC within fifteen days of this notice will be considered.

Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement will be required to receive a copy of any pending patent application.

Dated: May 15, 2002.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–12649 Filed 5–20–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Innovative Food Safety Projects; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Division of Federal-State Relations (DFSR), is announcing the availability of grant funds for the support of an innovative food safety program. Approximately $350,000 will be available in fiscal year 2002. FDA anticipates making at least seven awards, not to exceed $50,000 (direct and indirect costs combined) per award per year. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are not intended to fund or conduct food inspections.

DATES: Submit applications by July 22, 2002.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Office (HFA–520), Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857. Application forms PHS–5161–1 (7/00) are available via the Internet at http://www.psc.gov/forms (revised 7/00).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (see **ADDRESSES**).

Regarding the programmatic aspects of this notice: Paul M. Raynes, or Anne Hope Scott, Division of Federal-State Relations, Office of Regulatory Affairs (HFC–150), Food and Drug Administration, 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906, e-mail: dfsr@ora.fda.gov, on the Internet at http://www.fda.gov/ora/fed_state/default.htm.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA will support projects covered by this notice under title XVII of the Public Health Service Act (42 U.S.C. 1702). FDA's project program is described in the Catalog of Federal Domestic Assistance No. 93.245, and applicants are limited to food safety regulatory agencies of State, local, and tribal governments.

FDA urges applicants to submit work plans that address specific objectives of ''Healthy People 2010.'' Applicants may obtain a hard copy of the ''Healthy People 2010'' objectives, volumes I and II, Conference Edition (B0074), for $22 per set, by writing to the Office of Disease Prevention and Health promotion (ODPHP) Communication Support Center, P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of ''Healthy People 2010'' is priced at $2 per copy. Telephone orders can be placed to the center on 301–468–5690. The center also sells the complete Conference Edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://www.health.gov/healthypeople/. Internet viewers should proceed to ''Publications.''

The Public Health Service strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the FDA mission to protect and advance the physical and mental health of the American people.

II. Background

ORA is the inspection component of the FDA and has some 1,100 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators inspect more that 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, conduct food inspection recall audits, perform consumer complaint inspections, and collect samples of regulated product. FDA has relied on the States in assisting with the these activities through formal contracts, partnership agreements, and other informal arrangements. Under the Food Safety Initiative (FSI), the demands on both the agency and the States has increased. Procedures need to be reviewed and innovative changes made that will increase effectiveness and efficiency and conserve resources. ORA will support FSI by: (1) Effectively and efficiently ensuring compliance of regulatory products; and (2) providing high quality, science-based work that results in maximizing consumer protection.

Under FSI, FDA is mandated to develop innovative food safety programs that would be utilized nationally by State and local food safety regulatory agencies. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 7,000 Americans a year, primarily the very young and elderly, die as a result. The goal of FSI is to further reduce the incidence of foodborne disease to the greatest extent possible. Innovative food safety programs that are developed at the State and local levels and have national implication could enhance programs that are developed at the Federal level.

A. Project Goals, Definitions, and Examples

The specific objective of this program will be to complement, develop, or improve State and local food safety programs that would have applicability to food safety programs nationwide. Examples of food safety projects are retail food (food manufacturers,

processors, wholesalers, and warehouses); egg safety program; milk safety program; shellfish safety program. Applications that address one of the food safety projects and fulfill the following specific project objectives will be considered for funding.

Each application must address only one project. Applicants may apply for more than one project area, but must submit a separate application for each project. These grants are not to fund or conduct food inspections for food safety regulatory agencies. Applications relating to the Retail Food Program area should be applicable to program improvement processes for FDA's draft ''Recommended National Retail Food Regulatory Program Standards'' (http://vm.cfsan.fda.gov/~dms/ret-toc.html) (see review criteria).

There are two key project areas identified for this effort:

1. Inspection

Development of innovative regulatory inspection methods or techniques for the inspection process of various food establishments in order to improve effectiveness and efficiency. Innovative Regulatory Program Methodology projects must demonstrate an effect on factors that contribute to foodborne illness in all, or a segment of, food industry programs. For example, projects could address key elements from the draft entitled ''Recommended National Retail Food Regulatory Program Standards,'' such as the five Food Code Interventions (management knowledge, employee health, hands as a vehicle of contamination, time/temperature relationships, and consumer advisory), or the five Centers for Disease Control and Prevention risk factors (improper holding temperature, inadequate cooking, contaminated equipment, unsafe source, and poor personal hygiene). Other examples of projects in this area could include prevention and control of *Listeria monocytogenes* in retail and foodservice environments and projects that address shell egg safety, such as refrigeration, safe handling, or labeling. The goal of these projects should be to achieve efficient and effective compliance with regulations that affect factors that contribute to foodborne illness.

2. Education and Health Information Dissemination

Development of innovative education projects and materials for State and local food safety regulatory officials that foster consistency and uniform application of State and local food regulations. These education projects and/or materials must be reproducible by other State and local food safety regulatory agencies. These projects may incorporate concurrent education of both State and local food safety regulatory agencies and the food industry.

B. Applicability

All grant application projects that are developed at State, local, and tribal levels must have national implication or application that can enhance Federal, State, and local food regulatory programs and are likely to reduce factors that cause foodborne illness. At the discretion of FDA, successful project formats will be made available to interested Federal, State, local, and tribal food safety regulatory agencies. No grant will be awarded for projects that do not support the FDA Food Code.

III. Reporting Requirements

Semiannual progress reports as well as a final program progress report and a final financial status report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's Grants Management Officer within 90 days of the expiration date of the grant. The final program progress report must provide full written documentation of the project, copies of any results, as described in the grant application, and an analysis and evaluation of the results of the project. The documentation must be in a form and contain sufficient detail such that other State and local food safety regulatory agencies could reproduce the final project.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the project officer. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the project grant programs of FDA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through Department of Health and Human Services regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert the SPOC to the prospective application(s) and to receive any necessary instructions on the State's review process. A current listing of SPOCs is included in the application kit. The SPOC should send any State review process recommendations to FDA's administrative contact (see **ADDRESSES**). The due date for the State process recommendations is no later than 60 days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60 day cut-off.

B. Eligibility

This grant program is only available to State, local, and tribal government food regulatory agencies. (See SPOC requirements stated previously.)

C. Length of Support

The length of support will be for 1 year from date of award.

V. Review Procedure and Criteria

All applications submitted in response to this request for application (RFA) will first be reviewed by grants management and program staff for responsiveness. Responsiveness is defined as submission of a complete application with original signatures on or before the required submission date as listed previously in this document. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration. An application will be considered nonresponsive if any of the following criteria are not met: (1) If it is received after the specified receipt date; (2) if the total dollar amount requested from FDA exceeds $50,000; (3) if all required original signatures are not on the face, assurance, or certification pages of the application; (4) if there is no original signature copy; (5) if it is illegible; (6) if the material presented is insufficient to permit an adequate review; (7) if the application demonstrates an inadequate understanding of the intent of the RFA; (8) if the application is determined to be essentially similar to projects that have been funded in the past; or (9) if for any reason the results of the project, including computer software, cannot be made available to other State, local, and tribal food regulatory agencies. All applicants are encouraged to check the

list of projects that received funding in prior years under this program on the Internet at www.fda.gov/ora/fed_state/Innovative_Grants.html.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Applications will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include availability of funds and overall program balance in terms of geography. Final funding decisions will be made by the Commissioner of Food and Drugs or his designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to ORA's program staff (see **ADDRESSES**) and all questions of an administrative or financial nature must be directed to the grants management staff (address above).

Applications will be given an overall score and judged based on all of the following criteria:

1. Application budgets must remain within the $50,000 cap for combined direct and indirect costs. Applications exceeding this dollar amount will be returned as nonresponsive.
2. Applications must provide in detail, a sound rationale and appropriate grant design to address the objectives of the RFA.
3. The project must be generic enough in nature to be used by other State, local, and tribal food regulatory agencies.
4. Applications must include a detailed explanation of the desired goals and outcomes of the project.
5. Only for applications relating to the Retail Food Program, the outcomes of the project should be applicable to program improvement process for FDA's draft ''Recommended National Retail Food Regulatory Program Standards.'' These standards will serve as a guide to the regulatory retail food program. The standards apply to the operation, management, and promotion of a regulatory retail food program focused on the reduction of risk factors known and suspected to cause foodborne illness. The FDA draft ''Recommended National Retail Food Regulatory Program Standards'' are found on the Internet at http://vm.cfsan.fda.gov/~dms/ret-toc.html or contact your local FDA Regional Retail Food Specialist from the list provided in the application packet.
6. Applications must include a full description of the project design, a detailed implementation plan, methods of execution, and timeline for completion. The application must include a detailed description of measures of effectiveness and a description of the source documents or data collection methods for establishing the baseline for measurement.
7. Applications must address the adequacy of facilities, expertise of project staff, equipment, databases and support services needed for the project.
8. Applicants and applicants' subgrantees and subcontractors must ensure compliance that any projects developed in whole or in part with Federal funds may be made available to other State, local, and tribal food regulatory agencies by FDA or its agents. Such copyrighted or copyrightable works shall be subject to a royalty-free, nonexclusive, and irrevocable license to the Federal Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes.

VI. Submission Requirements

The original and two copies of the completed Grant Application Form PHS–5161–1 (Revised 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Cynthia M. Polit (see **ADDRESSES**). The application receipt date is July 22, 2002. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled ''Response to RFA–FDA–ORA–02–Project I (Inspection) or ''RFA–FDA–ORA–02–Project II (Education and Health Information Dissemination).'' Submit only one project application (an original and two copies) per package.

VII. Method of Application

A. Submission Instructions

Each application must be submitted under separate cover. Do not submit more than one application (original with two copies) per envelope. Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application sent to NIH that is then forwarded to FDA and not received in time for orderly processing will be deemed unresponsive and returned to the applicant. Instructions for completing the application are included in Form PHS–5161–1. FDA is unable to receive applications via Internet.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 5161–1 (Rev 7/00). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages. A properly formatted sample application for the grant can be accessed on the Internet at http://www.fda.gov/ora/fed_state/Innovative_Grants.html. Applications may be considered nonresponsive if not submitted in the proper order.

The face page of the application should indicate ''RFA–FDA–ORA–02–Project I (Inspection),'' or ''RFA–FDA–ORA–02–Project II (Education and Health Information and Dissemination).'' Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of Department of Health and Human Services or by a court, data contained in the portions of this application which have been specifically identified by page number and paragraph by the applicant as

containing restricted or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: May 14, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12665 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1360]

Guidance for Industry on Preparation of Food Contact Notifications: Administrative; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance document entitled ''Preparation of Food Contact Notifications: Administrative.'' This guidance document is intended to provide guidance for industry regarding the preparation of food contact notifications (FCNs). FDA is providing this guidance as part of its implementation of the premarket notification process for food contact substances (FCSs) established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written or electronic comments concerning this guidance document at any time.

ADDRESSES: Submit written comments concerning this guidance document 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. Submit written requests for single copies of the guidance document to the Office of Food Additive Safety (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835. Send one self-addressed adhesive label to assist that office in processing your requests. You also may request a copy of the guidance document by electronic mail at OPAPMN@CFSAN.FDA.GOV, or by telephone to the Office of Food Additive Safety at 202–418–3087 (voice) or FAX 202–418–3131. All requests should be identified with the guidance document by its title. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 202–418–3083.

SUPPLEMENTARY INFORMATION:

I. Background

FDAMA (Public Law 105–115) amended section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) to establish an FCN process as the primary method for authorizing new uses of food additives that are FCSs. A ''food contact substance'' is defined in section 409(h)(6) of the act as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' FDA expects most new uses of FCSs that previously would have been regulated by issuance of a listing regulation in response to a food additive petition or would have been exempted from the requirement of a regulation under the ''Threshold of Regulation'' process will be the subject of FCNs. FDA is announcing the availability of the guidance document entitled ''Preparation of Food Contact Notifications: Administrative.'' This guidance document is intended to provide guidance for industry regarding the preparation of FCNs. FDA is providing this guidance document as part of its implementation of the premarket notification process for FCSs established by FDAMA.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the data and information that should be submitted in an FCN and the plan for administration of the FCN program. This guidance document does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations. This guidance document is a level 1 guidance under the agency's good guidance practices (GGPs) regulations (21 CFR 10.115).

Because it is a level 1 guidance under the agency's GGPs, FDA announced the availability for comment of a draft of the guidance document ''Preparation of Food Contact Notifications: Administrative'' in a notice published in the **Federal Register** of July 13, 2000 (65 FR 43377). The comment period for the guidance document closed on September 26, 2000. FDA received no comments on the guidance document. However, FDA did receive three comments on the proposed rule published simultaneously with the July 13, 2000, notice of availability. Portions of these three comments are relevant to the guidance document and FDA has addressed the relevant portions of the comments in the guidance document announced by this notice. Thus, in accordance with its GGPs, FDA now is reissuing this guidance document in final form.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document at http://www.cfsan.fda.gov/~dms/guidance.html.

IV. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written and electronic comments regarding the guidance document at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Such comments will be considered when determining whether to amend the guidance.

Dated: May 6, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12663 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0199]

Advertisements for High-Intensity Mercury Vapor Discharge Lamps; Revocation of Compliance Policy Guide 7133.13

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the Compliance Policy Guide (CPG) entitled ''Sec. 391.100 Advertisement Literature for High-Intensity Mercury Vapor Discharge Lamps (CPG 7133.13)''

because it is obsolete and outdated. This CPG is no longer necessary because it concerns revising advertisements, printed before March 7, 1980, to comply with the Federal performance standard for high-intensity mercury vapor discharge lamps (HIMVDLs).

DATES: June 20, 2002.

ADDRESSES: Submit written requests for single copies of the CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411 or FAX your request to 301–827–0482.

A copy of the CPG may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the CPG entitled ''Sec. 391.100 Advertisement Literature for High-Intensity Mercury Vapor Discharge Lamps (CPG 7133.13)'' on October 1, 1980. This CPG addresses a question from manufacturers related to advertisements, printed before March 7, 1980, for HIMVDLs that were manufactured after that date. These advertisements, primarily catalogs, should have been revised by now. Because the requirements for these types of lamps manufactured after March 7, 1980, and their advertisements are included in the Federal performance standard for HIMVDLs (21 CFR 1040.30), this CPG is obsolete and outdated. Therefore, FDA is revoking CPG 7133.13, in its entirety, to eliminate unnecessary compliance policy.

II. Electronic Access

Before June 20, 2002, a copy of the CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs (ORA) homepage includes the referenced document that may be accessed at: http://www.fda.gov/ora/compliance__ref/cpg/cpgdev/cpg391–100.html.

Dated: May 14, 2002.

John Marzilli,

Deputy Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–12623 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0200]

Sunlamp Product Performance Standard and UVA Tanning Products; Revocation of Compliance Policy Guide 7133.16

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the compliance policy guide (CPG) entitled ''Sec. 396.100 Applicability of the Sunlamp Performance Standard to UVA Tanning Products (CPG 7133.16).'' This CPG is no longer necessary because the agency has amended the sunlamp product performance standard (21 CFR 1040.20) to include sunlamp products and ultraviolet lamps that emit only ultraviolet A (UVA) radiation.

DATES: The revocation is effective June 20, 2002.

ADDRESSES: Submit written requests for single copies of the CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411 or FAX your request to 301–827–0482.

A copy of the CPG may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the CPG entitled ''Sec. 396.100 Applicability of the Sunlamp Performance Standard to UVA Tanning Products (CPG 7133.16)'' on October 1, 1980. This CPG describes how the sunlamp product performance standard (§ 1040.20 (21 CFR 1040.20)), that became effective on May 7, 1980, applied to: (1) Any sunlamp product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body by ultraviolet radiation with wavelengths, in air, between 180 and 320 nanometers (nm) to induce skin tanning and (2) any ultraviolet lamp that produces radiation in the wavelength interval of 180 to 320 nm, in air, and is intended for use in any sunlamp product. Sunlamp products, that emit only UVA radiation (320 to 400 nm), were not subject to the 1980 performance standard.

In the **Federal Register** of September 6, 1985 (50 FR 36548 at 36550), FDA amended the sunlamp product performance standard to accommodate new products and designs that were significantly different from those for which the original standard was developed. This revised performance standard, which became effective on September 8, 1986, applies to sunlamp products and ultraviolet lamps that emit ultraviolet radiation with wavelengths, in air, between 200 and 400 nm and are intended for skin tanning (§ 1040.20(b)(9) and (b)(11)). Accordingly, sunlamp products and ultraviolet lamps which emit only UVA radiation are now subject to the performance standard.

Given the current sunlamp product performance standard, FDA is revoking CPG 7133.16, in its entirety.

II. Electronic Access

Prior to June 20, 2002, a copy of the CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs home page includes the referenced document that may be accessed at http://www.fda.gov/ora/compliance_ref/cpg/cpgdev/cpg396–100.html.

Dated: May 14, 2002.

John Marzilli,

Deputy Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–12666 Filed 5–20–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–03]

Notice of Proposed Information Collection: Comment Request; Schedule of Subscribers and Ginnie Mae Guaranty Agreement

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment Due Date: July 22, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451 7th Street, SW., Room 6206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (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 agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Schedule of Subscribers and Ginnie Mae Guaranty Agreement.

OMB Control Number, if applicable: 2503–0009.

Description of the Need for the Information and Proposed Use

This form is prepared and submitted by the issuer to Ginnie Mae's agent, JPMorgan Chase Bank. This form must be used by the issuer to submit pool or loan packages. Each time the issuer issues a new security, it agrees that the applicable Guaranty Agreement is in effect on the issue date of the securities and that it will govern all of the issuer's outstanding pool and loan packages, pooled mortgages, and securities whether created under the Ginnie Mae I MBS Program or the Ginnie Mae II MBS Program. The pool will vary as to the amount of each security, securities holders, and the number of securities for each holder. The data provided on this form is the basis for the preparation of the securities issued under each Ginnie Mae MBS pool. Upon receipt of the form, JPMorgan Chase Bank reviews the information submitted in conjunction with other documentation required for the issuance of MBS securities. The approval of this form enables the actual preparation of the securities to be issued.

Agency form numbers, if applicable: Form HUD 11705.

Members of affected public: For-profit business (mortgage companies, thrifts, savings & loans, etc.).

Estimation of the total number of hours needed to prepare the information collection, including number of respondents, frequency of response, and hours of response:

Number of respondents: 297 (end of 2001).

Frequency of responses: 106 (per year).

Total annual responses: 31,482.

Hours per response: .17 (10 minutes).

Total burden hours: 5,352.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 13, 2002.

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–12717 Filed 5–20–02; 8:45 am]

BILLING CODE 4210–66–M

INTER-AMERICAN FOUNDATION

Meeting of the Board of Directors and Advisory Council; Sunshine Act

TIME AND DATE: June 3, 2002, 9:30 a.m.–3:00 p.m.

PLACE: Inter-American Foundation, 901 N. Stuart Street, 10th Floor, Arlington, VA 22203.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the March 1, 2002, Meeting of the Board of Directors
- President's Report
- IAF 2001 Results Report
- Investment Initiative

CONTACT PERSON FOR MORE INFORMATION: Carolyn Karr, General Counsel, (703) 306–4350.

Dated: May 16, 2002.

Carolyn Karr,

General Counsel.

[FR Doc. 02–12821 Filed 5–17–02; 2:41 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Trustee Council; Notice of Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: June 20, 2002, at 8:30 a.m.

ADDRESSES: Fifth floor conference room, 441 West 5th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will feature discussions about the fiscal year 2003 draft work plan, an update on

injured resources and services, and the proposed Gulf of Alaska Ecosystem Monitoring and Research program.

Dated: May 13, 2002.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 02–12686 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Wild Horse and Burro Advisory Board call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for three members to the Wild Horse and Burro Advisory Board. The Board provides advice concerning management, protection, and control of wild free-roaming horses and burros on the public lands administered by the Department of the Interior, through the Bureau of Land Management, and the Department of Agriculture, through the Forest Service.

DATES: Nominations should be submitted to the address listed below under **ADDRESSES** no later than March 29, 2002.

ADDRESSES: National Wild Horse and Burro Program, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520–0006, Attn: Ramona DeLorme; FAX 775–861–6711.

FOR FURTHER INFORMATION CONTACT: John Fend, Group Manager—Wild Horse and Burro Group, (202) 452–0379. Individuals who use a telecommunications device for the deaf (TDD) may contact Mr. Fend at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Any individual or organization may nominate one or more persons to serve on the Wild Horse and Burro Advisory Board. Individuals may also nominate themselves for Board membership. All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the address listed under ADDRESSES, above. Nominations for the following categories of interest are needed:

Humane Advocacy,

Wildlife Management,

Livestock Management.

The specific category that the nominee will represent should be identified in the letter of nomination. Board membership must be balanced in terms of categories of interest represented. Each member must be a person who, as a result of training and experience, has knowledge or special expertise which qualifies him or her to provide advice from among the categories of interest listed above. Members will be appointed to a term of 3 years.

Pursuant to Section 7 of the Wild Free-Roaming Horse and Burro Act, Members of the Board cannot be employed by either Federal or State Government.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Board will meet no less than two times annually. The Director, Bureau of Land Management may call additional meetings in connection with special needs for advice.

Henri Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 02–12677 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–02–0040; OR–56288]

Partial Cancellation of Proposed Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has partially cancelled 118,000 acres of an application to withdraw approximately 151,970 acres of Federal lands to protect the nationally significant ecological and biological values of the Siskiyou Wild Rivers area. This Notice terminates the temporary segregation of the Federal lands described below from location and entry under the mining laws. All of the lands have been and will remain open to the public land and mineral leasing laws unless closed by other segregations of record.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Matt Craddock, Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504, 541–618–2272.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register** on January 22, 2001, 66 FR 6663—6664, segregating approximately 151,970 acres of Federal lands from location and entry under the mining laws. Based on a review of the lands proposed for withdrawal and a review of the Medford Resource Management Planning objectives outlined in its Record of Decision dated June 1995, the Bureau of Land Management hereby cancels from the withdrawal application the following described lands:

Willamette Meridian

T. 37 S., R. 6 W.,
Sec. 31, W½.

T. 39 S., R. 6 W.,

Sec. 5, E½;
Sec. 8.
T. 33 S., R. 7 W.,
Secs. 18, 19, 30, and 31.
T. 34 S., R. 7 W.,
Secs. 7, 19, 30, and 31.
T. 35 S., R. 7 W.,
Secs. 3 to 10, inclusive, and
Secs. 15, 17, 18, and 19;
Sec. 20, W½.
T. 39 S., R. 7 W.,
Sec. 2.
T. 32 S., R. 8 W.,
Sec. 31.
T. 33 S., R. 8 W.,
Secs. 5 to 36, inclusive.
T. 34 S., R. 8 W.,
Secs. 2 to 5, inclusive, secs. 8 to 10, inclusive, secs. 15 to 17, inclusive;
Secs. 20 to 29, inclusive, and secs. 31 to 36, inclusive.
T. 35 S., R. 8 W.,
Secs. 1, 2, and secs. 6 to 36, inclusive.
T. 38 S., R. 8 W.,
Secs. 9, 15, 21, and 28.
T. 40 S., R. 8 W.,
Secs. 7, 10, 15, and secs. 17 to 20, inclusive;
Sec. 22, N½;
Sec. 33, S½NE¼, and S½; sec. 34.
T. 32 S., R. 9 W.,
Secs. 3 to 9, inclusive, secs. 17 to 22, inclusive, and secs. 24 to 35, inclusive.
T. 33 S., R. 9 W.,
Secs. 1 to 20, inclusive, secs. 23 to 27, inclusive, and secs. 29 to 34, inclusive.
T. 34 S., R. 9 W.,
Secs. 4 to 7, inclusive, secs. 16 to 21, inclusive, and secs. 27 to 36, inclusive.
T. 35 S., R. 9 W.,
Secs. 1 to 14, inclusive, secs. 17 to 20, inclusive, and secs. 23 to 36, inclusive.
T. 41 S., R. 9 W.,
Sec. 9.
Tps. 32, 33, and 34 S., R. 10 W.
T. 32 S., R.11 W.

The areas described aggregate approximately 118,000 acres, more or less, in Curry, Coos, Josephine, and Douglas Counties.

2. At 8:30 a.m., on May 21, 2002, the lands described above will be opened to location and entry under the United States mining laws subject to valid and existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this Notice under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

3. The Bureau of Land Management will continue to evaluate the remaining lands to consider whether or not to recommend a formal withdrawal to the Secretary of Interior.

Dated: February 4, 2002.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 02–12675 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–02–0039; OR–56289 et al]

Cancellation of Proposed Withdrawal, and Notice of Proposed Withdrawal and Opportunity for a Public Meeting; California and Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service canceled its application to withdraw approximately 1,093,953 acres of National Forest System lands to protect the Siskiyou Wild Rivers area. This notice terminates the temporary segregation of the National Forest System lands described below from location and entry under the mining laws. This notice also notifies the public that the Forest Service proposes to withdraw approximately 82,829.35 acres of National Forest System lands in the Siskiyou National Forest to protect endangered species and preserve outstanding botanical and scenic values. Subject to valid existing rights, this notice segregates the National Forest System lands described below for up to 2 years from location and entry under the United States mining laws. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and mineral leasing.

DATES: The effective date of the Siskiyou Wild Rivers withdrawal application cancellation is May 21, 2002. The effective date of the Siskiyou withdrawal application is May 21, 2002. Comments on the new proposed withdrawal must be received by August 19, 2002.

ADDRESSES: Comments should be sent to the Forest Supervisor, Siskiyou National Forest, 333 West 8th Street, P.O. Box 520, Medford, Oregon 97501.

FOR FURTHER INFORMATION CONTACT: Rob Shull, Siskiyou National Forest, (541) 858–2200.

SUPPLEMENTARY INFORMATION: On January 22, 2001, a notice of proposed withdrawal was published in the **Federal Register**, 66 FR page 6664, segregating approximately 1,093,953 acres of National Forest System lands from location and entry under the United States mining laws. The proposed withdrawal as described in the **Federal Register** is hereby cancelled in its entirety on May 21, 2002. Subject to valid existing rights and other segregations of record, the lands described in the January notice are opened to such uses as may by law be made of National Forest System lands including location and entry under the United States mining law.

On October 18, 2001, the United States Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Willamette Meridian

Siskiyou National Forest

T. 32 S., R. 11 W.,
Sec. 5, E½SW¼, and SW¼SE¼;
Sec. 8, lots 1 and 2, W½NE¼, and NE¼NW¼.
T. 32 S., R. 12 W.,
Sec. 26, W½E½, SE¼NE¼, E½NW¼, SW¼NW¼, SW¼, and NE¼SE¼;
Sec. 27, NE¼SE¼ and S½S½;
Sec. 28, SE¼SE¼;
Sec. 33, E½ and SW¼;
Sec. 34, N½ and NW¼SW¼;
Sec. 35, NE¼NW¼ and W½NW¼.
T. 33 S., R. 12 W.,
Sec. 9, lot 4 and SE¼;
Sec. 10, lots 1 to 4, inclusive, SW¼, NE¼SE¼, and W½SE¼;
Sec. 15, W½W½;
Sec. 16, E½;
Sec. 20, S½SE¼;
Sec. 21, NE¼, SW¼SW¼, and N½SE¼;
Sec. 22, W½NW¼ and NW¼SW¼;
Sec. 28, NW¼, NE¼SW¼, and W½SW¼;
Sec. 29, E½ and SW¼;
Sec. 31, E½NE¼ and NE¼SE¼;
Sec. 32;
Sec. 33, W½W½ and NE¼SW¼.
T. 34 S., R. 10 W.,
Sec. 11, S½NE¼ and SE¼;
Sec. 12, E½NW¼, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 13, NW¼NE¼ and N½NW¼;
Sec. 14, NE¼, E½NW¼, W½SW¼, and NE¼SW¼;
Sec. 26, S½SW¼ and SW¼SE¼;
Sec. 33, E½NE¼;
Sec. 34, W½NE¼, NW¼, NW¼SW¼, E½SW¼, and SE¼;
Sec. 35, W½NE¼, W½, and NW¼SE¼.
T. 34 S., R. 12 W.,
Sec. 4, lots 3 and 4, SW¼NW¼, and NW¼SW¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, and N½S½.
T. 35 S., R. 8 W.,
Sec. 13, lots 2 and 3, SW¼NE¼, NE¼SW¼, S½SW¼, and W½SE¼;
Sec. 14, S½SE¼;
Sec. 22, SE¼SW¼ and S½SE¼;
Sec. 23, NE¼NE¼, W½NE¼, SE¼NW¼, and SW¼;
Sec. 24, NW¼NW¼;
Sec. 27, N½NE¼, NW¼, and NE¼SW¼;
Sec. 28, NE¼NE¼.
T. 35 S., R. 9 W.,
Sec. 24, SW¼SE¼;
Sec. 25, NE¼, SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 26, SE¼NE¼, and SE¼;
Sec. 31, lots 3 and 4, and S½SE¼;
Sec. 32, lots 1 to 3, inclusive, S½SW¼, and SW¼SE¼;
Sec. 33, lots 4 to 6, inclusive, SE¼NW¼, and E½SW¼;
Sec. 35, NE¼, E½SW¼, and W½SE¼;
Sec. 36, NW¼NW¼.
T. 35 S., R. 10 W.,
Sec. 2, lot 4, SW¼NW¼ and SW¼;
Sec. 3, lots 1 to 3, inclusive, S½NE¼, N½,SE¼, and SE¼SE¼;
Sec. 10, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 11, lots 3 and 4, and SW¼NW¼;
Sec. 12, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 13, NE¼, NE¼NW¼, S½NW¼, SW¼, NE¼SE¼, and W½SE¼;
Sec. 15, NW¼NE¼, NW¼, NE¼SW¼, and W½SW¼;
Sec. 16, E½NE¼ and SE¼;
Sec. 21, E½SW¼ and E½;
Sec. 22, W½ and S½SE¼;
Sec. 23, E½ and SW¼;
Sec. 24, NW¼NE¼, S½NE¼, W½, and SE¼;
Sec. 25, N½NE¼, NW¼, W½SW¼, and NE¼SW¼;
Sec. 26, E½, NE¼NW¼, W½NW¼, NE¼SW¼, and S½SW¼;
Sec. 27, N½ and N½SW¼;
Sec. 28, N½ and N½S½;
Sec. 29, NE¼, NE½NW¼, S½NW¼, SW¼, NE¼SE¼, and W½SE¼;
Sec. 30, lots 1 to 4, inclusive, SE¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 31, N½NE¼ and NE¼NW¼;
Sec. 34, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;

Sec. 35, N½NE¼, NW¼, W½SW¼, and NE¼SW¼;
Sec. 36, SE¼SW¼ and SE¼.
T. 35 S., R. 10½ W.,
Sec. 31, lots 3 and 4, SW¼, and W½SE¼.
T. 35 S., R. 11 W.,
Sec. 33, SE¼SE¼;
Sec. 34, lots 1 and 2, NE¼SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 35, SW¼NW¼, SW¼, and S½SE¼;
Sec. 36, NE¼SW¼, S½SW¼, and SE¼.
T. 35 S., R. 13 W.,
Sec. 31, lot 1, lots 3 to 8, inclusive, portions of lots 2 and 9, N½NE¼, NE¼NW¼, and SE¼SE¼;
Sec. 32, lots 4 and 5, NW¼NW¼, and SW¼SW¼.
T. 36 S., R. 9 W.,
Sec. 4, lots 3 and 4, S½NW¼, SW¼, and NW¼SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, NE¼SW¼, and N½SE¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, lot 1.
T. 36 S., R. 10 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 2, S½N½ and S½;
Sec. 3, lots 2 to 4, inclusive, S½NW¼, W½SW¼, and E½SE¼;
Sec. 4, lot 1, S½NE¼, S½SW¼, and SE¼;
Sec. 5, SW¼, W½SE¼, and SE¼SE¼;
Sec. 6, SE¼SW¼, and SE¼;
Sec. 7, lots 1 to 3, inclusive, NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 8, NE¼ and N½NW¼;
Sec. 9, E½, NW¼, and N½SW¼;
Sec. 10, E½NE¼, SW¼NW¼, and S½;
Sec. 11, NE¼, W½, NE¼SE¼, and W½SE¼;
Sec. 12, N½ and NW¼SW¼;
Sec. 14, NE¼NW¼ and W½NW¼;
Sec. 15, NE¼, N½NW¼, and SE¼NW¼.
T. 36 S., R. 11 W.,
Sec. 1, lots 1 to 4, inclusive, and SE¼NE¼;
Sec. 2, lots 1 to 4, inclusive, and S½NW¼;
Sec. 3, lots 1 to 4, inclusive, and S½NE¼;
Sec. 4, lots 1 to 6, inclusive, SW¼NW¼, and W½SW¼;
Sec. 5, lot 1, SE¼NE¼, and E½SE¼;
Sec. 13, S½;
Sec. 14, SE¼, NE¼SW¼, and S½SW¼;
Sec. 15, SW¼, W½SE¼, and SE¼SE¼;
Sec. 16, lots 3 and 4, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 21, N½NE¼ and NE¼NW¼;
Sec. 22, NE¼ and N½NW¼;
Sec. 23, N½N½ and SW¼NW¼;
Sec. 24, N½N½.
T. 36 S., R. 12 W.,
Sec. 22, SE¼SE¼;
Sec. 23, S½SW¼ and SW¼SE¼;
Sec. 26, N½ and N½SW¼;
Sec. 27, NE¼ and NE¼SE¼.
T. 36 S., R. 13 W.,
Sec. 6, S½NE¼ and SE¼.
T. 37 S., R. 12 W.,
Sec. 3, W½SW¼ and SE¼SW¼;
Sec. 4, E½SE¼;
Sec. 18, S½SE¼;
Sec. 19, lots 2 to 4, inclusive, E½, and E½W½;
Sec. 20, W½NW¼, SE¼NW, and N½SW¼;
Sec. 30, lots 1 to 4, inclusive, and E½NW¼;
Sec. 31, NW¼NW¼;
Sec. 34, E½SW¼ and SE¼;
Sec. 35, S½NE¼, SE¼NW¼, and S½;
Sec. 36, W½SW¼.
T. 37 S., R. 12½ W.,
Sec. 24, E½, NE¼NW¼, and SE¼SW¼;
Sec. 25, NE¼, E½NW¼, and E½SE¼.
T. 37 S., R. 13 W.,
Protracted blocks 44 and 46.
T. 37½ S., R. 12 W.,
Sec. 25, lots 2 to 4, inclusive, lots 6 and 7;
Sec. 26, lots 2 to 6, inclusive;
Sec. 27, lot 1;
Protracted blocks 43 and 44.
T. 38 S., R. 8 W.,
Sec. 7, SE¼NE¼ and SE¼;
Sec. 8, lots 2 to 4, inclusive, W½E½, and W½;
Sec. 17;
Sec. 18, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Secs. 19 and 20;
Sec. 28, portion of M.S. No. 334;
Sec. 29, lots 1 to 12, inclusive, portion of M.S. No. 334, NW¼NE¼, and NE¼SW¼;
Sec. 30, W½NE¼ and W½;
Sec. 31, NW¼NW¼.
T. 38 S., R. 9 W.,
Sec. 24, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Sec. 25, E½, NW¼, and NE¼SW¼;
Sec. 30, SE¼SW¼ and SW¼SE¼;
Sec. 31, E½ and NE¼SW¼;
Sec. 32, S½NW¼ and N½SW¼;
Sec. 36, NE¼NE¼.
T. 39 S., R. 9 W.,
Sec. 19, lots 2 to 4, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 29, SW¼NW¼ and W½SW¼;
Sec. 30, lots 1 and 2, E½NW¼, and E½;
Sec. 31, lot 4, N½NE¼, SE¼NE¼, E½SW¼, and SE¼;
Sec. 32, W½.
T. 39 S., R. 10 W.,
Sec. 26, S½S½ and NE¼SE¼;
Sec. 34, S½;
Sec. 35, N½, SW¼, N½SE¼, and SE¼SE¼;
Protracted blocks 44 to 46, inclusive.
T. 39 S., R. 11 W.,
Sec. 9, SE¼SE¼;
Sec. 10, W½NW¼, SE¼NW¼, and SW¼;
Sec. 15, NW¼.
T. 39 S., R. 12 W.,
Sec. 28, W½NW¼.
T. 40 S., R. 9 W.,
Sec. 5, lot 4;
Sec. 6, lots 1 to 7, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, and SW¼SE¼;
Sec. 7, lots 1 to 3, inclusive, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 8, W½SW¼ and SE¼SW¼;
Sec. 10, E½SE¼;
Sec. 11, lots 4 to 6, inclusive, and N½SW¼;
Sec. 13, NE¼, S½NE¼NW¼, S½NW¼, and N½S½;
Sec. 14, NE¼, N½NW¼, N½SW¼NW¼, SE¼SW¼NW¼, SE¼NW¼, N½NE¼SW¼, and N½SE¼;
Sec. 15, NE¼, W½, and N½SE¼;
Sec. 16, E½, W½NW¼, SE¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 17, N½ and N½SE¼;
Sec. 18, NE¼NE¼;
Sec. 27, S½NE¼ and SE¼;
Sec. 33, SE¼;
Sec. 34, lots 1 to 8, inclusive, NE¼NE¼, W½NE¼, and NW¼SE¼.
T. 40 S., R. 10 W.,
Secs. 2 and 3;
Sec. 4, SE¼NE¼;
Sec. 8, SE¼;
Sec. 9, E½, S½NW¼, and SW¼;
Secs. 10 and 11;
Secs. 14 to 16, inclusive;
Sec. 17, NE¼NE¼, S½NE¼, SE¼NW¼, and S½;
Sec. 19, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Secs. 20 to 23, inclusive, and secs. 26 to 29, inclusive;
Sec. 30, lots 2 to 4, inclusive, E½, and E½W½;
Protracted blocks 37 to 46, inclusive.
T. 40 S., R. 11 W.,
Sec. 25, NE¼SE¼ and S½SE¼; protracted blocks 42 and 43.
T. 40 S., R. 12 W.,
Sec. 14, SW¼NE¼ and E½NW¼;
Sec. 15, S½NE¼, SE¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 16, SW¼NE¼, SE¼NW¼, and N½SW¼.
T. 40 S., R. 13 W.,
Sec. 12, lot 14;
Sec. 13, NW¼NW¼.
T. 41 S., R. 6 W.,
Sec. 7, lots 1 and 2, NE¼, and W½NW¼;
Sec. 8, NE¼NW¼ and S½NW¼.
T. 41 S., R. 7 W.,
Sec. 8, SE¼SE¼;
Sec. 12, NE¼NE¼;
Sec. 16, NW¼NW¼;
Sec. 17, N½NE¼.
T. 41 S., R. 8 W.,
Sec. 15, lot 1, W½NE¼, and SE¼NE¼.
T. 41 S., R. 9 W.,
Sec. 4, lots 1 and 2, S½NE¼, and S½;
Sec. 5, S½SE¼;
Sec. 8, E½;
Sec. 17, lots 1 and 2, N½, N½SW¼, and NW¼SE¼;
Sec. 18, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼.
T. 41 S., R. 10 W.,
Sec. 3, NW¼NE¼ and NW¼;
Sec. 4, NE¼, W½, N½SE¼, SW¼SE¼;
Secs. 5 and 6;
Sec. 7, NE¼;
Sec. 8, E½, NW¼, N½SW¼, and SE¼SW¼;
Sec. 9, NW¼NE¼, NW¼, and W½SW¼.
T. 41 S., R. 11 W.,
Sec. 1;
Sec. 2, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 11, N½NE¼ and NW¼;
Sec. 12, NW¼NW¼.
T. 41 S., R. 12 W.,
Sec. 3, NW¼NW¼;
Sec. 7, lot 16, NE¼, and SW¼SE¼;
Sec. 8, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 11, SW¼SE¼;
Sec. 14, S½N½, NE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 17, S½NW¼ and N½SW¼;
Sec. 18, lot 1 and NW¼NE¼.

The area described contains approximately 81,769.50 acres in Curry, Coos, Josephine, and Douglas County.

Humboldt Meridian

Siskiyou National Forest

T. 18 N., R. 5 E.,
Sec. 1, W½SW¼ and SE¼SW¼;
Sec. 2, lots 2 to 4, inclusive, S½NE¼, and NE¼SE¼;
Sec. 12, E½NW¼, SW¼NW¼, and W½SW¼;
Sec. 13, NW¼ NW¼.
T. 19 N., R. 5 E.,
Sec. 34, lots 1, 3, 5, and 6, NE¼SW¼, N½SE¼, and SE¼SE¼.
Sec. 35, W½SW¼ and SE¼SW¼;
The area described contains 1,059.85 acres in Del Norte County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Siskiyou National Forest, at the address stated above.

Notice is hereby given that a public meeting will be provided in connection with the proposed withdrawal. The times, dates, and places for the meetings will be announced in a subsequent notice published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set fourth in 43 CFR 2300. For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from location and entry under the United States mining laws unless the application is denied or canceled or the withdrawal is approved prior to that date. All temporary land uses identified in 43 CFR 2310.2(c) may be approved while the lands remain segregated which include, applications for licenses, permits, cooperative agreements or other discretionary land use authorizations of a temporary nature. Locatable mineral operations (36 CFR 228.3(a)) conducted on or for the benefit of mining claims located prior to the effective date of this segregation, can continue and may be allowed without first conducting a valid existing rights determination.

Dated: November 26, 2001.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 02–12676 Filed 5–20–02; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–929–931 (Final)]

Silicomanganese From India, Kazakhstan, and Venezuela

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from India, Kazakhstan, and Venezuela of silicomanganese, provided for in subheading 7202.30.00 or statistical reporting number 7202.99.5040 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective April 6, 2001, following receipt of a petition filed with the Commission and Commerce by Eramet Marietta Inc. (Marietta, OH) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of silicomanganese from India, Kazakhstan, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 29, 2001 (66 FR 59596).[2] The hearing was held in Washington, DC, on April 2, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 16, 2002. The views of the Commission are contained in USITC Publication 3505 (May 2002), entitled Silicomanganese from India, Kazakahstan, and Venezuela: Investigations Nos. 731–TA–929–931 (Final).

Issued: May 16, 2002.
By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12703 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–20–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] On January 14, 2002, the Commission published in the **Federal Register** a notice of revised schedule (67 FR 1783).

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–426 and 731–TA–984–985 (Final)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–426 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–984–985 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from Hungary of sulfanilic acid and less-than-fair-value imports from Hungary and Portugal of sulfanilic acid, provided for in subheadings 2921.42.22 and 2921.42.90 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: May 6, 2002.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202–205–2501), Office of Investigations, U.S. International Trade

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.''

Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Hungary of sulfanilic acid, and that such products from Hungary and Portugal are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 28, 2001, by Nation Ford Chemical Co., Fort Mill, SC.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 24, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 17, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 19, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is July 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 31, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 31, 2002. On August 14, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 16, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. In addition, parties may submit comments on Commerce's final determination with respect to sulfanilic acid from Portugal no later than three working days after Commerce's notice of final determination is published in the **Federal Register**. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: May 16, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12704 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Request for Information Concerning Draft Miscellaneous Tariff Legislation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission is seeking non-confidential general information from interested parties, including proponents, on approximately 400 pending bills proposing duty suspensions or other tariff modifications on imported goods, from among the total number of such bills already introduced (over 600). The Commission

regularly provides this information to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate, based on longstanding requests from the two Committees. These bills are under consideration for possible enactment later this year; many of them are covered by a recent press release issued by the Subcommittee on Trade of the Committee on Ways and Means (see *http://waysandmeans.house.gov/trade/107cong/tr-9.htm*). Because of the large number of bills introduced in recent weeks and the likely scheduling of Congressional proceedings for this summer, the normal Commission process for collecting and compiling this information is being suspended for the remainder of the 107th Congress, based on communications with the staffs of the two Committees. This notice is intended to advise interested parties of the introduction of these bills and to supplement the Commission's efforts to contact interested parties and collect the information needed by the two Committees.

EFFECTIVE DATE: To be useful to the Congress in its consideration, information is sought as soon as possible but not later than July 15, 2002.

ADDRESSES: A single copy of the information being supplied pursuant to this notice can be sent by facsimile transmission to the Office of Tariff Affairs and Trade Agreements, 202–205–2616. Information or questions on bills concerning chemicals, pharmaceuticals or related goods can be sent by electronic mail to David Beck, Nomenclature Analyst, at *dbeck@usitc.gov* or mailed to the Office of Tariff Affairs and Trade Agreements, United States International Trade Commission, Room 404-M, 500 E Street SW, Washington, DC 20436. Information or questions on other bills can be sent by electronic mail to Janis L. Summers, Esq., at *jsummers@usitc.gov* or mailed to Room 404-J at the above address.

FOR FURTHER INFORMATION CONTACT: David Beck, Nomenclature Analyst (202–205–2603); Janis L. Summers, Esq. (202–205–2605); or Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202–205–2592).

SUPPLEMENTARY INFORMATION: As indicated above, due to the volume of pending legislation and the likely scheduling of Congressional proceedings, the normal Commission process for collecting and compiling general information on miscellaneous tariff bills is being suspended for the remainder of the 107th Congress, based on communications with the staffs of the two Congressional Committees. To expedite the collection of the information needed by the Committees, the Commission is posting a list of bills for which general information is being sought, indicating the subject of each bill, on its Internet site, *www.usitc.gov* (under ''New and Notable''), and will be updating this list as additional bills are introduced. A link enabling users to obtain these bills over the Internet will be supplied as well. Persons without access to the Internet can contact the Office of Tariff Affairs and Trade Agreements (202–205–2592) to obtain copies of the list of bills under review or copies of individual bills. Information supplied to the Commission will be compiled for use by the Congress in its consideration of these bills; aggregate information on each bill will be made available to the Congress and to government agencies requested by Congress to evaluate each bill. While Commission analysts will be communicating directly with individual firms, it is requested that firms and other interested parties, particularly firms that may produce goods covered by pending bills in the United States, supply particular general information to ensure its availability to the Committees in a timely manner. Information need not be supplied on all of the above items but can be supplied to the Commission as it is available. Persons desiring to register support for or objections to particular bills should contact the relevant Congressional Committees directly so that such views are available to the Members as quickly as possible.

Accordingly, non-confidential information of the following general types is being sought for each bill, as appropriate to the bill's subject matter, and information may be supplied on any or all of these topics:

(1) Chemical name of the product, if the proposed tariff provision contains only a trade or proprietary name; the Chemical Abstracts Service registry number, if missing from or incorrect in a bill dealing with a chemical product; and the Colour Index name, for chemical dyes and pigments;

(2) Suggested changes in product description or in Harmonized Tariff Schedule of the United States classification, and basis therefor;

(3) Estimated annual dutiable import levels (aggregate and for your firm) for each product covered by the bill for 2002 and each year of the bill's effective period or, if the proposal is for a permanent tariff change, through 2006;

(4) Current, past, or future domestic production of each product covered by the bill by your firm and by other firms; if none, any efforts by your firm to locate a domestic producer or reasons prohibiting domestic production (such as patent coverage);

(5) Estimated annual revenue loss (dutiable imports times applicable duty rate) for each product covered by the bill for 2002 and each year of the bill's effective period or, if the proposal is for a permanent tariff change, through 2006;

(6) Other recommended technical changes and information relevant to consideration of the bill.

Issued: May 16, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12705 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 9, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E–Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act.

OMB Number: 1215–0158.

Affected Public: Farms, Individuals or households; Business or other for-profit.

Frequency: On Occasion.

Number of Respondents: 60.
Number of Annual Responses: 60.
Estimated Time Per Response: 3 minutes.
Total Burden Hours: 4.
Total Annualized Capital/Startup Costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $0.
Description: Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and Section 500.135(b) of Regulations 29 CFR part 500, provide that any person who owns or controls a facility or real property to be used for housing migrant agricultural workers shall not permit such housing to be occupied by any worker unless a copy of a certificate of occupancy from State, Local, or Federal agency which conducted the housing safety and health inspection, is posted at the site of the facility or real property.

Form WH–520 is the form used to gather information to determine whether or not the facility meets the applicable safety and health standards, and also serve as the certificate of occupancy. If the information were not collected, it would not be possible to ascertain which facility had been inspected and certified as meeting applicable safety and health standards and who is responsible for maintaining those standards.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. 02–12696 Filed 5–20–02; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 14, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).
Type of Review: New collection.
Title: Workforce Investment Act (WIA) National Emergency Grant (NEG) Financial Reporting Requirements.
OMB Number: 1205–0NEW.
Affected Public: State, Local, or Tribal Government; Not-for-profit institutions; and Business or other for-profit.
Frequency: Quarterly.
Type of Response: Reporting.
Number of Respondents: 40.
Number of Annual Responses: 320.
Estimated Time Per Response: .5 hours.
Total Burden Hours: 160.
Total Annualized Capital/Startup Costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $0.
Description: In accordance with the Workforce Investment Act of 1998 (Public Law 105–220) and 20 CFR 652 et al., the National Emergency Grant Financial Reporting requirements have been developed to achieve compliance with the statute. Furthermore, the Regulations at 20 CFR 667.300 require that DOL issue financial reporting instructions to the States and other direct grant recipients. These financial reporting requirements represent the DOL's only means for obtaining the statutorily required data.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. 02–12697 Filed 5–20–02; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 14, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) 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). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.
Agency: Employment Standards Administration (ESA).
Title: 29 CFR Part 825, The Family and Medical Leave Act of 1993.
OMB Number: 1215–0181.
Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.
Frequency: On Occasion.
Number of Respondents: 4.7 million.
Number of Annual Responses: 10.107 million.

Estimated Time Per Response: 1 to 10 minutes.

Total Burden Hours: 718,529.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Family and Medical Leave Act of 1993 (FMLA), Public Law 103–3, 107 Stat. 6, 29 U.S.C. 2601, which became effective on August 5, 1993, requires private sector employers of 50 or more employees, and public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to ''eligible'' employees for certain family and medical reasons. The information collections involve third-party notifications between the employer and the employees. These requirements are necessary to ensure that both employers and employees are aware of and can exercise their rights and meet their respective obligations under FMLA. The record-keeping requirement are necessary in order for the Department of Labor to carry out its statutory obligation under section 106 of FMLA to investigate and ensure employer compliance. Without requiring employers to maintain these records, it would not be possible for the Department of Labor to determine compliance.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12698 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary of Labor

Notice of Meeting; President's Council on the 21st Century Workforce and the Committees on Skills Gap, Demographics and Workplace Issues

AGENCY: Office of the Secretary of Labor, DOL.

ACTION: Notice of a meeting of the President's Council on the 21st Century Workforce and meeting of Committees.

SUMMARY: Pursuant to Executive Order 13218, the Secretary of Labor will hold a meeting of the President's Council on the 21st Century Workforce, hereafter (The Council). This is the first meeting of The Council and it's Committees on the Skills Gap, the Changing Demographics and Workplace Issues. The Council and its Committees will provide information and advice to the President, through the Secretary of Labor and the Office of the 21st Century Workforce on issues guided by Executive Order 13218.

DATE, TIME & LOCATION: The Council and its Committees will meet on June 18, 2002 from 8:30 am to approximately 4 pm. The location of the meeting will be the Secretary's Conference Room, U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Russell Harris, in the Secretary's Office of the 21st Century Workforce, room S–2229, 200 Constitution Ave. NW., Washington, DC 20210. The contact telephone number is (202)–693–6490.

SUPPLEMENTARY INFORMATION: The Council and it's Committees will meet on June 18, 2002 in Washington, DC. The meeting is open to the public. The agenda for this meeting includes a:

- ☐ Welcome and remarks by the Secretary of Labor
- ☐ Welcome and remarks by the Director of the Office of the 21st Century Workforce
- ☐ Briefing by Department of Labor (DOL) Officials
- ☐ Committee meeting on the Skills Gap, the Changing Demographics and Workplace Issues
- ☐ Reception

An official record of the meeting will be available for public inspection, in the Office of the 21st Century Workforce. All inquires should be addressed to the Office of the 21st Century Workforce at the address and telephone number provide in the **FOR FURTHER INFORMATION CONTACT** section.

Individuals needing special accommodations for the Council or Committee meeting should contact Russell Harris at telephone number (202) 693–6490 before June 10, 2002 at the above address.

Interested parties may submit written data, views or comments, preferably 20 copies, to Russell Harris at the address listed above. The Office of the 21st Century Workforce will provide submissions received prior to the meeting to the appropriate Committees and will include each submission in the record of the meeting.

Signed at Washington, DC, On May 15, 2002.

Shelley S. Hymes,

Director, Office of the 21st Century Workforce.

[FR Doc. 02–12694 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed collection; comment request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of ''The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 22, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions; (2) to provide

a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation; and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policy making agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policy makers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand—from the public and private sectors—for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over five calendar quarters. The sample for each quarter is divided into three panels, with CU's being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

The BLS and the Census Bureau have converted the paper and pencil CE Quarterly Interview Survey to a computer assisted personal interview (CAPI) instrument. The CE Quarterly Interview CAPI instrument will be implemented in April, 2003.

Minor wording changes were made in the CAPI version of the questionnaire to streamline the reading of questions with automatic ''fills'' of pronouns or previously reported data.

The race and ethnicity questions have been modified in both the Quarterly Interview and the Diary in accordance with the Office of Management and Budget's (OMB) 1997 published ''Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity''. The placement and exact wording of these questions were based on consultations with the interagency group formed to study the implementation of these standards, in an effort to maintain comparability with other household surveys collecting this information.

The response category ''unmarried partner'' was added to the question defining each household member's relationship to the reference person. Previously, this response was a ''write-in'' under ''other'' on the questionnaire. If this category is selected, the person is automatically included in the reference person's consumer unit without asking the subsequent financial responsibility questions.

The wording of the question concerning receipt of cash assistance/welfare was reworded in the Quarterly Interview Survey to ensure respondents correctly include all benefits received from state and local government agencies.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Form	Total Respondents	Frequency	Total Responses	Average Time per Response	Estimated Total Burden (hours)
CE Quarterly Interview CAPI Instrument	9,629	4	38,516	90	57,774
Quarterly Interview Reinterview	2,118	1	2,118	15	530
CE Diary: CE–802 Household Questionnaire	7,745	3	23,235	25	9,681
CE Diary: CE–801, Record of Your Daily Expenses	7,745	2	15,490	105	27,108
CE Diary Reinterview CE–880 CE–880(N)	1,293	1	1,293	12	259
Totals	17,374		80,652		95,352

Please note: Reinterview respondents are a subset of the original number of respondents for each survey. Therefore, they are not counted again in the totals.

Affected Public: Individuals or households.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 8th day of May, 2002.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 02–12695 Filed 5–20–02; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–057)]

NASA Advisory Committee; Notice of Establishment

AGENCY: National Aeronautics and Space Administration (NASA). The Administrator of the National

Aeronautics and Space Administration has determined that the establishment of an Aerospace Medicine and Occupational Health Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed upon NASA by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Aerospace Medicine and Occupational Health Advisory Committee.

Purpose and Objective: The Committee will advise the NASA Administrator through the NASA Advisory Council on programs, policies, plans, and other matters pertinent to the Agency's responsibilities for aerospace medicine and occupational health. Aerospace medicine responsibilities broadly relate to all health and medical issues impacting space flight. Occupational health responsibilities include compliance with externally mandated occupational safety and health requirements and the provision of effective, uniform basic health services to employees of the Agency. The Committee's advice will span crucial health and safety practices in all work environments, on the ground, in the air, and in space. Areas of advice will include the direction and requirements for NASA's clinical research in support of human space flight, standards for occupational health and medical practice, and medical and ethical standards for human and animal research and clinical practice.

Balanced Membership Plans: The Committee will consist of 6 to 11 members. At least one member of the Office of Biological and Physical Research Advisory Committee, the Space Flight Advisory Committee, and the Aerospace Safety Advisory Panel will be appointed to the Committee to ensure robust communication and integration between these advisory groups on all matters affecting health. Membership will be balanced with experts in Aerospace Medicine, Occupational Health, clinical medicine practice, and medical management.

Duration: Continuing.

Responsible NASA Official: Dr. Richard S. Williams, Chief Health and Medical Officer, National Aeronautics and Space Administration, 300 E Street, SW., Washington, DC 20546, telephone 202/358–0702.

Dated: May 9, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12625 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–058)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Tuesday, June 11, 2002, 8:00 a.m. to 6:00 p.m.; and Wednesday, June 12, 2002, 8:00 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–7H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Pagel, Code IC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4621.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Agency Status on ISS Program

—NASA Education Initiative

—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitors register.

Dated: May 8, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12626 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–059)]

NASA Advisory Council, Space Science Advisory Committee, Education and Public Outreach Task Force; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Education and Public Outreach (E/PO) Task Force.

DATES: Tuesday, June 11, 2002, 9:00 a.m. to 5:00 p.m., and Friday, June 14, 2002, 1:00 p.m. to 5:00 p.m.

ADDRESSES: Union League Club of Chicago, 65 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Discussion with OSS E/PO Broker/Facilitators

—Discussion with OSS E/PO Forum Leads

—General Discussion

—Work Assignments

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

May 8, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12627 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–062]

NASA Advisory Council, Space Science Advisory Committee, Astronomical Search for Origins and Planetary Systems Subcommittee

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astronomical Search for Origins and Planetary Systems Subcommittee (OS).

DATES: Thursday, June 6, 2002, 8:30 a.m. to 5:30 p.m., and Friday, June 7, 2002, 8:30 a.m. to 5:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room 5H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- OSS Budget
- Origins Update
- Starlight Update
- Terrestrial Planet Finder Update
- SOFIA Data Cycle System Update
- Origins Roadmap Review
- Origins Government Performance and Results Act Review
- Astronomy and Physics Working Group Report
- Space Archives Working Group Report

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 15, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–12691 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–060)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability.

SUMMARY: NASA hereby gives notice that U.S. Patent No. 6,207,114 entitled, ''Reactive Material Placement Technique for Groundwater Treatment,'' and NASA Case No. KSC–12246, entitled, ''Zero-Valent Metal Emulsion for Reductive Dehalogenation of DNAPLs,'' are available for licensing on a nonexclusive basis. Both of these inventions are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

FOR FURTHER INFORMATION CONTACT: Randy Heald, Assistant Chief Counsel/Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899–0001, telephone (321) 867–7214.

May 8, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–12628 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–061]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Veridian Engineering, Inc. of Dayton, Ohio, 45440–3638 has applied for an exclusive license to practice the inventions disclosed in U.S. Patent No. 5,736,642, entitled ''Nonlinear Ultrasonic Scanning to Detect Material Defects,'' U.S. Patent No. 6,343,513, entitled ''Non-Destructive Evaluation Method and Apparatus for Measuring Acoustic Material Nonlinearity,'' and NASA Case No. LAR 15927–1 entitled ''Method and Apparatus to Ultrasonically Determine Fatigue State,'' for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by June 5, 2002.

FOR FURTHER INFORMATION CONTACT: Helen M. Galus, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–2199, telephone (757) 864–3227; fax (757) 864–9190.

Dated: May 15, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–12692 Filed 5–20–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 AND 50–414]

Duke Energy Corporation, Catawba Nuclear Station, Units 1 and 2; Notice of Availability of the Draft Supplement 9 to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of Catawba Units 1 and 2

Notice is hereby given that the U. S. Nuclear Regulatory Commission (the Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement (GEIS), NUREG–1437, regarding the renewal of operating licenses NPF–35 and NPF–52 for an additional 20 years of operation at Catawba Nuclear Station, Units 1 and 2 (Catawba). Catawba is located in York County, South Carolina. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

The draft supplement to the GEIS is available electronically for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov*. In addition, the York County Library, located at 138 Black Street, Rock Hill, South Carolina, has agreed to make the draft supplement to the GEIS available for public inspection.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be certain of consideration, comments on the draft supplement to the GEIS and the proposed action must be received by August 9, 2002. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments

received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by the Internet at *CatawbaEIS@nrc.gov*. All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's Public Document Room in Rockville, Maryland and from the Publicly Available Records (PARS) component of NRC's document system (ADAMS).

The NRC staff will hold public meetings to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meetings will be held in the auditorium at the Council Chamber at the City Hall, located at 155 Johnston Street, Rock Hill, South Carolina on June 27, 2002. There will be two sessions to accommodate interested parties. The first session will commence at 1:30 p.m. and will continue until 4:30 p.m. The second session will commence at 7:00 p.m. and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) a presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. James H. Wilson by telephone at 1–800–368–5642, extension 1108, or by Internet to the NRC at *CatawbaEIS@nrc.gov* no later than June 21, 2002. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wilson's attention no later than June 21, 2002, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. James H. Wilson, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Wilson may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 13th day of May, 2002.

For the Nuclear Regulatory Commission.

John R. Tappert,

Acting Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12687 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy and on Plant Operations; Notice of Meeting

The ACRS Subcommittees on Materials and Metallurgy and on Plant Operations will hold a joint meeting on June 5, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 5, 2002—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss the Root Cause Report and Repair Plan associated with the Davis-Besse vessel head degradation, the status of licensees' response to Bulletin 2001–01, ''Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles,'' Bulletin 2002–01, ''Reactor Pressure Vessel Head Degradation and Reactor Coolant Pressure Boundary Integrity,'' and data used to support findings related to the control rod drive mechanism (CRDM) penetration cracking and the reactor pressure vessel (RPV) head degradation. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, Electric Power Research Institute (EPRI), Materials Reliability Program (MRP), First Energy Nuclear Operating Company (FENOC), and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the Designated Federal Official, Ms. Maggalean W. Weston (telephone 301–415–3151) between 7:30 a.m. and 5:00 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda that may have occurred.

Dated: May 15, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–12688 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittees on Plant Operations and on Fire Protection; Notice of Meeting

The ACRS Subcommittees on Plant Operations and on Fire Protection will hold a joint meeting on June 19, 2002, in Region II, at the Sam Nunn Atlanta

Federal Center, 23 T85, 61 Forsyth Street, SW, Atlanta, Georgia.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 19, 2002—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss the performance of the plants in Region II including fire protection issues, and other plant related information. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman and written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the Region II personnel, and other interested persons regarding matters scheduled for this meeting.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore, can be obtained by contacting the Designated Federal Official, Ms. Maggalean W. Weston (telephone 301/415–3151) between 8:00 a.m. and 5:30 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda that may have occurred.

Dated: May 15, 2002.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–12689 Filed 5–20–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of May 20, 27, June 3, 10, 17, 24, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 20, 2002

There are no meetings scheduled for the Week of May 20, 2002.

Week of May 27, 2002.

Tuesday, May 28, 2002

9:30 a.m.—Discussion of Security Issues (Closed—Ex. 1)

Wednesday, May 29, 2002

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

9:30 a.m.—Briefing on the Status of New Reactor Licensing Activities (Public Meeting) (Contact: Joseph Williams, 301–415–1470)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of June 3, 2002—Tentative

Friday, June 7, 2002

9:00 a.m.—Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)—New Date, originally scheduled for June 6, 2002)

Week of June 10, 2002—Tentative

There are no meetings scheduled for the Week of June 10, 2002.

Week of June 17, 2002, 2002—Tentative

There are no meetings scheduled for the Week of June 17, 2002.

Week of June 24, 2002—Tentative

10:30 a.m.—All Employees Meeting (Public Meeting)

1:30 p.m.—All Employees Meeting (Public Meeting)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording—(301) 415–1292. Contact person for more information David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet sysetm if available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 16, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–12822 Filed 5–17–02; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–11663]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Community Banks, Inc., Common Stock, $5.00 par value) From the American Stock Exchange LLC

May 15, 2002.

Community Banks, Inc., a Pennsylvania 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, $5.00 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of Amex Rule l8 by complying with all applicable laws in effect in the state of Pennsylvania, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Trustees (''Board'') of the Issuer approved a resolution on March 25, 2002 to withdraw the Issuer's Security from listing on the Amex and to list its Security on the Nasdaq National Market (''Nasdaq''). The Issuer hopes to increase trading volume and the liquidity of its Security by listing on the Nasdaq. The Issuer stated in its application that trading in the Security began on the Nasdaq at the opening of business on May 14, 2002.

The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

under Section 12(b) of the Act[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before June 7, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–12690 Filed 5–20–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Procedures for Consideration of New Requests for Exclusion of Particular Products From Actions With Regard to Certain Steel Products Under Section 203 of the Trade Act of 1974, as Established in Presidential Proclamation 7529 of March 5, 2002

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Presidential Proclamation 7529 of March 5, 2002 established actions under section 203 of the Trade Act of 1974, as amended, (19 U.S.C. 2253) (safeguard measures) with regard to certain steel products, and authorized the United States Trade Representative (USTR) to further consider requests for exclusion of particular products from the safeguard measure that had been submitted in accordance with a **Federal Register** notice published on October 26, 2001 (66 FR 54321). In a notice published on April 18, 2002, USTR established procedures for further consideration of such requests and provided that, to the extent possible, it would consider new exclusion requests submitted after the time period specified in the Notice. This notice sets out the procedures for submitting new exclusion requests.

EFFECTIVE DATE: May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representative, 600 17th Street, NW, Room 501, Washington DC 20508. Telephone (202) 395–5656.

SUPPLEMENTARY INFORMATION: On October 22, 2001, the U.S. International Trade Commission (ITC) issued affirmative determinations under section 202(b) of the Trade Act (22 U.S.C. 2252(b)) that (1) carbon and alloy steel slabs, plate (including cut-to-length plate and clad plate), hot-rolled sheet and strip (including plate in coils), cold-rolled sheet and strip (other than grain-oriented electrical steel), and corrosion-resistant and other coated sheet and strip; (2) carbon and alloy hot-rolled bar and light shapes; (3) carbon and alloy cold-finished bar; (4) rebar; (5) carbon and alloy welded tubular products (other than oil country tubular goods); (6) carbon and alloy flanges, fittings, and tool joints; (7) stainless steel bar and light shapes; and (8) stainless steel rod are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products. The Commissioners voting were equally divided with respect to the determination under section 202(b) of the Trade Act as to whether increased imports of (9) carbon and alloy tin mill products; (10) tool steel, all forms; (11) stainless steel wire; and (12) stainless steel flanges and fittings are being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing those products.

On October 26, 2001, the Trade Policy Staff Committee (TPSC) published a **Federal Register** notice that requested comments on what action the President should take under section 203 of the Trade Act, including any exclusion requests. The TPSC received more than 200 requests, covering approximately 1000 particular products. Each request was assigned a tracking number, beginning with an X (the X number), and posted on the USTR website, *http://www.ustr.gov/sectors/industry/steel201/exclusion_requests.htm.*

On March 5, 2002, the President issued Proclamation 7529, which established safeguard measures in the form of increases in duty and a tariff-rate quota pursuant to section 203 of the Trade Act on imports of ten steel products described in paragraph 7 of that proclamation. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, Proclamation 7529 modifies the HTS so as to provide for such increased duties and a tariff-rate quota. Proclamation 7529 also delegated to the USTR the authority to further consider exclusion requests submitted in accordance with the procedures set out in the Notice and, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to that proclamation to exclude such particular product from the pertinent safeguard measure. USTR published a notice in 67 FR 16484 (April 5, 2002), excluding certain particular products from the safeguard measure.

On April 18, 2002, USTR published a notice in the **Federal Register** informing interested persons of the need for additional information with regard to both previously submitted exclusion requests and previously submitted oppositions to those requests. It instructed interested persons to provide this information in response to questionnaires available on the websites of USTR and the U.S. Department of Commerce. The notice provided further that, to the extent possible, USTR would consider requests for exclusion of products that have not received an X number. It asked interested persons requesting the exclusion of such a product to respond to the questionnaire before May 20, 2002, and indicated that procedures for submitting such additional requests for exclusion will be announced in a subsequent **Federal Register** notice.

USTR, in conjunction with the U.S. Department of Commerce, has developed a series of questions designed to elicit information for products that have not been excluded from the remedy and currently are not subject to reconsideration requests. The information required clearly identifies the product under consideration and provides detailed information on the requestor's situation. These questions, presented in the form of a new exclusion request questionnaire, are available on the USTR and Commerce Department websites at *http://ia.ita.doc.gov/steel/exclusion/.* Parties applying for an exclusion of their product from the remedy should provide responses to this questionnaire by May 20, 2002.

USTR, in conjunction with the Commerce Department, has developed a series of questions designed to substantiate any objections to these new requests for exclusion. These questions,

presented in the form of an objector questionnaire, will be available on the USTR and Commerce Department websites at *http://ia.ita.doc.gov/steel/exclusion/.* Interested persons should submit a complete objector questionnaire at a date to be determined and announced shortly.

If a complete response to the new exclusion request questionnaire with regard to a particular product has not been received by the date indicated above, USTR may disregard the exclusion request for that product. To ensure that an interested party's position is considered in the context of the exclusion request, a complete response to the objector questionnaire should be submitted no later than the due date, which will be determined and announced shortly.

Each request will be evaluated on a case-by-case basis. USTR will grant only those exclusions that do not undermine the objectives of the safeguard measures. In analyzing the requests, USTR will consider whether the product is currently being produced in the United States, whether substitution of the product is possible, whether qualification requirements affect the requestor's ability to use domestic products, inventories, whether the requested product is under development by a U.S. producer who will imminently be able to produce it in commercial quantities and any other relevant factors. Where necessary, USTR and/or the Commerce Department will meet with parties to discuss the information that was submitted and/or to gain additional information.

Every effort will be made to process requests as soon as possible consistent with resources and the quality of information that is received.

Proclamation 7529 also authorizes USTR to exclude particular products from the safeguard measures in March of any year in which a safeguard measure remains in effect. To the extent possible, information submitted in accordance with this notice will be used in the evaluation of whether to grant additional exclusions pursuant to this authority, so as to avoid repetitive submission of information.

Submission of Requests for Exclusion and Opposition to Requests for Exclusion

Parties should follow the instructions posted on the USTR and Commerce Department web sites at *http://ia.ita.doc.gov/steel/exclusion/.* Failure to follow the instructions posted there may result in rejection of the questionnaire submission.

After new exclusion request questionnaires have been received, the Commerce Department will assign an alpha-numeric designator such as ''N299.3'' assigned to the requested product. Requestors will be notified of the assigned alpha-numeric designator for each product as soon as possible after receipt of the submission. All parties must use this alpha-numeric designator in every subsequent reference to that exclusion request.

We strongly discourage the submission of business confidential information. Any questionnaire response that contains business confidential information must be accompanied by six copies of a public summary that does not contain business confidential information, and a diskette containing an electronic version of the public summary. Any paper submission and diskette containing business confidential information must be clearly marked ''Business Confidential'' at the top and bottom of the cover page (or letter) and each succeeding page of the submission, and on the label of the diskette. The version that does not contain business confidential information should also be clearly marked, at the top and bottom of each page, ''public version'' or ''nonconfidential,'' and on the label of the diskette.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) that the Office of Management and Budget (OMB) has approved. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to request the exclusion of a product from the safeguard measures. USTR has submitted the new exclusion request questionnaire to OMB for approval under the Paperwork Reduction Act. It is expected that the collection of information burden will be no more than 20 hours. This collection of information contains no annual reporting or record keeping burden. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 02–12624 Filed 5–20–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34195]

Bighorn Divide & Wyoming Railroad Inc.—Acquisition and Operation Exemption—Rail Lines of Bad Water Line, Inc. and Lost Cabin Gas Plant Line in Riverton, WY, and of The Burlington Northern and Santa Fe Railway Company Between Lysite, WY and Shobon, WY

Bighorn Divide & Wyoming Railroad Inc. (BDW), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate rail lines of: (a) Bad Water Line Inc. (BDL) extending from milepost 0.0 at Shobon (switch on The Burlington Northern and Santa Fe Railway Company (BNSF) at BNSF milepost 303.9) to milepost 4.1 at the town of Shoshoni, WY, and of Lost Cabin Gas Plant Line extending from milepost 0.0 at Lysite (at BNSF milepost 282.7) to milepost 3.89 at Lost Cabin, WY, a total distance of 7.99 miles; and (b) BDL's trackage rights agreement with BNSF between milepost 282.5 at Lysite and milepost 306.0 near Shobon, WY, a distance of 23.5 miles.[1] BDW states that its projected annual revenues do not exceed those that would qualify it as a Class III carrier.

The transaction was scheduled to be consummated on May 1, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34195, must be filed with the Surface Transportation Board, Case

[1] Because BDW is acquiring BDL's rights in a trackage rights agreement that had already existed with BNSF, and not acquiring or entering into a new trackage rights agreement, this proceeding is an acquisition and operation exemption. The owners of BDL have agreed to reorganize the Subchapter S Corporation, BDL, as a Subchapter S Corporation named BDW. Real property of BDL is being transferred to a Limited Liability Company (LLC), named BDW, LLC. Applicant states that these changes are for both tax and public relations purposes and include all assets owned by the former Bad Water Railway, LLC.

Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Clifford Root, 642 South Federal Blvd., Riverton, WY 82501.

Board decisions and notices are available on our website at ''*WWW.STB.DOT.GOV.*''

Decided: May 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–12699 Filed 5–20–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2290–EZ

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2290–EZ, Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

DATES: Written comments should be received on or before July 22, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

OMB Number: 1545–1781.

Form Number: 2290–EZ.

Abstract: Form 2290–EZ may be used instead of Form 2290 to pay the tax due on a highway motor vehicle with a taxable gross weight of more than 75,000 pounds.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 4 hours, 57 minutes.

Estimated Total Annual Burden Hours: 544,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–12722 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 2002–37, 2002–38, and 2002–39

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedures 2002–37, 2002–38, 2002–39, Changes in Periods of Accounting.

DATES: Written comments should be received on or before July 22, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedures should be directed to Carol Savage, (202) 622–3945, or through the Internet *(CAROL.A.SAVAGE@irs.gov.),* Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes in Periods of Accounting.

OMB Number: 1545–1786.

Revenue Procedure Numbers: Revenue Procedures 2002–37, 2002–38, and 2002–39.

Abstract: Revenue Procedures 2002–37, 2002–38, and 2002–39, provide the comprehensive administrative rules and guidance, for affected taxpayers adopting, changing, or retaining annual accounting periods, for federal income tax purposes. In order to determine whether a taxpayer has properly adopted, changed to, or retained an annual accounting period, certain information regarding the taxpayer's qualification for and use of the requested annual accounting period is required. The revenue procedures request the information necessary to make that determination when the information is not otherwise available.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, individuals, not-for-profit institutions and farms.

Estimated Number of Respondents: 800.

Estimated Average Time Per Respondent: 53 minutes.

Estimated Total Annual Burden Hours: 700.

Also, the burden is reflected in the burdens of Forms 1128 and 2553.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–12723 Filed 5–20–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: denise.mclamb@mail.va.gov. Please refer to ''OMB Control No. 2900–0115.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0115'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to determine if a marital relationship has been established and benefits are payable based on a claim of common law marriage.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at page 8066.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 2,400.

Dated: May 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12673 Filed 5–20–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0408]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0408.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0408'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan '' Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630.

OMB Control Number: 2900–0408.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Form 26–8629 is completed and submitted by holders of terminated VA guaranteed manufactured home unit loans and a prerequisite payment of any claims.

b. VA Form 26–8630 is used as a prerequisite to payment of claims on terminated combination loans. The collected is used to determine claim payment due the holder.

Data furnished on these forms, such as accrued interest, various expenses of liquidation, and claim balance, are used by holder in determining the amount claimed. Supporting documentation required includes copies of ledgers for VA use in verifying data provided by the holder to ensure its accounts are correct and to avoid overpayment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 28, 2002, at page 9359.

Affected Public: Business or other for-profit, and Individuals or households.

Estimated Annual Burden: 36 hours.

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629—33 hours.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan—Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630—3 hours.

Estimated Average Burden Per Respondent:

a. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26–8629—20 minutes.

b. Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan—Manufactured Home Unit and Lot or Lot Only), VA Form 26–8630—20 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 110.

Dated: May 9, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–12674 Filed 5–20–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held from Monday, June 10, 2002, through Wednesday, June 12, 2002, at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 230, Washington, DC. Each day the meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. The meeting is open to the public. The Committee will meet to write the Committee's legislatively mandated annual report.

The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services to minority veterans, to assess the needs of minority veterans, and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

Those wishing to attend the meeting should contact Mr. Anthony T. Hawkins, Department of Veterans Affairs, at (202) 273–6708. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments form interested parties on the meeting agenda items and other issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: May 8, 2002.

By direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–12672 Filed 5–20–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 98

Tuesday, May 21, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–01–AD; Amendment 39–12744; AD 2002–09–11]

RIN 2120–AA64

Airworthiness Directives; SOCATA–Groupe AEROSPATIALE Model TBM 700 Airplanes

Correction

In rule document 02–11215 beginning on page 30541 in the issue of Tuesday, May 7, 2002, make the following corrections:

§ 39.13 [Corrected]

1. On page 30542, in the third column, under § 39.13, in the second paragraph, ''**Aerpspatiale**'' should read, ''**Aerospatiale**''.

2. On the same page, in the same column, under § 39.13, paragraph (c), last line, ''5'' should be removed.

3. On page 30543, in the table, in the first column, in paragraph (1)(i), in the first line, ''inboard and carriage'' should read, ''inboard and outboard carriage''.

4. On the same page, in the table, the same column, in paragraph (1)(iv), in the second line, ''and the screw heads'' should read, ''and on the screw heads''.

5. On the same page, in the table, in the same column, in paragraph (2), in the second line, ''on the inboard, and central carriages'' should read, ''on the inboard, outboard, and central carriages''.

6. On the same page, in the table, in the same column, in paragraph (3)(iii), in the third line, ''directs AD. differently.'' should read, ''directs differently.''.

7. On the same page, in the table, in the second column:

a. In the first paragraph, in the seventh line, ''yoy'' should read, ''you''.

b. In the ninth line, ''paragraph (s)(2)'' should read, ''paragraph (d)(2)''.

8. On the same page, in the table, in the same column, in the fourth paragraph, in the first line, ''April 27, 201'' should read, ''April 27, 2001''.

[FR Doc. C2–11215 Filed 5–20–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–13–AD; Amendment 39– 12745; AD 2002–09–12]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Model C90 Airplanes

Correction

In rule document 02–11333 beginning on page 31115 in the issue of Thursday, May 9, 2002 make the following correction:

§ 39.13 [Corrected]

On page 31116, in the third column, §39.13, in the table, under the ''Procedures'' column, in the sixth line, remove the words '' compliance with the''.

[FR Doc. C2–11333 Filed 5–20–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
May 21, 2002

Part II

Department of Transportation

Federal Highway Administration

23 CFR Part 655

National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices for Streets and Highways; Revision; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2001–11159]

RIN 2125–AE93

National Standards for Traffic Control Devices: Manual on Uniform Traffic Control Devices for Streets and Highways; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all public roads. The purpose of this notice of proposed amendments is to revise standards, guidance, options, and supporting information relating to the traffic control devices in all parts of the MUTCD. The proposed changes are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application. These proposed changes are being designated Revision No. 2.

DATES: Comments must be received on or before August 19, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. To facilitate documenting comments, please include the applicable MUTCD section number with each of your comments. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring a notification of receipt of comments must include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366–9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366–0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at *http://dmses.dot.gov/submit*. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661 by using a computer, modem and suitable communications software. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara*.

Background

A list of the items of Revision No. 2 and the text of the Millennium Edition of the MUTCD with Revision No. 2 text incorporated are available for inspection and copying, as prescribed in 49 CFR part 7, at the FHWA Office of Transportation Operations, Room 3408, 400 Seventh Street, SW., Washington, DC 20590. Furthermore, the list of items of Revision No. 2 and the text of the 2000 Millennium Edition of the MUTCD with Revision No. 2 text incorporated are available on the MUTCD Internet site *http://mutcd.fhwa.dot.gov*. The current version of the 2000 Millennium Edition of the MUTCD with Revision No. 1 text incorporated is also available on this Internet site.

This notice of proposed amendments is being issued to provide an opportunity for public comment on the desirability of these proposed amendments to the MUTCD. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

The notice of proposed amendments is being published in response to many comments received after the final rule creating the Millennium Edition of the MUTCD was published on December 18, 2000. About 150 of the 7100 comments that were received on the eight notices of proposed amendments leading to the creation of the Millennium Edition of the MUTCD, while extremely worthy, were deemed to result in too significant a change from the text in the notices of proposed amendments to be incorporated in the final rule without allowing the public an additional comment period. Also, this notice addresses the many advances in technology, and the traffic and safety management strategies that have occurred since the beginning of the updating process of the 1988 edition of the MUTCD in 1997.

The FHWA invites comments on these proposed changes to the MUTCD.

The FHWA proposes giving figure numbers and titles to all pages that did not have a figure number for images of traffic control devices in the Millennium Edition of the MUTCD, to facilitate easy reference. The FHWA also proposes changing the titles of a number of figures to clarify a figure as either ''typical'' or ''example(s) of.'' In general, the FHWA proposes using the word ''typical'' in the title if the figure portrays preferred or recommended practice, and the words ''example(s) of'' in the title if the figure portrays one or several of a variety of things that would be acceptable practice with no recommended preference. Also, where appropriate, the FHWA proposes modifying figures to reflect proposed changes in the text.

Additionally, throughout the MUTCD, minor changes in text are proposed for grammatical or style consistency, to improve consistency with related text or figures, to improve clarity, or to correct minor errors. Where the FHWA proposes to add new sections within a chapter of the MUTCD, the sections in the chapter that follow the proposed addition would be renumbered accordingly. All Tables of Contents, Lists of Figures, Lists of Tables, and page headers and footers would be revised as appropriate to reflect the proposed changes.

The FHWA is aware that Section 508 of the Rehabilitation Act, 29 U.S.C. 794 (2001), requires that certain electronic and information technology (''EIT'') be accessible to individuals with disabilities. By regulation, 36 CFR 1194.4 (2001), EIT includes information contained on world wide websites. Because the FHWA distributes the MUTCD via the Internet site *(http://mutcd.fhwa.dot.gov)*, it is aware that it must comply with Section 508, and it will do so by providing, in addition to the PDF file format, an alternative

format (hypertext markup language—HTML), that is accessible to individuals with disabilities. Included within those HTML files will be narrative descriptions of the illustrations (figures) that are contained within the affected non-accessible format electronic files. However, because of the very large number of figures of traffic control devices and of their possible applications in the 1150 page MUTCD, it was determined that the FHWA would be tentatively exempted from meeting this regulation due to onerous and costly effort resulting in a fundamental alteration of the electronic version of the MUTCD. The FHWA does have a contractual task underway, that will be completed approximately in a year, to develop the hypertext markup language tags. Furthermore, the FHWA determined that this notice of proposed amendments go forward immediately as the proposed changes would be beneficial to the traveling public, including those with visual disabilities.

A summary of the significant proposed changes for each of the parts of the MUTCD is included in the following discussion.

1. On Page i the FHWA proposes including addresses for several additional organizations whose publications are referenced in the various parts of the MUTCD.

Discussion of Proposed Amendments to the Table of Contents

2. The FHWA proposes condensing the Table of Contents to include only the list of Parts and Chapters. Each Part will continue to begin with a ''table of contents'' that contains the page number of every section, figure, and table. This change will simplify the search for an item by those with visual disabilities by enabling them to advance to the appropriate Part and then page more quickly and easily.

Discussion of Proposed Amendments to the Introduction

3. In the Introduction, the FHWA proposes adding a fourth SUPPORT statement to clarify the organization of the MUTCD and explain how one could reference portions of the MUTCD.

The FHWA also proposes adding a new section that lists special compliance dates for various portions of the MUTCD. The purpose of this list is to provide a convenient reference guide to the user of special compliance dates for various portions of the MUTCD.

Discussion of Proposed Amendments to Part 1—General

4. In Section 1A.05 Maintenance of Traffic Control Devices, in the second paragraph of the GUIDANCE statement, the FHWA proposes revising the text to eliminate redundancy.

5. In Section 1A.10 Interpretations, Experimentations, and Changes, the FHWA proposes changing the first GUIDANCE statement to a STANDARD statement to ensure that these requests come to the FHWA's Office of Transportation Operations.

Additionally, following the fourth GUIDANCE statement the FHWA proposes adding STANDARD, GUIDANCE, OPTION, and SUPPORT statements describing a new ''interim approval'' process for the FHWA approving the use of new traffic control devices pending official rulemaking. Additionally, the FHWA proposes modifying Figure 1A–2 to reflect the ''interim approval'' process.

6. In Section 1A.11 Relation to Other Documents, the FHWA proposes modifying the STANDARD statement to update the documents to the latest editions. Additionally, the FHWA proposes adding additional sources of information in the SUPPORT statement. The FHWA also proposes revising the order of the sources of information, alphabetizing first by source, then by the title of the document.

7. In Section 1A.12 Color Code, the FHWA proposes adding to the STANDARD statement the assignment of the color fluorescent coral to incident management to make it easier for road users to follow directions relating to traffic incidents. The items will be reordered so that the colors appear in alphabetical order. The color coordinates for the color coral are indicated below.

The Commission Internationale de l'Eclairage (CIE) (English: International Commission on Illumination) chromaticity coordinates (x, y), defining the corner of the Fluorescent Coral daytime color region are as follows:

X	y
0.450	0.270
0.590	0.350
0.644	0.290
0.536	0.230

	Luminance Factor Limits (Y)				
	D_{65}			D_{150}	
	Min	Max	Y_F	Min	Max
Fluorescent Pink	25	None	15	25	None.

Fluorescent materials differ from non-fluorescent materials in that the total luminance is the sum of the luminances due to reflection and fluorescence. The luminance factor Y of such materials is the sum of the luminance due to reflection (Y_R) and the luminance due to fluorescence (Y_F). Therefore, $Y=Y_R+Y_F$. If the value Y_F is greater than zero, the material is fluorescent; if Y_F equals zero, then the luminance factor Y is equal to Y_R.

These four pairs of chromaticity coordinates determine the acceptable color in terms of CIE 1931 Standard Colorimetric System (2 degree standard observer) measured with CIE Standard Illuminant D65 in accordance with ASTM E991. In addition, the color shall be fluorescent, as determined by ASTM E1247.

8. In Section 1A.13 Definitions of Words and Phrases in This Manual, the FHWA proposes in the STANDARD statement revising definitions for: ''Active Grade Crossing Warning System,'' ''Average Day,'' ''Beacon,'' ''Crosswalk,'' and ''Highway Traffic Signal'' to better reflect accepted practice and terminologies.

Additionally, the FHWA proposes adding definitions for ''Crashworthy,'' ''Detectable,'' ''Inherently Low Emission Vehicle (ILEV),'' ''Pedestrian Facilities,'' and ''Roundabout Intersection'' since they are used in the MUTCD.

Additionally, the FHWA proposes removing the definition for ''Preferential Lane Marking'' since it is no longer used in the MUTCD.

9. In Section 1A.14 Abbreviations Used on Traffic Control Devices, the FHWA proposes in the first STANDARD statement revising the text to clarify that the abbreviations shown in Table 1A–1 are not the only word messages that can be abbreviated.

The FHWA also proposes adding a GUIDANCE statement at the end of this section to give guidance regarding the consistency of abbreviations within a single jurisdiction.

Additionally, the FHWA proposes revising Tables 1A–1 and 1A–2 to include additional abbreviations, delete some abbreviations, and modify some abbreviations, based on research on driver understanding of abbreviations.

Discussion of Proposed Amendments to Part 2—Signs

10. In Section 2A.06 Design of Signs, the FHWA proposes adding to the SUPPORT statement that the ''general appearance'' of the sign legends, colors and sizes are shown in the illustrations and do not exactly correspond to the letter brush stroke widths of the ''Standard Highway Signs'' [1] book and the FHWA central values and tolerance limits of colors.

Additionally, the FHWA proposes adding to the STANDARD statement that, unless otherwise stated in the MUTCD for a specific sign, phone numbers or Internet addresses shall not be shown on any sign to reduce the possibility of driver distraction.

11. In Section 2A.07 Changeable Message Signs, the FHWA proposes revising the GUIDANCE statement to include safety messages as one of the types of allowable displays for changeable message signs.

Additionally, the FHWA proposes adding at the end of the section OPTION, SUPPORT, GUIDANCE, and STANDARD statements regarding the use, design, and format of safety and other messages so that they do not adversely affect the usefulness of the sign.

12. In Section 2A.08 Retroreflectivity and Illumination, the FHWA proposes clarifying Table 2A–1 by replacing ''Patterns of incandescent light bulbs'' with ''Incandescent light bulbs'' and by adding ''Light Emitting Diodes (LEDs)'' to the listed Means of Illumination under Other Devices to reflect current technology.

Additionally, the FHWA proposes adding a new SUPPORT statement at the end of the section referencing information contained in Section 2A.22 on the use of retroreflective material on the sign support.

13. In Section 2A.10 Shapes, the FHWA proposes clarifying Table 2A–3 by removing the Emergency Evacuation Route Marker from the listed signs for the circle shape as the FHWA proposes that the design of this sign be a rectangular plate in accordance with other guide signs, as indicated in Section 2I.03.

Additionally, the FHWA proposes clarifying the information for the Trapezoid shape signs to be ''Recreational and Cultural Interest Area Series'' and ''National Forest Route'' signs.

14. In Section 2A.11 Sign Colors, the FHWA proposes modifying the STANDARD statement to read ''The colors to be used on standard signs and their specific use on these signs shall be as indicated in the applicable sections of this Manual. The color coordinates and values shall be as described in 23 CFR, Part 655, Subpart F, Appendix.'' This proposed modification will clarify that the color requirements apply to all signs in the MUTCD, not just those in Part 2, and would refer to the correct location of the color coordinates and values. The FHWA also proposes modifying the SUPPORT statement by deleting the color coral from the reserved colors, because FHWA proposes that the color coral be assigned for incident management uses. Additionally, the FHWA proposes adding to the SUPPORT statement that information regarding color coding of destinations on guide signs is contained in Section 2D.03. The FHWA also proposes modifying Table 2A–4 by adding a new column on the right hand side for the color coral, by adding a new row ''Incident Management'' to the bottom, by adding a second new row at the bottom, following Incident Management, ''Changeable Message Signs**'' and by adding or revising color designation and note to reflect proposed changes in other parts of the MUTCD.

15. In Section 2A.12 Dimensions, the FHWA proposes adding a second paragraph to the SUPPORT statement describing and clarifying the different sizes of signs, as detailed in the Standard Highway Signs book.

16. In Section 2A.14 Word Messages, the FHWA proposes modifying the first GUIDANCE statement to clarify that the specific ratio of 25 mm (1 in) of letter height per 12 m (40 ft) of legibility distance should be a minimum.

Additionally, the FHWA proposes adding a new SUPPORT statement after the first paragraph of GUIDANCE to provide additional information that some research indicates that a ratio of 25 mm (1 in) of letter height per 10m (33 ft) of legibility distance could be beneficial for addressing the needs of older road users. A new GUIDANCE heading would be added after the new SUPPORT statement.

17. In Section 2A.15 Sign Borders, the FHWA proposes modifying the STANDARD statement to clarify that the corners of all sign borders, except for STOP signs, shall be rounded. The FHWA also proposes modifying the GUIDANCE statement to clarify that, where practical, the corners of the sign should be rounded to fit the border, except for STOP signs.

18. In Section 2A.16 Standardization of Location, the FHWA proposes relocating Figures 2A–3, 2A–4, 2A–5, and 2A–6 to Section 2B.32 and removing Figure 2A–7. These relocated figures are more appropriate in Chapter 2B. The first SUPPORT statement would be revised to reflect these changes.

19. In Section 2A.17 Overhead Sign Installations, the FHWA proposes modifying the GUIDANCE statement to clarify that overhead guide signs should be used on freeways as well as expressways, under certain conditions.

20. In Section 2A.18 Mounting Height, the FHWA proposes relocating the first OPTION and SUPPORT statements so that they appear after the second paragraph of the first STANDARD statement. This proposed change will improve the clarity of the section.

Additionally, the FHWA proposes adding a paragraph to the last OPTION statement heading to state that if the vertical clearance for the design of other structures is less than 4.9 m (16 ft), the vertical clearance to overhead sign structures or supports may be as low as 0.30 m (1 ft) higher than the vertical clearance for the design of the other structures. These lower clearances for the sign structures are sometimes needed to maximize the visibility of the signs when low bridge structure or tunnel clearances limit the sign visibility.

21. In Section 2A.19 Lateral Offset, the FHWA proposes dividing the first STANDARD statement into a STANDARD and a GUIDANCE statement. The proposed STANDARD statement will deal with the lateral offset of overhead sign supports, and the proposed GUIDANCE statement will deal with the lateral offset of roadside-mounted signs. This will provide additional flexibility to jurisdictions for roadside-mounted signs.

22. In Section 2A.20 Position of Signs, the FHWA proposes to removing the second sentence under the SUPPORT statement as the references to the figures duplicates other references elsewhere.

23. In Section 2A.22 Posts and Mountings, the FHWA proposes adding an OPTION statement after the

[1] ''Standard Highway Signs,'' FHWA, 2002 Edition is available for purchase from the U.S. Government Printing Office Bookstore, Superintendent of Documents, Room 118, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222. Internet web site at *http://bookstore.gpo.gov*. It is also available on the FHWA's web site at *http://mutcd.fhwa.dot.gov* and is available for inspection and copying at the FHWA Washington Headquarters and all FHWA Division Offices as prescribed at 49 CFR part 7.

SUPPORT statement, indicating that a strip of retroreflective material may be used on the supports of regulatory and warning signs to draw attention to the sign during nighttime conditions.

Additionally, the FHWA proposes adding a second STANDARD statement after the OPTION statement specifying the size, location, and color of the strip of retroreflective material if it is used. This will provide for uniformity of application.

24. In Section 2A.24, the FHWA proposes changing the title of the section from ''Wrong Way Traffic Control'' to ''Median Opening Treatments for Divided Highways with Wide Medians,'' to better clarify the content of the section.

Additionally, the FHWA proposes removing the existing GUIDANCE statement and to change the STANDARD statement to a GUIDANCE statement, to clarify that at the median opening of a divided highway with side streets and driveways, where the median width at the median opening is 9 m (30 ft) or more, the median openings should be signed as two separate intersections. This will provide additional signing flexibility to jurisdictions.

25. In Section 2B.02 Design of Regulatory Signs, the FHWA proposes adding OPTION and GUIDANCE statements at the end of the section regarding the use of Changeable Message Signs to provide for the display of regulatory signs.

26. In Section 2B.03 Size of Regulatory Signs, the FHWA proposes modifying Table 2B–1 by adding and removing signs to reflect proposed changes in Part 2, and by adding additional sign sizes. These new sign sizes reflect proposed changes in Part 2, are values from the ''Standard Highway Signs'' book, and reflect regular use by highway agencies.

Additionally, the FHWA proposes that the ONE WAY (R6–2) sign and the DIVIDED HIGHWAY CROSSING (R6–3, R6–3a) signs be increased in size for all roads based on the research addressing the needs of older road users. The FHWA proposes adding sign sizes in the ''Expressways'' and ''Freeways'' columns for these signs and the R6–1 ONE WAY sign, since these are the main signs to alert road users of the divided highway.

The FHWA proposes that the new sizes of these signs become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding to the OPTION statement that signs larger than those shown in Table 2B–1 may be used. Sometimes there are special conditions that warrant much larger signs and this flexibility is needed.

27. In Section 2B.06 STOP Sign Placement, the FHWA proposes correcting an error in the STANDARD statement by changing the word ''correct'' to ''right'' so that the statement reads, ''The STOP sign shall be installed on the right side of the traffic lane to which it applies.''

Additionally, the FHWA proposes adding that other than a DO NOT ENTER sign, no other sign shall be mounted back-to-back with a STOP sign, to assure that the shape of the STOP sign is visible to road users on other approaches to the intersection. The proposed exception for the DO NOT ENTER sign is to allow flexibility in urban areas where there may not be enough room to install separate poles for each sign and both signs must be installed at the corner.

28. In Section 2B.09 YIELD Sign Applications, the FHWA proposes clarifying the OPTION statement by adding a reference to STOP signs. The proposed change states that instead of using a STOP sign, a YIELD sign may be used if engineering judgment indicates that one or more of the conditions listed exist. The conditions for using a YIELD sign are not being changed.

Additionally, the FHWA proposes adding a STANDARD statement after the OPTION statement to require the use of a YIELD sign to assign right-of-way at the entrance to a roundabout intersection. An essential design feature of a modern roundabout is ''yield-on-entry'' so a YIELD sign is necessary at all entrances to the roundabout.

29. In Section 2B.10 YIELD Sign Placement, the FHWA proposes correcting an error in the first paragraph of the STANDARD statement by changing the word ''correct'' to ''right'' so that the first sentence reads, ''The YIELD sign shall be installed on the right side of the traffic lane to which it applies.'' Additionally, FHWA proposes adding a new sentence after the first sentence of the STANDARD statement to require that YIELD signs shall be placed on both the left and right sides of the approaches to roundabout intersections with more than one approach lane. This is in concert with best practices of modern roundabout design and to assure adequate visibility of the YIELD signs.

The FHWA also proposes adding a paragraph to the STANDARD statement, which states that other than a DO NOT ENTER sign, no other sign shall be mounted back-to-back with a YIELD sign.

Additionally, the FHWA proposes adding a paragraph to the GUIDANCE statement stating that, at a roundabout intersection, the face of the YIELD sign should not be visible from the circulating roadway. This is recommended to prevent circulating vehicles in the roundabout from yielding unnecessarily.

The FHWA also proposes adding an OPTION statement at the end of the section to allow the installation of an additional YIELD sign on the left side of the road and/or the use of a YIELD line at wide-throat intersections. This will provide for improved visibility of the YIELD signs where needed.

30. In Section 2B.11 Speed Limit Sign (R2–1), the FHWA proposes modifying the STANDARD statement to reflect that as indicated in Figure 2B–1, the FHWA proposes a new unique design for the metric speed limit sign. The sign will have a red circle around the speed value with a ''km/h'' legend below. Based on this new design, the FHWA proposes removing the first SUPPORT statement, as it is no longer needed. The new design of the metric Speed Limit sign will better differentiate a metric speed limit sign from an English units speed limit sign, and will also remedy the possible situation where the ''METRIC'' plaque used in the old design is damaged or stolen and the sign appears to be an English units Speed Limit sign with a higher but erroneous value.

The FHWA also proposes clarifying the third paragraph of the GUIDANCE statement to differentiate the rounding of a speed limit on a sign located on a non-residential street from a sign located on a residential street. The proposed GUIDANCE states that when a speed limit is posted, it should be the 85th-percentile speed of free-flowing traffic, rounded up to the nearest 10 km/h (5 mph) on non-residential streets and rounded up or down to the nearest 10 km/h (5 mph) increment on residential streets. Additionally, the FHWA proposes adding a paragraph to the beginning of the GUIDANCE statement, which states that States and local agencies should reevaluate their non-statutory speed limits on their streets and highways at least once every 5 years to determine whether adjustments would be appropriate.

The FHWA proposes adding a paragraph to the end of the OPTION statement, which states that a changeable message sign that displays to approaching drivers the speed at which they are traveling may be installed in conjunction with a Speed Limit sign.

The FHWA also proposes adding, following the OPTION statement, a GUIDANCE statement, which states that if a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX KM/H (MPH) or similar legend should be shown. Changeable message signs displaying the actual speeds of approaching drivers have been shown to be valuable tools to enhance driver compliance with speed limits.

31. Following Section 2B.14 Minimum Speed Limit Sign (R2–4), the FHWA proposes adding a new section numbered and titled ''Section 2B.15 Fines Higher Sign (R2–6).'' The proposed Section 2B.15 will consist of OPTION, GUIDANCE, and STANDARD statements on the uses of the FINES HIGHER sign; namely, to advise road users when increased fines are imposed for traffic violations within designated roadway segments; and on the installation of the FINES HIGHER sign; namely, below an applicable regulatory or warning sign in a temporary traffic control zone, a school zone, or other applicable designated zone. The sections following Section 2B.15 will be renumbered accordingly.

32. The FHWA proposes removing existing Section 2B.16 Reduced Speed Ahead Signs (R2–5) Series, as these signs are proposed to be revised to be warning signs and added to Chapter 2C. The FHWA proposes this change because the intended message is more properly categorized as a warning message rather than a regulatory message. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

33. In Section 2B.17, the FHWA proposes retitling the section from ''Turn Prohibition Signs (R3–1 through R3–4)'' to ''Turn Prohibition Signs (R3–1 through R3–4, and R3–18)'' to include a new symbol sign which combines the No Left Turn and the No U-Turn symbol signs into one symbol sign, and to add to the OPTION and GUIDANCE statements information on the proper use of the sign. This proposed new sign will reduce the sign clutter at an intersection where both movements are restricted and make it easier for road users to understand the multiple turn restrictions.

34. In Section 2B.19 Mandatory Movement Lane Control Signs (R3–5, R3–5a, and R3–7), the FHWA proposes clarifying the GUIDANCE statement that the lane control pavement markings mentioned are lane-use arrow markings.

35. In Section 2B.23, the FHWA proposes changing the title from ''Reversible Lane Control Signs (R3–9c through R3–9i)'' to ''Reversible Lane Control Signs (R3–9d, R3–9f through R3–9i)'' and removing the R3–9c and R3–9e signs and all of their references in the section. Using just the R3–9d sign will improve uniformity and maintain consistency with the red X symbol used in reversible lane signal systems. The DO NOT ENTER symbol is intended to be used to prohibit entry into a roadway or ramp, and using this symbol to prohibit use of a single lane of a roadway that is otherwise available for travel is inconsistent and degrades the meaning of the symbol.

The FHWA proposes clarifying in the first STANDARD statement that the barriers mentioned are physical barriers.

Additionally, the FHWA proposes modifying item B of the second OPTION statement to read, ''An engineering study indicates that the use of the Reversible Lane Control signs alone would result in an acceptable level of safety and efficiency.'' This is proposed to clarify the specific types of signs used for control of a reversible lane operation that the study needs to evaluate to determine whether such signs alone, without reversible lane signals, would be acceptable.

The FHWA proposes that these changes in Section 2B.23 become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

36. In Section 2B.28 Keep Right and Keep Left Signs (R4–7, R4–8), the FHWA proposes adding to the first OPTION statement that the Keep Left (R4–8) sign may be used at locations where it is necessary for traffic to pass only to the left of a roadway feature or obstruction.

The FHWA proposes adding to the GUIDANCE statement to clarify that the Keep Right sign should be mounted on the face of, or just in front of, a pier or other obstruction separating opposite directions of traffic in the center of the highway such that traffic will have to pass to the right of the sign.

Additionally, the FHWA proposes adding a new STANDARD statement following the GUIDANCE statement that the Keep Right sign shall not be installed on the right side of the roadway in a position where traffic must pass to the left of the sign.

The proposed changes in Section 2B.28 are to clarify the proper uses of Keep Right and Keep Left signs.

37. In Section 2B.29 DO NOT ENTER Sign (R5–1), the FHWA proposes modifying the GUIDANCE statement by clarifying the placement of the DO NOT ENTER sign. The proposed GUIDANCE states that, if used, the DO NOT ENTER sign should be placed directly in view of the road user at the point where a road user could wrongly enter a divided highway, one-way roadway, or ramp, and includes a reference to Figure 2B–8.

Additionally, the FHWA proposes renumbering and retitling Figure 2B–2 from ''Typical Wrong-Way Signing for a Divided Highway'' to ''Figure 2B–8. Example of Wrong-Way Signing for a Divided Highway with a Median Width of 9 m (30 ft) or Greater.''

38. In Section 2B.31 Selective Exclusion Signs, the FHWA proposes changing item H in the SUPPORT statement from ''Hazardous Cargo'' to ''Hazardous Material'' to reflect the changes proposed in Section 2B.46.

39. In Section 2B.32 ONE WAY Signs (R6–1, R6–2), the FHWA proposes relocating four figures from Section 2A.16 to Section 2B.32. Figure 2A–5 will be renumbered and retitled ''Figure 2B–10. Examples of Locations of ONE WAY Signs''; Figure 2A–6 will be renumbered and retitled ''Figure 2B–11. Examples of Locations of ONE WAY Signs''; Figure 2A–4 will be renumbered and retitled ''Figure 2B–12. Examples of ONE WAY Signing for Divided Highways with Medians 9 m (30 ft) or Greater''; and Figure 2A–3 will be renumbered and retitled ''Figure 2B–13. Example of ONE WAY Signing for Divided Highways with Medians Less Than 9 m (30 ft).'' The FHWA also proposes to add a new figure, ''Figure 2B–14. Examples of ONE WAY Signing for Divided Highways with Medians Less Than 9 m (30 ft) and Separated Left-Turn Lanes.'' These figures are most directly associated with ONE WAY signs and should be located adjacent to Section 2B.32, which contains the text about ONE WAY signs.

Additionally, the FHWA proposes showing the optional Keep Right signs on the medians on Figures 2B–13 and 2B–14 at a 45 degree angle facing the road users on the cross street, to make it easier for them to determine the location of the median nose and to enter the proper roadway of a divided highway.

40. In Section 2B.35 Design of Parking, Standing, and Stopping Signs, the FHWA proposes adding to the GUIDANCE statement that where special parking restrictions are imposed

during heavy snowfall, Snow Emergency signs should be installed, and that the legend will vary according to the regulations, but the signs should be vertical rectangles, having a white background with the upper part of the plate a red background. This GUIDANCE was inadvertently left out of the current MUTCD. However, signs of this type are used by many jurisdictions.

41. In Section 2B.39 Pedestrian Crossing Signs (R9–2, R9–3), the FHWA proposes modifying the second OPTION statement by changing the ''PEDESTRIANS PROHIBITED'' to ''NO PEDESTRIAN CROSSING'' as the proper word message sign to be used as an alternate to the No Pedestrian Crossing (R9–3a) symbol sign. ''NO PEDESTRIAN CROSSING'' is the intended meaning of the symbol and more clearly describes the actual restriction of pedestrian movement.

42. In Section 2B.40, the FHWA proposes changing the title from ''Traffic Signal Signs (R10–1 through R10–13)'' to ''Traffic Signal Signs (R10–1 through R10–21)'' to reflect proposed additional traffic signal signs. These signs are shown in new Figures 2B–17 and 2B–18.

The FHWA proposes adding to the second OPTION statement that the R10–3d sign may be used if the pedestrian clearance time is sufficient only for the pedestrian to cross to the median. This sign is similar to the existing R10–3b sign except that next to the DON'T WALK symbol is the message ''START CROSSING TO MEDIAN WATCH FOR VEHICLES.'' The FHWA also proposes modifying Figure 2B–17 to add illustrations of the R10–3d sign and the R10–3e sign. The R10–3e sign is a variant incorporating ''time remaining to finish crossing'' and is consistent with countdown pedestrian signals as proposed in Part 4.

Additionally, the FHWA proposes revising and relocating the third OPTION statement to follow the second STANDARD statement to indicate that a symbolic NO TURN ON RED (R10–11) sign may be used as an alternate to the R10–11a and R10–11b signs. The symbolic sign is proposed to have a symbolic red ball rather than using the ''No Right Turn'' symbol, to avoid confusion with the R3–1 (No Right Turn) sign.

Additionally, the FHWA proposes relocating the last item in the second GUIDANCE statement to the first paragraph under the third OPTION statement (new fourth OPTION statement) and changing it to read that when right turn on red after stop is permitted and pedestrian crosswalks are marked, the TURNING TRAFFIC MUST YIELD TO PEDESTRIANS (R10–15) sign may be used. This proposed change is necessary to prevent potential overuse and reduced impact of the sign. Additionally, the FHWA proposes adding a paragraph to the third OPTION statement (new fourth OPTION statement) allowing the use of supplemental plaques showing times of day or with the legend WHEN PEDESTRIANS ARE PRESENT below a NO TURN ON RED sign, to allow the flexibility to restrict turns on red only during certain times or when a pedestrian conflict is present.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that where turns on red after stop are permitted and the turn signal indication is a RED ARROW, the RIGHT (LEFT) TURN ON RED ARROW PERMITTED AFTER STOP (R10–17 or R10–17a) sign should be installed adjacent to the RED ARROW signal indication to conform to the ''Uniform Vehicle Code and Model Traffic Ordinance'' [2] (UVC) as revised. The revised UVC prohibits turns on a RED ARROW after stop unless a sign specifically allowing the turn is in place.

Additionally, the FHWA proposes adding to the third STANDARD statement that the EMERGENCY SIGNAL—STOP WHEN FLASHING RED (R10–14) sign shall be used in conjunction with emergency beacons and that the U–TURN YIELD TO RIGHT TURN (R10–16) sign shall be installed near the left-turn signal face if U-turns are allowed on a protected left-turn movement from which drivers making a right turn from the conflicting approach to their left are simultaneously being shown a right-turn GREEN ARROW signal indication, to correspond with proposed changes in Part 4 of the MUTCD, which will require the use of these signs with Emergency Beacons and when right turns conflict with U-turns, respectively.

43. In Section 2B.46 the FHWA proposes changing the title from ''Hazardous Cargo Signs (R14–2, R14–3)'' to ''Hazardous Material Signs (R14–2, R14–3)'' and revising the OPTION and GUIDANCE statements to replace ''cargo'' with the word ''material'' and to revise the symbol for the Hazardous Material sign (R14–3) sign to be HM rather than HC, to correspond with Section 2B.31 and to reflect the change in terminology in the industry. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 5 years for existing signs in good condition to minimize any impact on State or local highway agencies.

44. In Section 2B.48 Preferential Lane Signs (R3–10 through R3–17), the FHWA proposes modifying the first paragraph of the third GUIDANCE statement to include light rail transit in the list of preferential lane signs for which the diamond symbol should not be used, because the diamond symbol is intended to be used only to denote HOV lanes. The FHWA also proposes changing the last paragraph of the third GUIDANCE statement to a second STANDARD statement because changeable message signs serving as HOV signs shall be the required sign size and shall display the required letter height and legend format that corresponds to the type of facility and design speed as articulated in Section 2A.07. This proposed change from a recommended practice to a required practice is being made to preclude the use of insufficiently sized or designed changeable message signs to display these important regulatory messages for HOV lane use.

Additionally, the FHWA proposes adding a new GUIDANCE statement at the end of the section that the Inherently Low Emission Vehicle (ILEV) (R3–10b) sign should be used to indicate that it is permissible for a properly labeled and certified ILEV, regardless of the number of occupants, to operate in the HOV lanes and that the ILEV signs should be ground mounted in advance of the HOV lanes and at intervals along the HOV lanes based upon engineering judgment. A uniform sign design and application are needed to enhance driver understanding and compliance regarding ILEV use of HOV lanes and also to correspond to proposed changes in Section 2B.49.

45. In Section 2B.49 High-Occupancy Vehicle (HOV) Lanes, the FHWA proposes modifying the STANDARD statement to allow motorcycles to use HOV lanes that received Federal-aid program funding.

The FHWA also proposes three additions to this STANDARD statement. The first addition requires agencies to allow a vehicle with less than the required number of occupants to operate in the HOV lanes if:

A. The vehicle is properly labeled and certified as an ILEV and the HOV lane is not a bus-only HOV lane; or

[2] The ''Uniform Vehicle Code and Model Traffic Ordinance,'' 2000 edition, is published by the National Committee on Uniform Traffic Laws and Ordinances, 107 S. West Street, #110, Alexandria, Virginia 22314. It is available for inspection as prescribed at 49 CFR part 7. Purchase information is available on the web site for the National Committee at *http://www.ncutlo.org.*

B. The HOV lanes are part of a project that is participating in the FHWA Value Pricing Pilot Program.

The second addition requires that the requirements for a minimum number of occupants in a vehicle to use an HOV lane shall be in effect for most, or all, of at least one of the usual times during the day when the demand to travel is greatest (such as morning or afternoon peak travel periods) and the traffic congestion problems on the roadway and adjoining transportation corridor are at their worst. The final addition requires a Federal review prior to initiating a proposed test or demonstration project that seeks to significantly change the operation of the HOV lanes for any length of time.

The last major change that the FHWA proposes to this section is the addition of a SUPPORT statement at the end of the Section. The SUPPORT statement states that the Inherently Low Emissions Vehicle (ILEV) program requirements, certification program, and other regulatory provisions are developed and administered through the U.S. Environmental Protection Administration (EPA). The U.S. EPA is the only entity with the authority to certify ILEVs. Vehicle manufacturers must request the U.S. EPA to grant an ILEV certification for any vehicle to be considered and labeled as meeting these standards. According to the U.S. EPA, 1996 was the first year that they certified any ILEVs. The U.S. EPA regulations specify that ILEVs must meet the emission standards specified in 40 CFR 88.311–93 and their labeling must be in accordance with 40 CFR 88.311–93(c).

The proposed changes in Section 2B.49 are to assure consistency with the provisions of Titles 23 and 49 of the United States Code (USC), with commitments made by FHWA during the National Environmental Policy Act process, and with requirements under the Clean Air Act.

46. In Section 2B.50 High-Occupancy Vehicle Sign Applications and Placement, the FHWA proposes adding a SUPPORT statement after the GUIDANCE statement, which states that Figures 2E–44 through 2E–48 show application and placement examples of HOV signing for entrances to barrier-separated HOV lanes and direct entrances to and exits from HOV lanes. This figure reference will clarify the intended use of these signs.

47. The FHWA proposes redesignating current Section 2B.51 Other Regulatory Signs, as Section 2B.54 and revising the STANDARD statement to indicate that the symbol for the seat belt symbol is in the ''Standard Highway Signs'' book.

48. The FHWA proposes adding a new Section 2B.51 Photo Enforced Signs (R10–18, R10–19). The purpose of this new section is to provide guidance to State and local agencies on the use of the photo enforcement signs to alert road users of this type of traffic enforcement. The FHWA proposes including an OPTION statement with two paragraphs. The first paragraph states that a TRAFFIC LAWS PHOTO ENFORCED (R10–18) sign may be installed at a jurisdictional boundary to advise road users that some of the traffic regulations within that jurisdiction are being enforced by photographic equipment. The second paragraph states that a PHOTO ENFORCED (R10–19) sign (see Figure 2B–1) may be mounted below a regulatory sign to advise road users that the regulation is being enforced by photographic equipment.

Additionally, the FHWA proposes including a STANDARD statement, which states that if the PHOTO ENFORCED (R10–19) sign is used below a regulatory sign, it shall be a rectangle with black legend and border on a white background.

The FHWA proposes that these signs become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs of different designs that are in good condition to minimize any impact on State or local highway agencies.

49. The FHWA proposes adding a new Section 2B.52 Yield Here To Pedestrians Signs (R1–6, R1–6a). These proposed new signs alert road users of the presence of an unsignalized midblock pedestrian crossing. The FHWA proposes including a STANDARD statement, which states that if YIELD lines are used in advance of an unsignalized marked crosswalk, the YIELD HERE TO PEDESTRIANS (R1–5 or R1–5a) signs, shall be placed 6.1 to 15 m (20 to 50 ft) in advance of the nearest crosswalk line. The purpose of the STANDARD is to provide for the uniform use and placement of these signs and improved pedestrian safety.

The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

50. The FHWA proposes adding a new Section 2B.53 In-Street Pedestrian Crossing Signs (R1–6, R1–6a). These proposed new signs remind road users of the laws regarding right-of-way at an unsignalized pedestrian crossing. The FHWA proposes including OPTION, GUIDANCE, and STANDARD statements describing the proposed use, design and application of the In-Street Pedestrian Crossing (R1–6, R1–6a) signs. These signs are proposed in order to provide for uniformity of these regulatory messages and for improved pedestrian safety.

The FHWA also proposes adding a new figure numbered and titled Figure 2B–22, ''Unsignalized Pedestrian Crosswalk Signs'' to illustrate the design of the R1–5, R1–5a, the R1–6, and the R1–6a signs.

51. In Section 2C.02 Application of Warning Signs, the FHWA proposes modifying the SUPPORT statement to reflect that ''categories'' not ''applications'' of warning signs are shown in Table 2C–1. This change is necessary to make the text and Table 2C–1 consistent.

Additionally, the FHWA proposes changing the title of Table 2C–1 from ''Application of Warning Signs'' to ''Categories of Warning Signs'' and to add new roadway related and traffic related signs and supplemental plaques to the table based on proposed changes in other sections of Chapter 2C. The change in the title of the table is being proposed to better reflect the actual content of the table.

52. In Section 2C.04 Size of Warning Signs, the FHWA proposes changing Table 2C–2 to add sizes for the Expressway W1 series Arrows signs, sizes for the Expressways and Freeways W7 series truck runaway signs, sizes for the Expressways and Freeways W12–2P low clearance signs, and increasing the sizes for all roadways except Freeways for the W10–1 advance grade crossing sign, to enhance visibility of this sign for all road users, including older drivers. The FHWA proposes that the larger sizes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

53. In Section 2C.05 Placement of Warning Signs, the FHWA proposes changing Table 2C–4 so that the distances for the placement of advance warning signs correspond to the values in the 2001 AASHTO ''A Policy on Geometric Design of Highway and Streets''[3] book and to make the table easier to use.

[3] ''A Policy on Geometric Design of Highways and Streets,'' 4th Edition, 2001, in both hardcopy and CD–ROM, is available from the American

In Table 2C–4, the FHWA proposes combining the ''Condition B'' and ''Condition C'' columns and labeling them ''Condition B''. The FHWA also proposes adding columns for 90, 100, and 110 km/h and 60 and 70 mph for the deceleration to the listed advisory speed and rows for 70 and 75 mph for the Posted or 85th Percentile Speed. Finally, the FHWA proposes revising the Notes to reflect the proposed changes throughout the MUTCD. These changes to Table 2C–4 are proposed to reflect the needs of older road users, and to improve the clarity of the Notes.

54. In Section 2C.06, the FHWA proposes changing the title from ''Horizontal Alignment Signs (W1–1 through W1–5)'' to ''Horizontal Alignment Signs (W1–1 through W1–5, W1–10, W1–11, W1–15)'' to reflect the proposed Hairpin Curve (W1–11) sign and the 270 Degree Loop (W1–15) sign.

In the first OPTION statement, the FHWA proposes recommending the use of the Hairpin Curve sign and the 270 Degree Loop sign based on the change in horizontal alignment. These new signs would better portray the severe curvature for these types of alignment changes.

The FHWA also proposes adding to the GUIDANCE statement. The proposed addition recommends installing a One-Direction Large Arrow (W1–6) sign or Chevron Alignment (W1–8) sign on the outside of a turn or curve when the Hairpin Curve sign or 270-Degree Loop sign is installed. The reason for this recommendation is to provide for enhanced warning to road users of the severe alignment change and reduce run-off-the-road crashes.

The FHWA also proposes adding a second GUIDANCE statement following the STANDARD statement. This proposed GUIDANCE recommends that the need for additional curve warning signs or advisory speed reduction warning plaques be based on an engineering study or on engineering judgment. The reason for this recommendation is that highway curves tend to be high crash locations with the crash rate about three times the rate for highway tangent segments and with the run-off-the-road crash rate about four times the tangent segment rate.

The FHWA proposes adding an OPTION statement that provides a method that may be used to determine the need for additional speed reduction warning signs. The FHWA proposes these optional criteria for determining the need for additional recommended speed reduction signs to mitigate the high number of run-off-the-road crashes along curves and ramps. Most curves are very well outlined with delineators or chevron signs. Since crashes are still occurring, the FHWA believes that there is a need to remind drivers of the recommended reduction in speed as they proceed along the curve or ramp.

Additionally, the FHWA proposes adding to Table 2C–5 to show the metric speed value of less than or equal to 50 km/h along with the English unit of less than or equal to 30 mph and showing the metric speed value of greater than 50 km/h along with the English unit of greater than 30 mph. The metric values were inadvertently omitted from the Millennium Edition of the MUTCD.

55. In Section 2C.07, the FHWA proposes changing the title from ''Combination Horizontal Alignment/Advisory Speed Signs (W1–9)'' to ''Combination Horizontal Alignment/Advisory Speed Signs''. The FHWA also proposes changes to the first OPTION statement to allow the combination into a single sign of any Horizontal Alignment sign with an Advisory Speed (W13–1) plaque. The resulting sign number for the combination sign would be the Horizontal Alignment sign number with an ''a'' added. This change will provide additional flexibility to jurisdictions.

The FHWA proposes revising the STANDARD statement. When a combination Horizontal Alignment/Advisory Speed sign is used, the proposed revised STANDARD statement will require that the advisory speed match the advisory speed on the Advisory Speed plaque mounted with the advance warning sign and that the sign also be installed as near as practical to the beginning of the turn or curve, as depicted on new Figure 2C–2. When the recommended reduction in speed is 20 km/h (15 mph) or greater, the proposed revised STANDARD will require that the combination Horizontal Alignment/Advisory Speed sign supplement other advance warning signs.

Additionally, the FHWA proposes adding an OPTION statement, which states that when the recommended reduction in speed is less than 25 km/h (15 mph), instead of installing other advance warning signs, the combination Horizontal Alignment/Advisory Speed sign alone may be installed just before the point of curvature. The combination Horizontal Alignment/Advisory Speed sign may be used throughout the turn or curve.

The proposed changes to Section 2C.07 provide for enhanced uniformity of application of these types of signs and improved safety on curves and turns.

56. In Section 2C.10 Chevron Alignment Sign (W1–8), the FHWA proposes adding to the STANDARD statement that a border shall not be used on the CHEVRON ALIGNMENT sign. The purpose of this change is to correct an error in the current edition.

57. In Section 2C.11 Hill Signs (W7–1, W7–1a, W7–1b), the FHWA proposes adding to the GUIDANCE statement to clarify that on longer grades, the Hill sign with distance (W7–3a) plaque or the combination distance/grade (W7–3b) plaque at periodic intervals of approximately 1.6 km (1 mi) spacing should be considered. This change is proposed to clarify that the plaques should not be used alone but should supplement the Hill sign.

58. In Section 2C.12 Truck Escape Ramp Signs (W7–4 Series), the FHWA proposes adding to the STANDARD statement to indicate that at least one of the W7–4 series warning signs shall be used when truck escape ramps are installed. This change clarifies that additional warning signs may be used as conditions warrant.

59. In Section 2C.13, the FHWA proposes changing the title from ''ROAD NARROWS Sign (W5–1)'' to ''ROAD NARROWS Sign (W5–1, W5–1a)'' to reflect the new symbolic Road Narrows (W1–5a) sign. The Narrow Bridge (W5–2a) symbol sign would be renumbered and retitled as the new Road Narrows (W5–1a) symbol sign. The Road Narrows (W5–1a) symbol sign may be used as an alternate to the word message ROAD NARROWS (W1–5) word sign. The FHWA proposes these changes because the road user's understanding of the symbol is not exclusively as ''narrow bridge ahead,'' but rather as symbolic of any narrowing of the road, such as the presence of curb bulb-outs or chicanes.

60. In Section 2C.14 NARROW BRIDGE Sign (W5–2), the FHWA proposes removing the reference to the Narrow Bridge symbol (W5–2b) sign from the OPTION statement. This change reflects the proposed change of the Narrow Bridge symbol (W5–2b) sign to the Road Narrows symbol (W5–1a) sign.

61. In Section 2C.17 Divided Highway (Road) Ends Sign (W6–2), the FHWA proposes modifying the GUIDANCE statement to clarify that a Divided Highway Ends (W6–2) symbol sign should be used in advance of the end of a section of physically divided highway (not an intersection or junction) as a warning of two-way traffic ahead. The reason for this change is that the

warning sign should be placed in advance of, rather than at, the start of the divided highway section.

62. In Section 2C.19 DEAD END/NO OUTLET Sign (W14–1, W14–2), the FHWA proposes modifying the STANDARD statement to clarify that when the W14–1 or W14–2 sign is used, the sign shall be posted as near as practical to the entry point or at a sufficient advance distance to permit the road user to avoid the dead end or no outlet condition by turning off, if possible, at the nearest intersecting street. The change is proposed to give additional flexibility to jurisdictions when posting the sign at the exact entry point is not practical due to obstructions or other factors.

63. In Section 2C.20 Low Clearance Signs (W12–2 and W12–2P), the FHWA proposes clarifying the STANDARD statement by removing the words ''or minimum structure height''. This change is proposed to clarify the proper application of Low Clearance signs.

Additionally, the FHWA proposes clarifying the GUIDANCE statement by changing the phrase ''legal limit'' to ''legal maximum vehicle height'' to reflect more precisely the proper dimension.

64. In Section 2C.21 BUMP and DIP Signs (W8–1, W8–2), the FHWA proposes modifying the second GUIDANCE statement to clarify that a short stretch of depressed alignment that might momentarily hide a vehicle should be treated as a no-passing zone when centerline striping is provided on a two-lane or three-lane road. The proposed change replaces the word ''may'' with ''might'' to avoid possible confusion of this as an OPTION statement, and clarifies that the use of a no-passing zone in this situation only applies when centerline striping is provided on the road.

65. In Section 2C.22 SPEED HUMP Sign (W17–1), the FHWA proposes adding a sentence to the OPTION statement to allow the use of the legend SPEED BUMP instead of the legend SPEED HUMP on the W17–1 sign. This proposed addition provides additional flexibility to jurisdictions and to reduce sign inventory.

66. In Section 2C.24, the FHWA proposes changing the title from ''SHOULDER Signs (W8–4, W8–9, W8–9a, and W8–11)'' to ''SHOULDER and UNEVEN LANES Signs (W8–4, W8–9, W8–9a, and W8–11)''. This new title is more accurate since the UNEVEN LANES (W8–11) sign is distinguished from the Shoulder signs.

The FHWA proposes adding a STANDARD statement just before the GUIDANCE statement. The proposed STANDARD statement requires the use of the SHOULDER DROP-OFF (W8–9a) sign when a shoulder drop-off, adjacent to the travel lane, exceeds 75 mm (3 in) in depth and is not protected by portable barriers. The FHWA also proposes removing the part of the GUIDANCE statement concerning the use of the SHOULDER DROP-OFF sign since it is covered in the proposed new STANDARD statement. This STANDARD statement is identical to the STANDARD statement in Section 6F.41 (Shoulder and UNEVEN LANES Signs). This proposed requirement is to represent the state-of-the-practice.

67. In Section 2C.26 Advance Traffic Control Signs (W3–1a, W3–2a, W3–3, W3–4), the FHWA proposes clarifying that the reference to a beacon in the second OPTION statement and the second GUIDANCE statement is a reference to a warning beacon. This clarification is necessary to be consistent with prescribed use of warning beacons in Part 4 of the MUTCD.

68. In Section 2C.27 CROSS TRAFFIC DOES NOT STOP Plaque (W4–4), the FWHA proposes replacing the entire section with new OPTION and STANDARD statements. The OPTION statement specifies that the CROSS TRAFFIC DOES NOT STOP (W4–4) plaque may be used in combination with a STOP sign when engineering judgment indicates drivers frequently misinterpret the intersection as a multi-way stop condition. The STANDARD statement specifies that if the W4–4 plaque is used, it shall be installed below the STOP sign. The proposed new text for this section is necessary to provide for more uniform application of this plaque.

Additionally, the FHWA proposes removing the arrow from the design of the plaque to reduce potential confusion and misunderstanding as to whether the arrow denotes the direction cross traffic is flowing or the direction toward which the driver is to look for cross traffic.

69. In Section 2C.28 Merge Sign (W4–1), the FHWA proposes changing the title to reflect the addition of the new Entering Roadway Merge (W4–1a) sign. In addition to the title change, the FHWA proposes adding a recommendation to the GUIDANCE statement, which states that when a Merge sign is to be installed on an entering roadway that curves before merging with the major roadway, the Entering Roadway Merge (W4–1a) sign should be used. This sign is recommended for this condition because it would better portray the actual geometric conditions to road users on the entering roadway. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

70. In Section 2C.29 Added Lane Sign (W4–3), the FHWA proposes changing the title to reflect the addition of the new Entering Roadway Added Lane (W4–3a) sign. In addition to the title change, the FHWA proposes an addition to the GUIDANCE statement, which states that when an Added Lane sign is to be installed on a roadway that curves before converging with another roadway that has a tangent alignment at the point of convergence, the Entering Roadway Added Lane (W4–3a) sign should be used. This sign is recommended for this condition because it would better portray the actual geometric conditions to road users on the entering roadway. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

71. In Section 2C.30, the FHWA proposes changing the title of the section from ''Lane Ends Signs (W9–1, W9–2)'' to ''Lane Ends Signs (W4–2, W9–1, W9–2).'' This title change reflects the addition of the Lane Reduction (W4–2) sign, which was included in previous editions of the MUTCD but not in the Millennium Edition.

The FHWA proposes changing the design of the Lane Reduction (W4–2) symbol sign to improve the comprehension by road users. The new design has been developed by human factors research studies and will be similar to one being used successfully in Canada. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding the Lane Reduction (W4–2) symbol sign to the first and second GUIDANCE statements and to the OPTION statement, indicating that the W4–2 symbol sign is an alternative to the LANE ENDS MERGE LEFT (RIGHT) (W9–2) word sign. This will provide additional flexibility to jurisdictions.

72. In Section 2C.33 Advisory Exit, Ramp, and Curve Speed Signs (W13–2, W13–3, W13–5), the FHWA proposes

changing the design of the metric exit speed, ramp speed, and curve speed signs, and advisory speed signs/plaques so that the metric speed value is within a black circle with ''km/h'' below. This new design will better differentiate between signs and plaques with metric units for speed from those using English units for speed.

The FHWA also proposes adding ''Figure 2C–8 Example of Advisory Speed Signing for an Exit Ramp''. This figure illustrates the use of the Exit Speed sign along the deceleration lane and the use of the Ramp Speed signs along the actual ramp. The figure will clarify application of these signs to jurisdictions.

Additionally, the FHWA proposes adding to the OPTION statement at the end of the section, which states that the 85th percentile speed, which is equivalent to the 16 degree ballbank indication or an 85 mm/second (0.28 ft/second) reading on an accelerometer, may be used to determine the recommended speed along the ramp or curve as it is the speed at which most road users' judgment recognizes incipient instability along a ramp or curve. The FHWA proposes this OPTION criteria to enhance the uniformity of determining the recommended advisory speed and to provide additional warning to motorists since highway curves have a crash rate about three times the rate for highway tangent segments and a run-off-the-road crash rate about four times the tangent segment rate.

73. In Section 2C.34 Intersection Warning Signs (W2–1 through W2–6), the FHWA proposes changing the design of the CIRCULAR INTERSECTION (W2–6) sign to a symbol sign with three rotating arrows to better portray the operations at circular intersections. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes modifying the GUIDANCE statement. The proposed changes clarify that the recommendation to not use Intersection Warning signs on controlled approaches does not apply to the use of the Circular Intersection Warning symbol (W2–6) sign, and add a recommendation that this sign should be used on the approach to a YIELD sign controlled roundabout intersection. These changes are proposed to reflect state of the practice regarding roundabouts.

74. In Section 2C.36, the FHWA proposes changing the title from ''Motorized Traffic Signs (W8–6, W11–5, W11–8, W11–10)'' to ''Motorized Traffic Signs (W8–6, W11–5, W11–5a, W11–8, W11–10, W11–10a, W11–12)'' to include the optional Farm Machinery (W11–5a) symbol sign which was inadvertently omitted, and to reflect a proposed Dump Truck (11–10a) sign for use in work zones and other locations where there is a concentration of dump truck crossing or entering the roadway, and a proposed Emergency Signal Ahead (W11–12) supplemental plaque for use with the W11–8 sign.

In the first OPTION statement, the FHWA proposes adding a statement that the TRUCK CROSSING (W8–6) word message sign may be used as an alternate to the Truck Crossing symbol sign, to provide additional flexibility.

In the second OPTION statement, the FHWA proposes adding that a supplemental plaque with the legend SHARE THE ROAD may be mounted below Motorized Traffic warning signs. The purpose of this addition is to allow the use of this sign to provide additional warning to road users.

75. In Section 2C.37, the FHWA proposes changing the title from ''Crossing Signs (W11–1, W11–2, W11–3, W11–4, W16–7P)'' to ''Nonvehicular Signs (W11–1, W11–2, W11–3, W11–4, W11–11, W11–14, W11–14a, W11–15)'' to reflect the addition of the following proposed signs: Golf Cart (W11–11) symbol sign, Horse and Buggy (W11–14) symbol sign, Horse and Carriage (W11–14a) symbol sign, and the Waterfowl Crossing (W11–15) symbol sign. Many variations of these symbol signs are currently being used and these designs will create a set of uniform symbol messages for road users. The FHWA proposes that these changes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

The FHWA also proposes clarifying the first OPTION statement to add golf carts and horse-drawn vehicles to the list of crossing activities for which Nonvehicular signs may be used to alert road users. This reflects the addition of new signs for this purpose.

The FHWA also proposes clarifying the second OPTION statement to clarify that the supplemental plaques such as AHEAD or XX METERS may be used with the Nonvehicular warning signs, when used in advance of a crossing. These plaques are specifically intended to provide advance notice to road users of crossing activity.

Additionally, the FHWA proposes modifying the STANDARD statement to clarify that when Nonvehicular warning signs are used at the crossing, the signs shall be supplemented with a diagonal downward pointing arrow (W16–1) plaque showing the location of the crossing. This proposed modification reflects the fact that Nonvehicular warning signs can be used either in advance of or at the crossing, and is consistent with the practice of using the diagonal downward pointing arrow with other crossing signs.

Additionally, the FHWA proposes adding to the third OPTION statement to clarify that Pedestrian, Bicycle, School Advance Crossing, and School Crossing signs and their related supplemental plaques may have a fluorescent yellow-green background with a black legend and border. This proposed change reflects the common practice for supplemental plaques to be of the same color as the signs they supplement.

76. In Section 2C.42 Advisory Speed Plaque (W13–1), the FHWA proposes adding to the first OPTION statement to clarify that the Advisory Speed (W13–1) plaque may be used to supplement any warning sign to indicate the recommended speed for a condition. This will provide additional flexibility for jurisdictions.

In the STANDARD statement, the FHWA proposes requiring the use of the Advisory Speed plaque where an engineering study indicates a need to advise road users of the recommended speed for a condition and if they are used, the speed shown shall be a multiple of 10 km/h (5 mph). This change is needed to clarify that engineering studies are needed to determine the need for an Advisory Speed plaque and to determine what the recommended speed is for the condition.

Additionally, the FHWA proposes adding an OPTION statement at the end of the section, which states that the 85th-percentile speed, which is equivalent to the 16 degree ballbank indication or an 85 mm/second (0.28 ft/second) reading on an accelerometer, may be used to determine the recommended speed along the ramp or curve as it is the speed at which most road users' judgment recognizes incipient instability along a ramp or curve. This provides jurisdictions with several optional methods of determining recommended speeds, reflecting current practices.

77. In Section 2C.43, the FHWA proposes changing the title from

''Supplemental Arrow Plaques (W16–5P, W16–6P)'' to ''Supplemental Arrow Plaques (W16–5, W16–6, W16–7)'' to remove the ''p'' suffix and to reflect the existence of the diagonally pointing down arrow plaque and include the designation in the section text.

78. In Section 2C.46 DEAD END/NO OUTLET Plaques (W14–1P, W14–2P), the FHWA proposes adding to the OPTION statement to clarify that DEAD END (W14–1P) or NO OUTLET (W14–2P) plaques may be used in combination with Street Name (D3) signs to warn turning traffic that the crossroad ends in the direction indicated by the arrow on the plaque and that where there the cross street has no name, the plaque may be used alone in place of a street name sign. The proposed change will clarify the proper use of these types of plaques with street name signs or alone.

Additionally, the FHWA proposes removing the STANDARD statement, which requires the use of the DEAD END or NO OUTLET plaque where traffic can proceed straight through the intersection to the dead end or no outlet street. This STANDARD is proposed for removal because it is no longer appropriate. The preferred practice under the conditions cited is the use of the DEAD END (W4–1) and NO OUTLET (W4–2) warning signs rather than the plaques.

79. The FHWA proposes adding a new section, numbered and titled ''Section 2C.48 High Occupancy Vehicle (HOV) Plaque (W16–1).'' This proposed new section includes an OPTION statement on the use of the proposed High Occupancy Vehicle (HOV) Plaque. Specifically, an HOV (W16–1) plaque may be used to warn drivers in an HOV lane of a specific condition and to differentiate a warning sign specific for HOV lanes when the sign is also visible to traffic on the adjoining general purpose roadway. Additionally the diamond symbol may be used instead of the word message HOV and, when appropriate, the words LANE or ONLY may be used. This will enhance road user understanding of which signs apply to which lanes.

80. The FHWA proposes adding a new section numbered and titled ''Section 2C.49 PHOTO ENFORCED Plaque (W16–10).'' This proposed new section includes an OPTION statement on the use of the proposed PHOTO ENFORCED plaque in advance of locations of photo enforcement of traffic laws, thereby, alerting motorists of the use of cameras as an enforcement tool. This change is proposed for consistency with the proposed addition of the PHOTO ENFORCED plaque for use with regulatory signs, as described in proposed Section 2B.51. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding a STANDARD statement to require that, if used below a warning sign, the PHOTO ENFORCED plaque be a rectangle with a black legend and border on a yellow background. This STANDARD is proposed to make the color of the plaque consistent with the color of the warning sign it supplements.

81. The FHWA proposes adding a new section, numbered and titled ''Section 2C.50 HILL BLOCKS VIEW Sign (W7–6).'' This proposed new section includes an OPTION statement on the use of the proposed HILL BLOCKS VIEW sign in advance of the crest of a vertical curve to advise road users to reduce speed and to look for vehicles and other roadway users as they approach and traverse the hill as only limited sight distance is available. The FHWA proposes adding this sign because it is in use, fulfills an important need, and has been found by research to be well understood by road users.

Additionally, the FHWA proposes including a GUIDANCE statement, which states that when a HILL BLOCKS VIEW sign is used, an Advisory Speed plaque based on available stopping sight distance should accompany it. This is proposed because road users should be advised of the recommended speed for traversing the hillcrest.

82. The FHWA proposes adding a new section, numbered and titled ''Section 2C.51 Speed Reduction Signs (W3–5, W3–5a).'' This proposed new section includes a GUIDANCE statement, which recommends using the proposed Speed Reduction signs to inform road users of a reduced speed zone when engineering judgment indicates the need for advance notice to comply with the posted speed limit ahead. These proposed new warning signs replace the R2–5a, b, and c signs because the intended message is more properly categorized as a warning message rather than regulatory message. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes including a STANDARD statement, which requires that a Speed Reduction sign be followed by a Speed Limit (R2–1) sign installed at the beginning of the zone where the speed limit applies and that the speed limit displayed on the Speed Reduction sign shall be identical to the speed limit displayed on the subsequent Speed Limit sign. This is needed to provide for uniform application of these signs.

82. The FHWA proposes adding a new section, numbered and titled ''Section 2C.52 BRIDGE ICES BEFORE ROAD Sign (W8–13).'' This proposed new section includes an OPTION statement on the use of the proposed BRIDGE ICES BEFORE ROAD sign, which states that the sign may be used in advance of bridges to advise road users as they approach and traverse the bridge during winter weather conditions.

Additionally, the FHWA proposes including a GUIDANCE statement, which recommends that the BRIDGE ICES BEFORE ROAD sign be removed or covered during seasons of the year when its message is not relevant.

This proposed new section will provide for uniform design and application of a sign for warning of the specific condition.

84. The FHWA proposes adding a new section, numbered and titled ''Section 2C.53 Traffic Signal Signs (W25–1, W25–2).'' This proposed new section includes a STANDARD statement on the use of the proposed CAUTION ONCOMING GREEN EXTENDED (W25–1) and CAUTION ONCOMING GREEN MAY BE EXTENDED (W25–2) traffic signal signs. The STANDARD statement requires that unless a separate left-turn signal face is provided and is operated as described in Section 4D.06, if the possibility exists that a CIRCULAR YELLOW signal indication could be displayed to an approach from which drivers are turning left permissively without the simultaneous display of a CIRCULAR YELLOW signal indication to the opposing approach (see Section 4D.05), either a W25–1 or a W25–2 sign be installed near the left-most signal head. The FHWA proposes adding this new section because these signs are proposed in Chapter 4D as one of several ways to eliminate or reduce safety issues associated with the ''yellow trap'' in some traffic signal phasing sequences.

85. The FHWA proposes adding a new section, numbered and titled ''Section 2C.54 Truck Rollover Warning Signs (W1–13, W1–13a).'' This proposed new section includes OPTION and STANDARD statements on the use of

the proposed Truck Rollover Warning signs to warn driver of vehicles with a high center of gravity of a curve or turn having geometric conditions that are prone to cause such vehicles to lose control and overturn. This proposed new section will provide for uniform design and application of signs for this purpose. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

86. In Section 2D.03 Color, Retroreflection, and Illumination, the FHWA proposes adding a SUPPORT statement following the STANDARD statement, which states that color coding is sometimes used to help road users distinguish between multiple potentially confusing destinations. The SUPPPORT statement gives examples of valuable uses of color coding including guide signs for roadways approaching or inside an airport property with multiple terminals serving multiple airlines, and wayfinding signs for various neighborhoods, business areas, or traffic generator destinations within a community or area.

The FHWA proposes adding a second STANDARD statement that prohibits the use of different color sign backgrounds to provide color-coding of destinations and that requires that the color-coding shall be accomplished by the use of different colored square or rectangular panels on the face of the guide signs.

The FHWA also proposes adding an OPTION statement, which states that the different colored panels may include a black or white (whichever provides the better contrast with the panel color) letter, numeral, or other appropriate designation to identify the airport terminal or other destination.

Additionally, the FHWA proposes adding a SUPPORT statement, which states that two examples of color-coded guide sign assemblies are shown in Figure 2D–1. Figure 2D–1 is a proposed new figure titled ''Examples of Color-Coded Destination Guide Signs'' and illustrates two overhead guide signs examples of color-coded airport terminal destination guide signs and an example of a color-coded community destination guide sign.

The proposed changes to Section 2D.03 will provide for enhanced uniformity of design and application of color-coding of destinations in guide signs.

87. In Section 2D.04 Size of Signs, the FHWA proposes rephrasing the first OPTION statement to clarify that reduced letter height, reduced interline spacing, and reduced edge spacing may be used on guide signs if the sign size is limited by factors such as lane width, and vertical and lateral clearance.

Additionally, the FHWA proposes adding a STANDARD statement that prohibits the use of reduced spacing between the letters or words of the legend as a means of reducing the overall size of a guide sign.

The proposed changes to this section will provide for enhanced legibility of guide signs, especially for older road users.

88. In Section 2D.06 Size of Lettering, the FHWA proposes removing the last paragraph in the STANDARD statement, which required sign panels to be large enough to accommodate the legend without crowding. That information has been modified and included in Section 2D.04, where it is more appropriately located.

89. In Section 2D.17 ALTERNATE Auxiliary Signs (M4–1, M4–1a), the FHWA proposes adding the qualifiers of time or distance to the word ''shorter'' in the GUIDANCE statement. This addition clarifies that the shorter (time or distance) or better-constructed route should retain the regular route number. This will clarify that the shorter route can be defined in terms of either time or distance, and will provide additional flexibility.

90. In Section 2D.23, the FHWA propose changing the title from ''TEMPORARY Auxiliary Sign (M4–7)'' to ''TEMPORARY Auxiliary Sign (M4–7, M4–7a)'' to reflect the addition of the new TEMP (M4–7a) sign and to add the TEMP (M4–7a) sign to the OPTION and STANDARD statements. The TEMP sign is proposed for improved legibility.

91. In Section 2D.26 Directional Arrow Auxiliary Signs (M6 Series), the FHWA proposes removing the M6–8 and M6–9 multiple direction advance arrow auxiliary signs. These specific arrow signs are not consistent in design concept with the other Directional Arrow Auxiliary Signs, and the M6–6 and M6–4 signs or separate assemblies for each route direction should be used instead to provide enhanced clarity to road users.

92. In Section 2D.27 Route Sign Assemblies, the FHWA proposes renumbering Figure 2D–2 to become Figure 2D–6 and modifying all three sheets of the figure to make the sign assemblies illustrated in the figure consistent with requirements in Section 2D.15 regarding the size of the initial letter of the Cardinal Direction Auxiliary Signs, and to illustrate directional assemblies that reflect the most recent state of the practice.

93. In Section 2D.31 Confirming or Reassurance Assemblies, the FHWA proposes removing from the STANDARD statement the requirement that, if used, the Confirming Assembly be installed just beyond intersections of numbered routes.

Additionally, in the first GUIDANCE statement, the FHWA proposes recommending that a Confirming Assembly should be installed just beyond intersections of numbered routes.

These changes are proposed because use of the confirming assembly beyond intersections with numbered routes should be a recommended practice rather than completely optional. The confirming assembly provides highly desirable information to road users. These proposed changes allow flexibility in installing the signs to adjust to roadside conditions.

94. In Section 2D.34, the FHWA proposes changing the title from ''Destination Signs'' to ''Destination Signs (D1 Series)'' and to add the sign number designations to the section text to clarify which signs are applicable to the material in the section.

The FHWA proposes moving material concerning the use of a sloping arrow at an irregular intersection from the second GUIDANCE statement to a new second OPTION statement. This proposed change removes unclear language and clarifies that the sloping arrow use is optional.

95. In Section 2D.36, the FHWA proposes changing the title from ''Distance Signs'' to ''Distance Signs (D2 Series)'', adding the sign number designations to the section text to clarify which signs are applicable to the material in the section, and adding the D2–3 (3 destination distance sign) to the text, to reflect all the signs included in the series.

Additionally, in the first GUIDANCE statement, the FHWA proposes adding a recommendation that the distance shown on the sign be the distance to the center of the central business district, or to the point where the major north/south and east/west routes serving the city intersect, or to some point near the center of the city. The FHWA proposes this addition because this distance measurement is the general practice used by State and local agencies.

96. In Section 2D.38, the FHWA proposes changing the title from ''Street Name Sign (D3)'' to ''Street Name Sign (D3–1)''. In the first GUIDANCE statement the FHWA proposes adding a recommendation that on multi-lane streets with speed limits of 60 km/h (40 mph) or more the minimum letter size should be 200 mm (8 in). Larger letter

sizes are needed to improve sign legibility and safety for older drivers. In this same GUIDANCE statement, the FHWA proposes deleting the recommendation that larger letter heights be used for Street Name signs mounted overhead, because more specific guidance is being proposed to be added elsewhere in this section.

The FHWA also proposes adding a clarification to the first OPTION statement. Currently the OPTION statement generally states that a symbol or letter designation may be used to identify the government jurisdiction. The proposed paragraph provides more specificity by stating that a symbol or letter designation may be used on a Street Name sign to identify the governmental jurisdiction, area of jurisdiction, or other government-approved institution. This change is proposed to provide additional flexibility for jurisdictions that install Street Name signs.

The FHWA proposes adding to the first STANDARD statement that if a symbol or letter designation is used, the height, in addition to the width, of the symbol or letter designation shall not exceed the letter height of the sign. This proposal will provide for more uniform Street Name sign design and assure that the name of the street will have more prominence on the sign than the jurisdictional symbol or letter designation.

Two changes are proposed in the second OPTION statement. First, the FHWA proposes eliminating midblock locations from the provision concerning locations where Street Name signs may be installed, because Street Name signs are not appropriate at non-intersection locations. At midblock locations, Advance Street Name signs, as described in a subsequent section, are appropriate to provide advance notice of the next intersection. Second, the FHWA proposes eliminating the provision allowing the installation of a supplemental Street Name sign separately or below an intersection-related warning sign on intersection approaches, because this is an inappropriate use. Instead, the Advance Street Name plaque, as described in Section 2C.45, is appropriate for this purpose.

The FHWA proposes changes to the fourth GUIDANCE statement. First, the FHWA proposes eliminating the recommendation on the color of the supplemental Street Name sign when it is combined with a warning sign, because this is now termed an Advance Street Name plaque and is discussed in Section 2C.45. Second, the FHWA proposes recommending that in urban and suburban areas, especially where Advance Street Name signs are not used, overhead-mounted street name signs be considered. If overhead Street Name signs are used, the lettering should be at least 300 mm (12 inch) high in capital letters or 300 mm (12 in) upper-case letters with 225 mm (9 in) lower-case letters. This proposal reflects the need for enhanced visibility and legibility of Street Name signs for road users, especially older people, in the complex driving environments of urban and suburban areas.

Additionally, the FHWA proposes adding a SUPPORT statement at the end of the section referencing Section 2C.45 for information regarding the use of street name signs as supplemental plaques below intersection-related warning signs. The FHWA proposes that these changes become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period until January 9, 2012, for existing signs in good condition to minimize any impact on State or local highway agencies. This date corresponds with the existing compliance period for increasing the letter height to 150 mm (6 in) on all street name signs.

97. The FHWA proposes adding a new section, numbered and titled ''Section 2D.39 Advance Street Name Signs (D3–2)'' immediately following Section 2D.38. The FHWA proposes SUPPORT, STANDARD, OPTION, and GUIDANCE statements to describe the uses, placement, legend, and lettering sizes for Advance Street Name signs. The proposed new section is needed to provide for uniform design and application of Advance Street Name signs. The following sections would be renumbered accordingly. The FHWA proposes a phase-in compliance period until January 9, 2012, for existing signs in good condition to minimize any impact on State or local highway agencies. This date corresponds with the existing compliance period for increasing the letter height to 150 mm (6 in) on all street name signs.

98. In existing Section 2D.44 (new Section 2D.45) General Service Signs (D9 Series), the FHWA proposes adding Electric Vehicle Charging to the list of services, one or more of which General Services signs must carry, in accordance with the second STANDARD statement.

The FHWA proposes removing references in the fourth OPTION statement to the Road Conditions Dial 511 (D12–5) sign and adding new OPTION, STANDARD, and GUIDANCE statements regarding the use and design of the redesigned TRAVELER INFO CALL 511 (D12–5) sign. These changes reflect the assignment of 511 as the nationwide traveler information telephone number.

Additionally, the FHWA proposes changing the words ''CB Monitoring'' in the existing fifth OPTION statement to ''Channel 9 Monitored'' and to make a corresponding change in item C of the following GUIDANCE statement. These changes reflect current practice and terminology. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

99. In existing Section 2D.45 (new Section 2D.46), the FWHA proposes changing the title from ''Reference Posts (D10–1 through D10–3)'' to ''Reference Location Signs (D10–1 through D10–8)'' and to change the term ''reference posts'' to ''reference location signs'' throughout the section to correspond to terminology used throughout the MUTCD.

The FHWA proposes two changes to the first STANDARD statement. First, the FHWA proposes distinguishing between use on conventional roads and freeways. The design of reference location signs used on conventional roads is the same as currently listed in the STANDARD. If reference location signs are used on freeways or expressways, the FHWA proposes requiring that the reference location signs be designed in accordance with the STANDARDS contained in Section 2E.54, for consistency with other signs used on expressways or freeways. Second, the FHWA proposes requiring the installation of reference location signs on the right side of the roadway, except where conditions limit or restrict the use of such signs on the right side of the roadway. This is proposed for enhanced uniformity of location of these signs.

The FHWA proposes two changes to the last OPTION statement. First, the FHWA proposes changing the suggested spacing of intermediate reference location signs from one, two, or five tenths of a kilometer (or mile) to one-tenth of a kilometer (or mile) or some other regular spacing, for enhanced consistency and uniformity. Second, the FHWA proposes that to further enhance the reference location sign system, a new enhanced reference location (D10–7) sign and a new enhanced intermediate reference location (D10–8) sign may be installed at one-tenth of a kilometer (mile) interval, or at some other regular spacing. Evaluation of experimental systems indicates that this

type of sign greatly assists road users in reporting a more precise location of an incident or other emergency.

The FHWA proposes adding a STANDARD statement describing the design of the enhanced reference location signs and the enhanced intermediate reference location signs. The proposed STANDARD requires that the signs shall be vertical panels having green backgrounds with white numerals, letters, and borders, except for the route shield which shall be the standard color and shape. The top line shall consist of the cardinal direction for the roadway; the second line shall consist of the applicable route shield for the roadway; the third line shall identify the units in metric or English; the fourth line shall identify the kilometer (mile) reference for the location; and for the enhanced intermediate reference location sign the fifth line shall give the tenth of a kilometer (mile) using a decimal point.

Although a blue background has been used in some experimental projects, the FHWA believes that the standard green background of the 30-year old ''mile marker'' system should be used. Although most of the signs of experimental projects use an abbreviation and do not spell out the cardinal direction, the FHWA believes that most road users do not understand the abbreviations, thus spelling out the cardinal direction would assist road users in reporting incidents. Likewise, most of the signs of experimental projects do not use a decimal point before the tenth of kilometer (mile), however, recent research indicates that road users better understand that the location is a fraction of a kilometer (mile) with the decimal point.

The FHWA proposes that the design of this optional enhanced reference location sign become effective immediately for new location referencing system installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs of existing systems to minimize any impact on State or local highway agencies.

The FHWA also proposes requiring the installation of the enhanced reference location signs on the right side of the roadway in rural areas except where conditions limit or restrict the use of enhanced reference location signs on the right side of the roadway.

Finally, the FHWA proposes adding an OPTION statement, which states that in urban areas, enhanced reference location signs may be installed on the right side of the roadway, in the median, or on ramps to replace or to supplement reference location signs. This will provide flexibility to jurisdictions.

100. In existing Section 2D.47 (new Section 2D.48) General Information Signs (I Series), the FHWA proposes removing all references concerning Adopt-a-Highway signs from the MUTCD. Current State and local practices pertaining to Adopt-A-Highway signs vary widely and, in some cases, include the use of commercial logos for indicating Adopt-A-Highway sponsors. The use of logos has raised deeper policy issues regarding Federal and State laws concerning advertising along the right-of-way, general commercialization of the right-of-way, the safety to motorists and workers, and the ability to raise revenues for activities such as litter removal.

Recent discussions of the signing criteria in the MUTCD, along with dialogue of several American Association of State Highway and Transportation Officials (AASHTO) subcommittees, have highlighted these deeper issues that go beyond the simple standards included in the MUTCD. For example, the AASHTO Subcommittee on Maintenance has argued that several States have existing contracts that allow a commercial entity to exchange maintenance and litter pickup services for signs acknowledging the commercial sponsors who pay for the services. These contracts supplement scarce maintenance resources for these States. The Subcommittee also noted that the use of more experienced crews used in such arrangements is safer than using volunteers.

The AASHTO Subcommittee on Traffic Engineering, on the other hand, has argued that these acknowledgements of the commercial sponsors is an opening for other types of advertising (including electronic advertising on overhead dynamic message signs along freeways and at signalized intersections) and raise serious concerns over driver distraction, confusion, and crash potential and liability. At the request of the Subcommittee on Maintenance, the AASHTO Standing Committee on Highways has established a task force to consider commercialization within the right-of-way, including, but not limited to, signage for the Adopt-A-Highway program.

Until the AASHTO study is completed, the FHWA is proposing the removal of all references to Adopt-A-Highway signs in the MUTCD.

In this section, the FHWA also proposes adding new OPTION, GUIDANCE, and STANDARD statements regarding the use of signs to display safety or transportation-related messages. These messages, such as SEAT BELTS BUCKLED? and DON'T DRINK AND DRIVE, are in common and widespread use in many jurisdictions and they provide valuable reminders to road users of important laws. The proposed additions to this section provide for consistency in application of these types of messages on General Information signs and reduce the possibility of such signs being misused.

Finally, the FHWA proposes in the second STANDARD statement replacing the words ''jurisdiction logos'' with ''boundary'' to provide additional flexibility highway agencies to use different colors for political boundary signs.

101. In existing Section 2D.48 (new Section 2D.49) Signing of Named Highways, in the first STANDARD statement the FHWA proposes adding additional requirements for installing memorial signs on the mainline. These requirements prohibit the use of memorial names on the directional guide signs, interference with necessary highway signing, and placement which compromises the safety or efficiency of traffic flow. The proposed STANDARD statement is identical to the STANDARD statement in Section 2E.08. The FHWA proposes this addition for consistency and to clarify the acceptable locations to install memorial signs.

102. The FHWA proposes adding a new section, numbered and titled ''Section 2D.52 National Scenic Byways Marker (D6–4).'' The FHWA proposes including SUPPORT, OPTION, and STANDARD statements that describe the National Scenic Byways program and the markers that may be placed on roads designated as National Scenic Byways or All-American Roads by the Secretary of Transportation of the U.S. DOT. As of January 2002 there were 72 such designated byways in 32 States. This new section is proposed to provide for uniformity of design and application of markers on designated National Scenic Byways.

103. In Section 2E.10, the FHWA proposes changing the title from ''Number of Signs at an Overhead Installation'' to ''Number of Signs at an Overhead Installation and Sign Spreading'' and relocating the SUPPORT and GUIDANCE statements on sign spreading from Section 2E.11 because they are more appropriately associated with sign location installation.

104. In Section 2E.11, the FHWA proposes changing the title from ''Sign Spreading and Pull-Through Signs'' to ''Pull-Through Signs'' to reflect the proposed relocation of the sign

spreading SUPPORT and GUIDANCE statements to Section 2E.10.

In the first GUIDANCE statement, the FHWA proposes replacing the words ''only when'' with ''where'' to broaden the use of Pull-Through signs. The FHWA proposes this change to recognize that Pull-Through signs can be beneficial in congested traffic for road users, especially older drivers, at many locations. The FHWA also proposes recommending that Pull-Through signs with down arrows be used where alignment of the through lanes is curved and the exit direction is straight ahead, where the number of through lanes is not readily evident, and at multilane exits. This will enhance the information provided to road users.

105. In Table 2E–3 Minimum Letter and Numeral Sizes for Freeway Guide Signs According to Interchange Classification, the FHWA proposes adding dimensions for the ''Action Message Word'' row and adding a row with dimensions for the sizes of ''Numerals and Letter'' for Gore signs. These were inadvertently omitted from the current edition.

106. In Section 2E.19 Diagrammatic Signs, the FHWA proposes to adding to item A of the first STANDARD statement the option of showing each individual lane arrangement. Research of the needs of older road users indicates that it is easier to comprehend a diagrammatic sign with one arrow for each lane than one arrow for all lanes as the width of each lane on a single arrow is too small. Additionally, the FHWA proposes adding a second illustration to the Diagrammatic Sign for a Single-Lane Left Exit (Figure 2E–3) which shows two diagrammatic arrows instead of just one.

107. In Section 2E.20 Signing for Interchange Lane Drops, the FHWA proposes clarifying the second STANDARD statement that an EXIT ONLY (down arrow) (E11–1) panel shall not be used on an Exit Direction sign that contains an arrow in its design.

108. In Section 2E.28 Interchange Exit Numbering, the FHWA proposes relocating the second OPTION statement to the first GUIDANCE statement. Because road users might not expect a left exit and have difficulty in maneuvering to the left, the FHWA is recommending that the word LEFT be added to the exit number plaque. The FHWA is proposing this change because of numerous complaints of the difficulty that road users have in knowing when an exit is on the left. Very few road users know that when the exit plaque is installed on the top left edge of the sign, it means the exit is on the left. The FHWA proposes that this new GUIDANCE become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 15 years for existing signs in good condition to minimize any impact on State or local highway agencies.

The FHWA proposes adding a new OPTION statement following the first GUIDANCE statement, which states that the portion of the exit number plaque containing the word LEFT may have a black legend and border on a yellow background. This proposed OPTION statement mirrors other similar uses of the black on yellow color pattern for signs and panel associated with left exits in the MUTCD.

Additionally, the FHWA proposes removing the EXIT 13 sign from Figure 2E–3 to reflect the changes in Section 2E.28.

109. In Section 2E.34 Exit Gore Signs, the FHWA proposes adding an OPTION statement to allow the mounting of a panel under the Exit sign indicating the advisory speed for the ramp. This option provides jurisdictions additional flexibility for reminding road users of the recommended speed for an exit ramp.

110. In Section 2E.49 Signing of Approaches and Connecting Roadways, the FHWA proposes removing the entire text of the section and adding new SUPPORT, GUIDANCE, STANDARD, and OPTION statements, as well as five new figures. The proposed new section addresses sign sequences and sign design for conventional roads with one lane and those with more than one lane of traffic approaching an interchange. The proposed new section also clarifies the use of signs for approaches and connecting roadways in order to better convey to road users the ramp configuration and the maneuver that a road user would have to make to get on the desired connecting roadway.

111. In Section 2E.51 General Service Signs, the FHWA proposes changing from 3 to 2 the number of meals per day for which a food establishment should have a continuous operation to serve in item B.2 in the first GUIDANCE statement. The FHWA proposes this change to accommodate more food businesses.

112. In Section 2E.54, the FHWA proposes changing the title from ''Reference Posts'' to ''Reference Location Signs'' to reflect the new enhanced reference location sign and to be consistent with changes in other parts of the MUTCD.

The FHWA proposes clarifying that the sign sizes in the STANDARD statement refer to reference location signs placed on freeways or expressways, and that the abbreviation KM (MILE) shall be in 100 mm (4 in) white letters.

Additionally, the FHWA proposes adding a paragraph to the OPTION statement at the end of the section, which states that intermediate and enhanced reference location signs may also be used on freeways and expressways. It is on those types of facilities where such signs have the most common application.

113. In Section 2E.56 Radio Information Signing, the FHWA proposes adding OPTION and STANDARD statements at the end of the section describing the use and design of a TRAVELER INFO CALL 511 (D12–5) sign. With the adoption of 511 as the nationwide traveler information phone number, a uniform sign design is needed. The proposed changes in this section are consistent with the proposed changes in Section 2D.45.

114. In Section 2E.57 Carpool Information Signing, the FHWA proposes adding to the OPTION statement that Carpool Information signs may include Internet addresses or telephone numbers within the legend. The proposal reflects common current practice and provides for additional information to road users.

Additionally, the FHWA proposes changing the size of the maximum vertical dimension of the logo or symbol in the STANDARD statement from 900 mm (36 in) to 450 mm (18 in), to enhance the legibility of the primary message.

115. Following Section 2E.58, the FHWA proposes adding a new section, numbered and titled ''Section 2E.59 High-Occupancy Vehicle (HOV) Signs.'' This proposed section includes STANDARD, GUIDANCE, OPTION, and SUPPORT statements regarding the use and placement of signs for HOV lanes and facilities. The FHWA also proposes including five figures illustrating examples of HOV signing applications. This proposed section reflects current state-of-the-practice.

116. In Section 2F.01 Eligibility, the FHWA proposes changing from 3 to 2 the number of meals per day for which a food establishment should have a continuous operation to serve in item B.2 of the fourth GUIDANCE statement. The FHWA proposes this change to accommodate more food businesses. This proposed change is consistent with the proposed change in Section 2E.51.

117. In Section 2F.04 Number and Size of Logos and Signs, the FHWA proposes changing the second STANDARD statement to require that a logo panel on signs for conventional roads and ramps not exceed 750 mm (30

in) in width instead of 600 mm (24 in) to be consistent with the proportions of panels for freeways and expressways.

118. In Section 2F.08 Double-Exit Interchanges, the FHWA proposes adding to the OPTION statement that at a double-exit interchange where there are four logo panels displayed for one of the exits and one or two panels to be displayed for the other exit, the logo panels may be arranged in three rows with two panels per row, to make the layout of the sign more logical.

119. In Chapter 2G TOURIST-ORIENTED DIRECTIONAL SIGNS, the FHWA proposes changing from ''Typical'' to ''Examples of'' in the titles of Figures 2G–1 and 2G–2 because the information shown is only an example of many acceptable arrangements of signs.

120. In Section 2G.01 Purpose and Application, in the second STANDARD statement, the FHWA proposes prohibiting the placement of tourist-oriented directional signs on conventional roads in urban areas. This proposal will clarify and strengthen the current requirement that such signs shall only be used on rural conventional roads.

Also, the FHWA proposes relocating the current first paragraph of the GUIDANCE statement to become a new second paragraph of the second STANDARD statement. This proposed change would require, rather than recommend, that tourist-oriented directional signs incorporate information from and be used in place of Specific Service signs where both types of signs are needed at an intersection. The FHWA is proposing this change in order to reduce sign clutter at intersections and enhance road user safety.

121. In Section 2G.07 State Policy, the FHWA proposes changing the phrase ''State or Federal laws'' to ''State and Federal laws'' in the STANDARD statement, to clarify that both types of laws must be heeded.

122. In Section 2H.09 Destination Guide Signs, the FHWA proposes clarifying the second STANDARD statement that linear parkway-type highways that primarily, rather than merely, function as arterial connectors, even if they also provide access to recreational or cultural interest areas, shall not qualify for the use of white-on-brown destination guide signs. The FHWA proposes this change to improve uniformity of guide signing on these important arterials.

The FHWA also proposes adding illustrations of trapezoidal-shaped directional guide signs to Figure 2H–2 to correspond with the optional use of this shape for recreational or cultural interest area directional signing as provided for in Section 2G.09.

123. In Section 2I.03 EVACUATION ROUTE Sign (EM–1), in the first STANDARD statement, the FHWA proposes changing the design of the EVACUATION ROUTE (EM–1) sign to a rectangle sign with a blue circular symbol with a directional arrow and the legend EVACUATION ROUTE. The proposed minimum size is 600×600 mm (24×24 in) and the proposed circular symbol diameter is 2.54 mm (1 in) smaller than the width of the sign. This change reserves the circular shape sign exclusively for rail grade crossings and enhances the conspicuity and legibility of the EVACUATION ROUTE sign. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

In the second STANDARD statement, the FHWA proposes changing the detail regarding the colors to be used on the EVACUATION ROUTE (EM–1) sign and requiring that the entire sign be retroreflective. This proposed change corresponds with the proposed design changes required by the first STANDARD statement.

The FHWA proposes adding to the second OPTION statement that the legend on the EVACUATION ROUTE sign may be modified to describe the type of evacuation route, such as HURRICANE, to provide additional information to road users.

Additionally, the FHWA proposes adding to Figure 2I–1 illustrations of the HURRICANE EVACUATION ROUTE, AREA CLOSED, TRAFFIC CONTROL POINT, MEDICAL CENTER, and HURRICANE SHELTER signs and illustrations of six new directional signs for EMERGENCY SHELTER, FALLOUT SHELTER, CHEMICAL SHELTER, WELFARE CENTER, REGISTRATION CENTER, and DECONTAMINATION CENTER signs.

Discussion of Proposed Amendments to Part 3—Markings

124. In Section 3A.04 Colors, the FHWA proposes revising the STANDARD statement to clarify the use of black markings. Black markings can be used in conjunction with any other color marking to add contrast to it. The FHWA proposes removing the existing reference to object markers because it was not an appropriate reference.

125. The FHWA proposes changing the title of Section 3A.05 from ''Colors of Longitudinal Pavement Markings'' to ''Colors of Pavement Markings,'' because this section defines the use of colors for all pavement markings, not just longitudinal line markings. The FHWA also proposes revising this entire section to clarify the function of each color of pavement marking.

126. In Section 3A.06 Widths and Patterns of Longitudinal Pavement Markings, the FHWA proposes removing item A of the STANDARD statement, which states that a solid line prohibits or discourages crossing. This item does not describe the width or pattern of longitudinal lines. The remaining items would be renumbered accordingly.

In existing item D (new item C) of the STANDARD statement, the FHWA proposes replacing the word ''normal'' with ''parallel'' to clarify the pattern of a double line.

In existing items D, E, and F (new items C, D, and E) of the STANDARD statement, the FHWA proposes removing the last sentence of each item, since these sentences describe the function of various markings, rather than the width and pattern of longitudinal markings.

The FHWA proposes revising the GUIDANCE statement to clarify that this guidance refers to all roadway types, not just rural highways.

Additionally, the FHWA proposes revising the OPTION statement to differentiate between the dimensions for dotted lines used for line extensions and lane drop/add markings. The dimensions for the line segments and gaps for each are also proposed, for consistency with other sections in Part 3.

127. The FHWA proposes changing the title of Section 3B.01 from ''Yellow Centerline and Left Edge Line Pavement Markings and Warrants'' to ''Yellow Centerline Pavement Markings and Warrants,'' and moving the fourth STANDARD statement of Section 3B.01 to Section 3B.06 since edge lines are appropriately covered in Section 3B.06.

128. In Section 3B.02 No-Passing Zone Pavement Markings and Warrants, the FHWA proposes revising the second STANDARD statement to clarify that no-passing zone markings on approaches to highway-rail grade crossings shall conform with Section 8B.19, and eliminating the requirement that no passing zone markings be used at other appropriate locations, to be consistent with Part 8 and eliminate overlap with more specific requirements for no passing zone markings elsewhere in Section 3B.02.

Additionally, the FHWA proposes revising the third STANDARD statement

to clarify the dimensions of a no-passing buffer zone, and eliminating the buffer zone dimensions specific to areas where no passing zones are required because of limited passing sight distance. The proposed dimension of ''at least 15 m (50 ft) in length'' is suitable for all no passing zone buffers regardless of the reason for the buffer.

129. In Section 3B.03 Other Yellow Longitudinal Pavement Markings, the FHWA proposes revising the text in the first paragraph of the first STANDARD statement to substitute the phrase ''normal double'' for ''two double'' in the description of the pavement marking requirements for reversible lanes. In the third paragraph of the first STANDARD statement, the FHWA proposes clarifying that the pavement marking requirements for a two-way left turn lane applies to such lanes that are never operated as a reversible lane. The FHWA proposes these changes to improve the clarity of the requirements and for consistency with requirements elsewhere in Chapters 3A and 3B.

130. The FHWA proposes changing the title of Section 3B.04 from ''Edge Line Pavement Markings and Warrants'' to ''White Lane Line Pavement Markings and Warrants,'' and moving the fourth STANDARD statement of Section 3B.04 to Section 3B.06 since edge lines are appropriately covered in Section 3B.06.

131. In Section 3B.05 Other White Longitudinal Pavement Markings, the FHWA proposes changing the gap length for lane drop markings from 3.6 m (12 ft) gaps to 2.7 m (9 ft) gaps in the third OPTION statement to be consistent with the spacing of other marking gaps.

132. In Section 3B.06 Edge Line Pavement Markings, the FHWA proposes adding to the STANDARD statement text the requirements that are being relocated from Sections 3B.01 and 3B.04 pertaining to left and right edge lines. These proposed changes would result in all edge line pavement marking information being contained within one section.

The FHWA also proposes adding an OPTION statement, which states that wide solid edge line markings may be used for greater emphasis. Wide edge lines can sometimes be useful in reducing run-off-the-road crashes at curves and this proposal will provide additional flexibility for jurisdictions to use these markings where needed.

133. In Section 3B.08 Extensions Through Intersections or Interchanges, the FHWA proposes adding to the GUIDANCE statement on the placement and dimensions of pavement markings that are continued through intersections and interchanges. The FHWA proposes recommending that edge lines not be extended into or continued through intersections or interchanges. This guidance is needed so that pavement marking extensions through intersections and interchanges do not confuse drivers in adjacent or opposing travel lanes.

134. In Section 3B.11 Raised Pavement Markers, the FHWA proposes clarifying in the first SUPPORT statement that the 10 mm (0.4 in) height of a raised pavement marker is for the retroreflective surface and that this height is the actual height or optical height. The FHWA also proposes clarifying the first SUPPORT statement to include marking the position of fire hydrants as one of the uses of raised pavement markings, for consistency with other proposed revisions in this section.

Additionally, the FHWA proposes adding an OPTION statement after the STANDARD statement, which states that blue raised pavement markers may be used to mark the positions of fire hydrants. This is common practice in many jurisdictions.

135. In Section 3B.12 Raised Pavement Markers as Vehicle Positioning Guides with Other Longitudinal Markings, in the first SUPPORT statement, the FHWA proposes revising the spacing used between raised pavement markers along longitudinal line markings from 2N to 3N because this is an acceptable spacing for most applications. The value ''N'' is equal to the length of one line segment plus one gap.

Additionally, in the second OPTION statement, the FHWA proposes changing from ''N or less'' to ''2N or less'' for the reduced spacing that may be used where it is desired to alert the road user to changes in the travel path, because this is an acceptable spacing for most applications.

136. In Section 3B.13 Raised Pavement Markers Supplementing Other Markings, the FHWA proposes revising item B1 of the GUIDANCE statement to indicate that raised pavement markers should not supplement right edge line markings unless they are spaced closely enough (no greater than 3 m (10 ft) apart) to approximate the appearance of a solid line. This proposed exception is needed to give jurisdictions the ability to use raised pavement markers to supplement edge lines in situations where additional wet-night delineation is needed, such as on curves.

In item B.2 of the GUIDANCE statement, the FHWA proposes revising the recommended spacing to be used between raised pavement markers along broken line markings from 2N to 3N because this is an acceptable spacing for most applications.

Additionally, in item B.5 of the GUIDANCE statement, the FHWA proposes revising the recommended spacing to be used between raised pavement markers that supplement edge line extensions through freeway interchanges from N/2 to N because this is an acceptable spacing for most applications.

137. In Section 3B.14 Raised Pavement Markers Substituting for Pavement Markings, in the first STANDARD statement, the FHWA proposes revising the required spacing between raised pavement markers when substituted for broken line markings from N/12 to N/8 and revising the required spacing between raised pavement markers when substituted for solid lane line markings from N/8 to N/4. In the third STANDARD statement, the FHWA proposes revising the required spacing between raised pavement markers when substituted for dotted line markings from N/8 to N/4. The FHWA proposes these changes because these spacings are acceptable for most applications.

The FHWA proposes that these changes become effective immediately for new raised pavement marker installations. The FHWA proposes a phase-in compliance period of 10 years for existing raised pavement markers in good condition to minimize any impact on State or local highway agencies.

138. In Section 3B.15 Transverse Markings, in the first STANDARD statement the FHWA proposes adding ''yield lines'' and ''speed hump'' markings to the list of transverse markings required to be white markings.

Additionally, the FHWA proposes changing the second paragraph of the GUIDANCE statement to a STANDARD statement, which requires that pavement marking letters, numerals, and symbols be installed in accordance with the ''Standard Alphabets for Highway Signs and Pavement Markings'' to correct an oversight in the Millennium Edition of the MUTCD.

139. In Section 3B.16 Stop and Yield Lines, in the second paragraph of the first GUIDANCE statement, the FHWA proposes clarifying that YIELD signs are an exception to the recommendations on the use of stop lines, to be consistent with the intended use of yield lines.

The FHWA also proposes modifying the OPTION statement to clarify that yield lines may also be placed at locations where vehicles are to yield to pedestrians in compliance with a YIELD HERE TO PEDESTRIANS (R1–5 or R1–5a) sign, to correspond with the

proposed addition of this new sign to Chapter 2B.

The FHWA proposes revising and adding to the second GUIDANCE statement to clarify the recommended placement of yield lines at unsignalized midblock crosswalks, to enhance pedestrian safety. The FHWA also proposes adding a new paragraph to the second GUIDANCE statement regarding placement of yield lines at midblock crosswalks. The FHWA also proposes adding a new figure numbered and titled ''Figure 3B–15 Examples of Yield Lines at Unsignalized Midblock Crosswalks'' relating to the new text. All of the following figures in the chapter would be renumbered accordingly.

Additionally, the FHWA proposes adding a new SUPPORT statement at the end of the section to emphasize that drivers who yield too close to crosswalks on multi-lane approaches place pedestrians at risk by blocking other drivers' view of pedestrians. The FHWA proposes this to clarify the reasons for the recommended locations of stop and yield lines.

140. In Section 3B.17 Crosswalk Markings, in the second GUIDANCE statement the FHWA proposes increasing the upper limit of the range for spacing diagonal or longitudinal crosswalk marking lines from 300 to 600 mm (12 to 24 in) to 300 to 1500 mm (12 to 60 in) and to specify the relationship between marking spacing and line width, to provide more flexibility to jurisdictions.

141. In Section 3B.19 Pavement Word and Symbol Markings, the FHWA proposes modifying the third STANDARD statement to allow the use of STOP markings at the ends of aisles in parking lots even though there is no STOP sign. In parking lots, often there is no practical way to install a stop sign at the end of the aisles, so the STOP legend pavement marking is needed to clarify right-of-way.

142. In Section 3B.21 Curb Markings, in the first paragraph of the STANDARD statement, the FHWA proposes clarifying that the requirement for signs to be used with curb markings does not apply if the no parking zone is controlled by statute or local ordinance, to minimize unnecessary sign clutter.

The FHWA also proposes adding a new OPTION statement immediately following the first item in the first GUIDANCE statement to clarify the use of signs and word markings when curb markings are used to convey statutory law.

143. In Section 3B.22 Preferential Lane Word and Symbol Markings, the FHWA proposes adding to the second STANDARD statement that more than one symbol or word marking can be used to mark a preferential lane, that the word message HOV is acceptable as a preferential marking (relocating this from the OPTION statement), and that the ''T'' marking be the light rail transit preferential lane symbol. Additionally, in the same STANDARD statement, the FHWA proposes requiring that symbol or word markings for each preferential lane use be installed if two or more preferential lane uses are permitted in a single lane. The FHWA proposes these changes to provide uniformity for marking of multi-use preferential lanes and to provide a distinctive symbol for light rail transit.

144. In Section 3B.24 Markings for Roundabouts, the FHWA proposes adding a new STANDARD statement, which prohibits marking bicycle lanes on roundabouts. The FHWA proposes the prohibition to enhance bicyclist safety by avoiding giving bicyclists a false sense of security when traveling through the roundabout with conflicting and turning traffic. This proposed change is consistent with state of the practice for roundabout design.

145. In Section 3C.01 Object Marker Design and Placement Height, the FHWA proposes adding to the first STANDARD statement that the minimum width of both the yellow and black stripes on a Type 3 striped marker shall be 75mm (3 in), to provide for uniformity of appearance of these markers. The FHWA proposes that this change become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

146. In Section 3D.01 Delineators, the FHWA proposes changing the STANDARD statement indicating that delineators are considered guidance devices rather than warning devices to a SUPPORT statement to be consistent with other parts of the MUTCD.

147. In Section 3E.01 General, the FHWA proposes several changes to reflect that red colored pavement is no longer being considered a traffic control device. Accordingly, the FHWA proposes adding to the SUPPORT statement that colored pavement located between the crosswalk lines is not considered to be a traffic control device, removing existing item A of the STANDARD statement concerning when the color red is used, and removing the second GUIDANCE statement concerning how the color red is used. These proposed changes will provide additional flexibility for jurisdictions to use colored pavements as aesthetic treatments, such as in redevelopment areas, as long as the crosswalk is marked by standard, retroreflectorized, white lines.

Additionally, in the first GUIDANCE statement, the FHWA proposes recommending that colors that degrade the contrast of white crosswalk lines, or that might be mistaken by road users as a traffic control application, not be used for colored pavement located between crosswalk lines. This proposed change is needed to reduce the possibility of uses of colored pavements in ways that might confuse road users or reduce pedestrian safety.

Discussion of Proposed Amendments to Part 4—Highway Traffic Signals

148. In Section 4A.02 Definitions Relating to Highway Traffic Signals, the FHWA proposes revising the definition for ''Average Day'' and ''Flashing'' and adding a new definition for ''Flashing Mode''. These definitions would be identical to the proposed revised definitions in Section 1A.13 and are repeated in Section 4A.02 because they are especially pertinent to Highway Traffic Signals.

Additionally, the FHWA proposes revising the definitions for ''Backplate'' (change to ''Signal Backplate''), ''Detector,'' ''Louver'' (change to ''Signal Louver''), ''Signal Face,'' ''Signal Head,'' and ''Visibility-Limited Signal Face or Section'' to better reflect accepted practice and terminologies.

The FHWA also proposes revising the definition of ''Pedestrian Clearance Time'' to correspond to proposed changes in the standards contained in Section 4E.10 (formerly 4E.09).

Additionally, the FHWA proposes adding new definitions for ''Dual-Arrow Signal Section,'' ''Emergency Beacon,'' ''Moveable Bridge Signal,'' ''Separate Left Turn Signal Face,'' and ''Shared Left Turn Signal Face'' because these terms are frequently used in Part 4. The entire list of definitions is renumbered accordingly.

149. In Section 4B.02 Basis of Installation or Removal of Traffic Control Signals, the FHWA proposes revising the first GUIDANCE statement to more specifically define the elements that should be considered as traffic conditions, because vehicles, pedestrians, and bicyclists are all considered to be traffic.

In the SUPPORT statement, the FHWA proposes changing the word ''intersections'' to ''locations,'' since traffic signals are not always located at intersections. Traffic signals can be at shopping center driveways and other locations that are not legally considered

intersections. This proposed revision is carried throughout Part 4.

The FHWA proposes adding a paragraph to the beginning of the second GUIDANCE statement, which states that engineering judgment should be applied in the review of operating traffic control signals to determine whether the type of installation and the signal timing meet the current requirements of traffic. This information is relocated from Section 4B.03.

Additionally, in item E of the OPTION statement, the FHWA proposes removing the maximum time limit of one year for signal poles and cables to remain in place after removal of the signal heads, since it is too restrictive.

150. In Section 4B.03 Advantages and Disadvantages of Traffic Control Signals, the FHWA proposes revising item B of the second paragraph of the SUPPORT statement, to clarify that signal timing review and updating be conducted if needed and to clarify that every two years is just one of several possible frequencies of review.

151. In Section 4C.01 Studies and Factors for Justifying Traffic Control Signals, the FHWA proposes adding a recommendation to the GUIDANCE statement, which states that a traffic control signal installed under projected conditions should be studied again within one year after placing it in stop-and-go operation to determine if it is still justified and, if it is not justified, it should be taken out of stop-and-go operation or removed. The FHWA proposes this addition because it reflects best practice to prevent continued operation of unjustified signals. Additionally, the FHWA proposes categorizing a wide median (for purposes of signal warrant analysis) as one with a width greater than 9 m (30 ft), for consistency with other parts of the MUTCD.

Additionally, the FHWA proposes adding a paragraph at the beginning of the OPTION statement, which explains the option of using the left-turn volume on the major-street as the minor-street volume and the corresponding single direction of opposing traffic as the major street volume. The proposed change reflects commonly used and accepted practices and provides additional flexibility to practitioners in analyzing a location for a traffic signal.

The FHWA proposes adding an item H to the existing first (new second) paragraph of the OPTION statement to indicate that bicyclists may be counted as either vehicles or pedestrians when studying the need for a traffic control signal. This proposed change provides a more complete listing of recommended data for the engineering study.

Additionally, in item A of the existing second (new third) paragraph of the OPTION statement, the FHWA proposes removing the reference to the Peak Hour Warrant to correct an error in the previous edition.

152. In Section 4C.02 Warrant 1, Eight-Hour Vehicular Volume, in the first OPTION statement, the FHWA proposes changing the phrase ''exceeds 70 km/h (40 mph)'' to ''exceeds 70 km/h or exceeds 40 mph'' to clarify that, for purposes of evaluating warrant satisfaction, either 70 km/h or 40 mph (depending on whether metric or English units are used for speeds, and regardless of metric-English conversion factors) is the speed above which the 70% factor may be used. This change is carried throughout the applicable text and figures in Chapter 4C.

The FHWA proposes adding a new GUIDANCE statement following the first OPTION statement, and a new SUPPORT statement at the end of the section to better clarify the intended use of the combination of Conditions A and B under Warrant 1.

Additionally, the FHWA proposes adding a new OPTION statement after the second STANDARD statement to explain the use of 56% traffic volumes under certain conditions and modifying Table 4C–1 to include additional criteria for a combination of Conditions A and B as reflected in the text. These changes will better reflect commonly accepted practice that was implicitly allowed in the 1988 MUTCD.

153. In Section 4C.08 Warrant 7, Crash Experience, the FHWA proposes adding a new OPTION statement at the end of the section to explain the use of 56% traffic volumes. This proposed change is consistent with similar proposed changes in Section 4C.02.

154. In Section 4D.01, General, the FHWA proposes removing from the STANDARD statement the requirement that a traffic control signal be operated in either a steady (stop-and-go) mode or a flashing mode at all times. This change is proposed because it is in conflict with other STANDARD statements in Chapter 4E that require flashing indications (flashing UPRAISED HAND pedestrian signal indications) to be displayed during an otherwise steady mode of traffic control signal operation. This change also allows practitioners the flexibility to use flashing indications along with steady indications where appropriate in a signal sequence to improve the efficiency or safety of the intersection. Additionally, the FHWA proposes reordering the paragraphs in this STANDARD statement so that existing last paragraph will become the first paragraph. This revision is proposed to improve clarity.

The FHWA also proposes adding to the GUIDANCE statement that the location of signalized midblock crosswalks should be at least 30 m (100 ft) away from adjacent stop or yield controlled driveways or streets. The purpose of this proposed change is to reduce potential conflicts and improve safety, and to codify previous official interpretations of the MUTCD on this subject. The FHWA proposes that this guidance become effective immediately for new signalized midblock crosswalks. The FHWA proposes a phase-in compliance period of 10 years for existing signalized midblock crosswalks in good condition to minimize any impact on State or local highway agencies.

155. In Section 4D.04 Meaning of Vehicular Signal Indications, the FHWA proposes removing the phrase ''unless otherwise determined by law'' from the beginning of the STANDARD statement to conform to the Uniform Vehicle Code.

The FHWA proposes adding to item A.3 that the pedestrian does not automatically have the right of way when starting to cross on a green signal to conform to the Uniform Vehicle Code.

The FHWA proposes adding to item C.2 that a turn on a RED ARROW signal indication after stopping is allowed when a sign is in place permitting the turn on red arrow to conform to the Uniform Vehicle Code. Additionally, the FHWA proposes removing the existing OPTION statement at the end of the section dealing with right-turn on a red arrow to eliminate redundancy with the change in the STANDARD statement.

156. In Section 4D.05 Application of Steady Signal Indications, the FHWA proposes adding protected/permissive mode left-turn operation with separate left-turn signal faces as an exception to when a steady CIRCULAR RED signal indication is required to be displayed with the appropriate GREEN ARROW signal indication. This proposed change clarifies the proper display with the ''Dallas'' type left turn phasing.

The FHWA proposes adding a new item B.4 to the STANDARD statement to prohibit signal displays that result in what is referred to as the ''yellow trap'' unless certain ameliorating measures are taken. The ''yellow trap'' is a potentially adverse safety situation inherent in some signal phasing sequences involving lagging left turns in one direction. A left turning driver, in the intersection waiting for gaps in oncoming traffic in order to turn left on

a permissive green signal indication, sees the signals for adjacent through traffic change from green to yellow and mistakenly assumes that oncoming through traffic also has yellow signals at the same time and will be soon coming to a stop. The proposed new text reflects current best practices and addresses the safety concerns. The FHWA proposes that this standard become effective immediately for new or replacement of damaged existing traffic control signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

The FHWA proposes revising item D of the STANDARD statement to correspond with changes to Section 4D.04 that a turn on a RED ARROW signal indication after stopping is allowed when a sign is in place permitting the turn on red arrow, to conform to the Uniform Vehicle Code.

Additionally, the FHWA proposes adding to item F.2 of the STANDARD statement to require the use of a ''U Turn Yield to Right Turn'' sign when U-turns on a green arrow signal conflict with right turns on a green arrow signal. This proposed change is necessary to establish right-of-way of one movement over a conflicting movement, and to provide for safe operations.

157. In Section 4D.06 Application of Steady Signal Indications for Left Turns, the FHWA proposes replacing the existing item A in the STANDARD statement with new text that provides for the use of separate or shared left turn signal faces and the use of ''Dallas'' type displays and sequences for ''permissive only'' mode of operation. This revision is proposed in order to make this type of solution available to practitioners to eliminate the ''yellow trap'' situation for ''permissive only'' mode left turns as well as for ''protected-permissive'' mode.

Additionally, the FHWA proposes revising the text of item B.2 of the STANDARD statement for clarity and to correct an error from the previous edition. The proposed change reflects the fact that a visibility-limited CIRCULAR RED signal indication is considered not readily visible to drivers in the through lane(s).

Additionally, the FHWA proposes to revise the text of item C of the STANDARD statement to remove the requirement that the left-turn signal face simultaneously display a CIRCULAR RED signal indication with the left-turn GREEN ARROW signal indication during the protected left-turn movement in Protected/Permissive Mode, if a separate left-turn signal face is provided. This proposed change corrects an error from the previous edition.

158. In Section 4D.07 Application of Steady Signal Indications for Right Turns, in item B.2 of the STANDARD statement, the FHWA proposes correcting an error in the previous edition on the proper use of the RIGHT TURN SIGNAL sign and revising the statement for clarity. The proposed change reflects the fact that a visibility-limited CIRCULAR RED signal indication is considered not readily visible to drivers in the through lane(s).

159. In Section 4D.09 Unexpected Conflicts During Green or Yellow Intervals, the FHWA proposes revising item A of the STANDARD statement to add an exception for the situation regarding U-turns as described in item F.2 of Section 4D.05 to the prohibition of displaying a steady GREEN ARROW or YELLOW ARROW signal indication to vehicular movements that conflict with other vehicles moving on a green or yellow signal indication. This proposed change corresponds to the change proposed in Section 4D.05.

160. In Section 4D.12 Flashing Operation of Traffic Control Signals, the FHWA proposes revising the GUIDANCE statement to eliminate the word maximum in describing the duration of six seconds for a steady red clearance interval in the change from red-red flashing mode to steady (stop and go) mode. This change is proposed because six seconds has been found by practitioners to be a reasonable and practical duration to provide for safe operation in the transition of modes. Since this specific duration of six seconds is a recommended condition, this proposed change allows agencies to use longer or shorter durations if justified by unique conditions. The FHWA proposes that this guidance become effective immediately for new or replacement of damaged existing traffic control signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

161. In Section 4D.13 Preemption and Priority Control of Traffic Control Signals, the FHWA proposes changing the first paragraph of the SUPPORT statement to an OPTION statement to be consistent with similar conditions in other parts of the MUTCD.

The FHWA proposes revising the remaining portions of the SUPPORT statement to clarify that boats and trains are not ''vehicles'' under accepted definitions. The FHWA proposes adding light rail transit to the list of modes that typically get preemption control, to reflect current typical practice. Additionally, in the last paragraph of the SUPPORT statement, the FHWA proposes switching the first two items in the order of priority from ''boat, train'' to ''train, boat'' because trains typically cannot be stopped as easily as boats.

162. In Section 4D.15 Size, Number, and Location of Signal Faces by Approach, the FHWA proposes revising item D in the second STANDARD statement to change from 45 m (150 ft) to 55 m (180 ft) the maximum distance beyond the stop line that a signal face installed to satisfy the requirements of Items B and C in this STANDARD and at least one and preferably both of the signal faces required by item A in this STANDARD be located unless a supplemental near side signal face is provided.

Additionally, the FHWA proposes adding a new item D.2 to the second STANDARD statement to require the use of engineering judgment of the conditions, including worst-case visibility conditions, to determine if the provision of a supplemental near-side signal face would be beneficial, if the nearest signal face is located between 45 and 55 m (150 and 180 ft) from the stop line. The FHWA also proposes changing Figure 4D–2 to reflect the text.

The proposed changes to the second STANDARD statement and to Figure 4D–2 better accommodate signal design at large intersections.

163. In Section 4D.16 Number and Arrangement of Signal Sections in Vehicular Traffic Control Signal Faces, the FHWA proposes revising the seventh paragraph of the STANDARD statement to change the phrase ''variable indication'' to ''dual-arrow'' to clarify that single sections that display green and yellow arrows are permissible. Single section heads capable of displaying red, yellow, and green indications in the one section are not allowed due to color blindness and other issues. This proposed change is carried throughout the MUTCD.

164. In Section 4D.18 Design, Illumination, and Color of Signal Sections, the FHWA proposes removing the last GUIDANCE statement concerning the color of signal housings as there is no consensus that yellow signal housings are universally best in all of the various environments. In actual practice, far fewer than 50 percent of the signal heads in the United States are highway yellow. California, New York, and many other very large jurisdictions require signal heads to be other colors, such as green, black, gray, brown, etc. Some states require the front

surfaces of the housings to be black while painting the back surfaces of the housing yellow.

165. In Section 4D.21 Traffic Signal Signs, Auxiliary, the FHWA proposes revising the first paragraph of the STANDARD statement to specify that the required minimum clearance of the total assembly of traffic signal signs is the minimum vertical and horizontal clearances of sign assemblies.

Additionally, the FHWA proposes revising the GUIDANCE statement to clarify that traffic signal signs should be located adjacent to the signal face to which they apply.

166. In Section 4E.02 the FHWA proposes changing the title of the section from ''Meaning of Pedestrian Signal Indications'' to ''Meaning of Pedestrian Signal Head Indications'' to make it clear that what is being referred to are the ''walk-don't walk'' pedestrian signal heads, and not the red-yellow-green signal heads that may serve as indications for pedestrians at some locations. This proposed change is made throughout Chapter 4E.

Additionally, the FHWA proposes revising item A of the STANDARD statement to indicate that a pedestrian does not automatically have the right of way when starting to cross on a WALK signal. This proposed change conforms to the Uniform Vehicle Code.

167. In Section 4E.03 Application of Pedestrian Signal Heads, the FHWA proposes removing item D of the STANDARD statement because it implies that pedestrian signal heads are required at all locations where split phase timing is used without regard to the presence or absence of pedestrian activity. That is not the intent of this section.

168. In Section 4E.04, the FHWA proposes changing the title of the section from ''Size, Design, and Illumination of Pedestrian Signal Indications'' to ''Size, Design, and Illumination of Pedestrian Signal Head Indications'' for consistency with the proposed change in Section 4E.02. The FHWA also proposes specifying in the first paragraph of the STANDARD statement that symbolized messages for pedestrian signal heads are required to be solid and disallowing use of ''outline style'' symbols. The FHWA also proposes changing Figure 4E–1 to reflect the text and to eliminate the illustration of the ''outlined symbol.'' These changes are proposed because of the difficulty that elderly people and people with diminished visual acuity have in seeing the outline style symbols. The outline style symbols are also often occluded when used with egg crate baffles. Solid symbols provide the necessary luminous intensity and can be economically manufactured using light emitting diodes (LEDs) or other technologies. The FHWA proposes that this standard become effective immediately for new or replacement of damaged existing pedestrian signal faces. The FHWA proposes a phase-in compliance period of 10 years for existing pedestrian signal faces in good condition to minimize any impact on State or local highway agencies.

The FHWA also proposes adding a seventh paragraph to the STANDARD statement to specify the flash rate for the flashing upraised hand pedestrian signal head indication. The FHWA proposes this change to be consistent with flash rates specified in other sections of Part 4.

Additionally, the FHWA proposes adding an OPTION statement and a STANDARD statement at the end of the section to allow and describe the use of an animated eyes symbol on pedestrian signal heads. The FHWA proposes adding the animated eyes traffic control device because research has documented benefits to alerting pedestrians to look both ways for approaching vehicles.

169. In Section 4E.06 Accessible Pedestrian Signals, the FHWA proposes adding to the second paragraph of the fourth GUIDANCE statement how sound pressure levels of the accessible walk signal tone should be measured, to reflect typical industry practices.

170. The FHWA proposes adding a new section following Section 4E.06 Accessible Pedestrian Signals. The proposed new section is numbered and titled ''Section 4E.07 Countdown Pedestrian Signals'' and contains OPTION, STANDARD, and GUIDANCE statements on the design, use, and operation of countdown pedestrian signals. The remaining sections in Chapter 4E would be renumbered accordingly. Countdown pedestrian signals have been shown by research and experimentation to be beneficial to pedestrians by providing additional information to help pedestrians judge the time remaining to cross the street. Uniformity in the design and operation of countdown pedestrian signals is needed to minimize pedestrian confusion. The FHWA proposes that this section become effective immediately for new or replacement of damaged existing countdown pedestrian signal installations. The FHWA proposes a phase-in compliance period of 10 years for existing countdown pedestrian signals in good condition to minimize any impact on State or local highway agencies.

171. In existing Section 4E.07 (new Section 4E.08) Pedestrian Detectors, the FHWA proposes removing from the last STANDARD statement the statement that instructional signs are not required if special purpose pushbuttons are used. The current design of special purpose pushbuttons does not require a sign to make users aware of their intended purpose. Additionally, the FHWA proposes adding to the third GUIDANCE statement comparable text that the special purpose pushbuttons do not need an instructional sign.

The FHWA proposes adding an OPTION statement at the end of the section to allow the use of special pedestrian detectors to provide additional crossing time for pedestrians with special needs. This proposed change reflects the availability of new technology and can improve safety for pedestrians with special needs.

172. In existing Section 4E.08 (new Section 4E.09) Accessible Pedestrian Signal Detectors, the FHWA proposes changing the SUPPORT statement to a STANDARD statement for consistency, since other definitions in the MUTCD are STANDARDS. Additionally, the FHWA proposes relocating the existing first STANDARD statement to become part of the new first STANDARD statement at the beginning of the section.

The FHWA proposes retitling Figure 4E–2 from ''Recommended Pushbutton Locations for Accessible Pedestrian Signals'' to ''Typical Locations for Accessible Pedestrian Signals'' to be consistent with terminology used throughout the MUTCD for figures. The FHWA also proposes clarifying the arrows symbolizing push buttons in Figure 4E–2.

173. In existing Section 4E.09 (new Section 4E.10) Pedestrian Intervals and Signal Phases, the FHWA proposes removing from the first OPTION statement the desire to favor the length of an opposing signal phase as a condition for using walk intervals as short as 4 seconds. This change is proposed to encourage enhanced consideration of pedestrian timing needs.

In the second GUIDANCE statement the FHWA proposes increasing the pedestrian clearance time so that it is sufficient to allow the pedestrian to clear the full width of the traveled portion of the roadway. The current pedestrian clearance time is sufficient to allow the pedestrian to clear just to the center of the farthest traveled lane. With the increases in the number of coordinated signal systems, and with platoons of vehicles potentially arriving at the intersection at the start of the

green indication, it is a significant safety concern for pedestrians to be given only enough clearance time that they are in the middle of a travel lane when the platoon arrives at the start of green. The proposed change will result in only a very small increase in the pedestrian clearance time but will significantly enhance pedestrian safety. The FHWA proposes that this guidance become effective immediately for new or replacement of damaged existing signal installations. The FHWA proposes a phase-in compliance period of 5 years for existing traffic control signals in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes adding to the first paragraph of the last OPTION statement the option of containing the pedestrian clearance time within the vehicular green and yellow change intervals. This proposed change reflects common practice of many jurisdictions.

174. In Section 4F.01 Applications of Emergency-Vehicle Traffic Control Signals, the FHWA proposes adding to the OPTION statement the choice of installing an Emergency Beacon instead of an emergency vehicle traffic control signal. This proposed changes corresponds to the proposed new Section 4F.04 that adds Emergency Beacons as an alternative to Emergency Vehicle Traffic Control Signals.

Additionally, the FHWA proposes revising the GUIDANCE statement to recommend following the provisions of Chapter 4D not only if a numerical signal warrant is met, but also if a decision is made to install a signal after an engineering study, for consistency with Chapter 4C.

175. In Section 4F.02 Design of Emergency-Vehicle Traffic Control Signals, the FHWA proposes revising the GUIDANCE statement to indicate that two signal faces are required for each major street approach, and that at least one of those two signal faces should be located over the roadway. This proposed change is for consistency with Chapter 4D.

176. The FHWA proposes adding a new section following Section 4F.03 Operation of Emergency-Vehicle Traffic Control Signals. This proposed new section is numbered and titled ''Section 4F.04 Emergency Beacon'' and contains STANDARDS, SUPPORT, GUIDANCE, and OPTIONS concerning the design, use, and application of Emergency Beacons. The FHWA proposes adding the Emergency Beacon to the MUTCD to provide for uniformity in the design and operation of this type of device. Research and experimentation has indicated that, under certain circumstances, the Emergency Beacon is more effective than an Emergency Vehicle Traffic Control Signal in terms of capturing the approaching driver's attention and achieving compliance with the requirement to come to a stop when emergency vehicles are egressing. The Emergency Beacon is typically less costly to install and thus imposes less of a burden on jurisdictions in providing safe operations at locations where emergency vehicles cross or enter a major road. The FHWA proposes that this section become effective immediately for new or replacement of damaged existing emergency beacon installations. The FHWA proposes a phase-in compliance period of 10 years for existing emergency beacons in good condition to minimize any impact on State or local highway agencies.

177. In Section 4G.02 Design of Traffic Control Signals for One-Lane, Two-Way Facilities, the FHWA proposes changing the GUIDANCE statement, concerning the applicability of provisions of Chapter 4D to traffic control signals for one-lane two-way facilities and exceptions to these provisions, to a STANDARD statement. This change is proposed to enhance safety and operation for road users, who do not readily distinguish signals for one-lane, two-way facilities from any other type of highway traffic signals.

178. In Section 4I.02 Design and Location of Movable Bridge Signals and Gates, the FHWA proposes removing from item A of the STANDARD statement the explanation that then three-section signal faces with red, yellow and green signal lenses are generally used if movable bridge operation is quite frequent. The FHWA also proposes adding comparable text in a proposed SUPPORT statement, which follows the third paragraph of the STANDARD statement. The FHWA proposes this change because the statement is too vague for a STANDARD.

Additionally, the FHWA proposes removing the phrase ''on long bridges or causeways'' from the eighth paragraph of the STANDARD statement because two sets of gates may be used on bridges or causeways of any length and what constitutes a long bridge or causeway is not and cannot be readily defined.

179. In Section 4J.03 Design of Lane-Use Control Signals, the FHWA proposes adding to the OPTION statement to allow the use of smaller size lane-use control signal faces for one-way and two-way left turn arrows in areas with minimal visual clutter and low speeds. The FHWA proposes changing the definition of low speeds from 70 km/h (45 mph) or less to 60 km/h (40 mph) or less to be consistent with similar criteria regarding signal lens sizes in Chapter 4D. In these circumstances, the use of smaller sizes provides a cost savings and improves aesthetics without compromising effectiveness.

180. In Section 4K.04 Speed Limit Sign Beacon, the FHWA proposes adding to the STANDARD statement a requirement that a Speed Limit Beacon be used only to supplement a Speed Limit sign. This change is proposed to reinforce proper use of the different types of beacons.

181. In Section 4L.01 Application of In-Roadway Lights, the FHWA proposes revising the SUPPORT statement to include marked crosswalks in advance of roundabouts, highway-rail grade crossings, and highway-light transit rail grade crossings as additional situations for possible use of in-roadway lights. The state-of-the-art in designing modern roundabouts calls for pedestrian crosswalks to be located about one vehicle length in advance of the ''yield line'' where approaching vehicles enter the roundabout. A crosswalk located in this position operates essentially as a mid-block uncontrolled crosswalk because the yield sign controlling vehicle entry into the roundabout does not also control the vehicles at the crosswalk. The proposed reference to grade crossings is added due to the proposed new Section 4L.03.

182. The FHWA proposes adding a new section following Section 4L.02 In-Roadway Warning Lights at Crosswalks. The proposed new section is numbered and titled ''Section 4L.03 In-Roadway Lights at Highway-Rail Grade Crossings and Highway-Light Rail Grade Crossings'' and contains STANDARD, GUIDANCE, and OPTION statements describing the design, application, and operation of in-roadway warning lights and in-roadway stop line lights at highway-rail and highway-light rail transit grade crossings. Research and experimentation has indicated that red in-roadway lights at the stop line of an approach to a grade crossing controlled by active grade crossing warning systems can provide effective additional emphasis of the need for road users to stop and remain stopped for the passage of a train or light rail vehicle. Also, the use of yellow in-roadway warning lights in advance of the grade crossing provides further warning of the crossing to approaching road users, supplementing advance warning signs and pavement markings. The FHWA proposes that this section become effective immediately for new or replacement of existing in-roadway lights at highway-rail and highway-light

rail transit grade crossings. The FHWA proposes a phase-in compliance period of 10 years for existing installations of in-roadway lights at highway-rail and highway-light rail transit grade crossings in good condition to minimize any impact on State or local highway agencies.

Discussion of Proposed Amendments to Part 5—Traffic Control Devices for Low-Volume Roads

183. In Section 5A.03 Design, the FHWA proposes revising Figure 5A–1 Minimum Sign Sizes on Low-Volume Roads to reduce the minimum size of the W20–1, W20–7a, W20–7b, W21–1a, and W21–6 signs from 900 × 900 mm (36 × 36 in) to 600 × 600 mm (24 × 24 in) to be consistent with minimum sizes of other signs of comparable design.

184. In Section 5B.03 Speed Limit Signs (R2 Series), the FHWA proposes revising the illustration of the metric speed limit sign to correspond to a similar proposed revision in Chapter 2B. The proposed design of the metric speed limit sign includes the metric speed value within a green circle with the legend ''km/h'' below it.

185. In Section 5B.04 Traffic Movement and Prohibition Signs (R3, R4, R5, R6, R9, R10, R11, R12, R13, and R14), the FHWA proposes adding an illustration of the PASS WITH CARE, (R4–2), sign to accompany the DO NOT PASS (R4–1) sign, because this sign is commonly used.

186. In Section 5C.05, the FHWA proposes retitling the section from ''Narrow Bridge Sign (W5–2a)'' to ''NARROW BRIDGE Sign (W5–2)'' because in Chapter 2C of the MUTCD the FHWA proposes removing the symbol version of this sign and requiring the use of only the word version of the sign.

187. In Section 5C.10 Advisory Speed Plaque (W13–1), the FHWA proposes revising the illustration of the metric advisory speed plaque to correspond to a similar proposed revision in Chapter 2C. The proposed design of the metric advisory speed plaque includes the metric speed value within a black circle with the legend ''km/h'' below it.

188. In Section 5F.04, STOP and YIELD Signs, FHWA proposes removing the words ''State or local'' from the OPTION statement, to reflect that jurisdictions responsible for grade crossings may be any level of government or may be quasi-governmental or non-governmental.

189. In Section 5G.03 Channelization Devices, the FHWA proposes replacing the phrase ''temporary traffic control zone'' with ''work space'' in the OPTION statement to correspond with the appropriate terminology in Part 6.

191. In Section 5G.05 Other Traffic Control Devices, the FHWA proposes adding a SUPPORT statement referring to Figure 5G–1 for some of the signs that might be applicable in a temporary traffic control zone on a low-volume road. The FHWA also proposes revising Figure 5G–1 Temporary Traffic Control Signs on Low-Volume Roads, to change the W20–7a Flagger sign to conform with the correctly designed sign in Section 6F.29 and to change the metric version of the W13–1 Advisory Speed Plaque to conform to the use of the black circle for metric speed values as proposed in Chapter 2C.

Discussion of Proposed Amendments to Part 6—Temporary Traffic Control

192. In Section 6A.01 General, the FHWA proposes adding to a number of places in this section, and in a number of sections in Part 6, references to ensure that temporary traffic controls involving or impacting pedestrian walkways and paths account for the needs of pedestrians with disabilities. These proposed additions follow the accessibility requirements of the Americans with Disabilities Act of 1990 (ADA) (Public Law 101–366, 104 Stat. 327, July 26, 1990. 42 USC 12101–12213 (as amended)). In this regard FHWA proposes a SUPPORT statement identifying the Act following the first STANDARD statement.

Additionally, the FHWA proposes adding to this section and in a number of sections in Part 6, references to ensuring that the needs of bicyclists through temporary traffic control zones are met, as many temporary traffic control plans affect a substantial amount of bicycle activity.

Additionally, the FHWA proposes adding to a number of places in this section and a number of sections in Part 6 statements that temporary traffic control principles are applicable to managing traffic incidents along the roadway, as incidents are temporary road or lane closures and are one of the major causes of congestion. In this regard the FHWA proposes adding a new chapter titled ''Chapter 6I Control of Traffic Through Incident Areas.''

193. In Section 6B.01 Fundamental Principles of Temporary Traffic Control, the FHWA proposes adding to a number of places in this section references about accounting for the needs of pedestrians with disabilities, bicyclists, and traffic incident management responders.

Additionally, the FHWA proposes adding to the first and second GUIDANCE statements that the needs of pedestrians with disabilities should be considered when planning, designing and establishing a temporary traffic control zone. This is in accordance with ADA, Title II, paragraph 35.130.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that the needs of operators of commercial vehicles should be assessed and appropriate accommodations made when developing a public relations plan for a temporary traffic control zone.

194. In Section 6C.01 Temporary Traffic Control Plans, the FHWA proposes adding to the first GUIDANCE statement that planning for all road users, including pedestrians (especially those with disabilities) and bicyclists, should be part of the planning and design of the temporary traffic control plan. The FHWA also proposes adding to the first GUIDANCE statement that provisions for effective continuity of accessible circulation paths for pedestrians should be incorporated into the temporary traffic control process.

These proposed changes will enhance the quality of traffic control plans in terms of addressing the needs of all road users.

195. In Section 6C.02 Temporary Traffic Control Zones, the FHWA proposes adding to the SUPPORT statement that the incident area begins at the first warning sign or vehicle with a rotating/strobe light and extends to the last temporary traffic control device or to a point where road users are allowed to return to the original lane alignment. This proposed change is needed to clarify the limits of an incident area.

196. In Section 6C.06 Activity Area, the FHWA proposes adding a new table numbered and titled ''Table 6C–2 Stopping Sight Distance as a Function of Speed.'' This table is identical to Table 6E–1. The current Table 6C–2 is renumbered as Table 6C–3, Taper Length Criteria for temporary Traffic Control Zones. The FHWA also proposes adding a reference to new Table 6C–2 to the second OPTION statement, as these distances may be used to determine the length of a buffer space.

197. In Section 6C.07 Termination Area, the FHWA proposes adding to the OPTION statement that a longitudinal buffer space may be used between the work space and the beginning of the downstream taper, to provide flexibility to jurisdictions.

198. In Section 6D.01 Pedestrian Considerations, the FHWA proposes adding a new GUIDANCE statement at the beginning of the section to indicate that pedestrians of all ages and abilities should be provided a detectable and usable travel path.

Additionally, the FHWA proposes modifying the first SUPPORT statement to include information on other publications that can provide useful data for assisting the planning for, and the design of pedestrian facilities.

Additionally, the FHWA proposes adding to the first STANDARD statement that in addition to visual signage, equivalent information in alternate formats for pedestrians who have visual disabilities shall be provided so that they are not trapped on a closed facility.

Additionally, in the existing first, second, third, fourth, fifth, and sixth GUIDANCE statements the FHWA proposes adding information about the general needs of pedestrians with visual disabilities; the desirability for providing a channelized pedestrian route through or around the activity area as opposed to closing the walkway; the possible need for audible warnings and directions; the need for fencing or barriers with a continuous edging at the bottom for assisting a cane user; the need to minimize abrupt changes in grade or terrain; that temporary traffic control devices and any ballast or mounting equipment should not intrude into the minimum 1500 mm (60 in) width of clear accessible passageway; and that lining a walkway with tape, rope, or plastic chain strung between devices is not detectable to pedestrians with visual limitations.

The FHWA proposes the changes to this section to enhance the consideration of pedestrian needs in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies as they design and advertise new projects, and as they undertake maintenance activities.

199. In Section 6D.02 Worker Considerations, the FHWA proposes adding to the SUPPORT statement information on the need to separate workers on foot from moving construction vehicles.

Additionally, the FHWA proposes adding to the GUIDANCE statement that workers exposed to the risks of moving roadway traffic or construction equipment should wear high visibility apparel meeting the requirements of the American National Standard for High Visibility Safety Apparel [4] and labeled as meeting ANSI 107–1999 Standard Performance for Class 1, 2, or 3 risk exposure. The FHWA proposes a phase-in compliance period of 5 years for this change in order to minimize any impact on State or local highway agencies.

Additionally, in the same GUIDANCE statement, the FHWA proposes adding ''Activity Area'' and ''Worker Safety Planning'' to the list of key elements of worker safety and temporary traffic control management that should be considered to improve worker safety. The FHWA proposes that the worker safety plan should be in accordance with the Occupational Safety and Health Act ''General Duty Clause'' Section 5(a)(1) '' Public Law 91–596, 84 Stat. 1590, December 29, 1970, as amended, and with the requirement to assess worker risk exposures for each job site and job classification as per 1926.20(b)(2) of the Occupational Safety and Health Administration (OSHA) Regulations as contained in 29 CFR.

These proposed additions are expected to improve worker safety by reducing the conflicts between vehicles and workers, by making workers more visible to road users, and by recommending a thorough risk exposure analysis as part of the worker safety planning process.

200. In Section 6E.01 Qualifications for Flaggers, the FHWA proposes rewriting the GUIDANCE statement in its entirety to describe in terms more appropriate to a temporary traffic control zone environment the recommended skills and abilities for a flagger. This proposed change is needed to reflect the state of the practice in flagger selection and training.

201. In Section 6E.02 High-Visibility Clothing, the FHWA proposes adding to the first STANDARD statement the requirement that flaggers wear safety apparel meeting the requirements of the American National Standard for High Visibility Apparel and labeled as meeting ANSI 107–1999 Standard Performance for Class 3 risk exposure, to improve worker visibility to approaching road users. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

202. In Section 6E.03 Hand-Signaling Devices, the FHWA proposes adding to the OPTION statement other design configurations for adding white lights to the STOP/SLOW paddle to improve conspicuity. These additional design configurations of white lights will provide additional flexibility in improving visibility of the paddle.

Additionally, the FHWA proposes to add to the second STANDARD statement requirements for the performance of flashing lights that are used on the STOP/SLOW paddle. These flashing rate values are identical to the flashing rate used in other parts of the MUTCD. This is proposed for consistency.

203. In Section 6E.05 Flagger Stations, the FHWA proposes adding a GUIDANCE statement following the first STANDARD statement to indicate that flagger stations should be located so that an errant vehicle has space to stop without entering the work space, to enhance worker safety.

Additionally, the FHWA proposes changing the title of Table 6E–1 from ''Distance of Flagger Station in Advance of the Work Space'' to ''Stopping Sight Distance as a Function of Speed'' and changing the distance values to be in agreement with AASHTO's ''A Policy on Geometric Design of Highways and Streets'' book.

Additionally, the FHWA proposes changing the GUIDANCE statement to a STANDARD statement to indicate that flagger stations shall be preceded by an advance warning sign or signs, and that flagger stations shall be illuminated at night. The FHWA believes that anytime a flagger is active at night, illumination of the flagger station is important to make the flagger more visible to approaching road users.

204. In Section 6F.02 General Characteristics of Signs, the FHWA proposes adding to the first OPTION statement that warning and guide signs used for temporary traffic control of incident management situations may have a black legend and border on a fluorescent coral background. This change is proposed based on research and experimentation conducted in Virginia.

205. In Section 6F.03 Sign Placement, in the first STANDARD statement, the FHWA proposes adding ''bicycle movements'' to the list of reasons why in urban areas the distance between the bottom of the sign and the top of the near edge of the traveled way shall be at least 2.1 m (7 ft), to enhance safety for bicyclists.

Additionally, the FHWA proposes adding language requiring signs to be mounted and placed in accordance with Section 4.4 of the ''Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG).'' [5]

[4] American National Standard for High Visibility Safety Apparel,'' ANSI/ISEA 107–1999, 1999 edition, is available from ISEA—The Safety Equipment Association (ISEA) by telephone (703) 525–1695, facsimile (703) 528–2148, mail ISEA, 1901 North Moore Street, Suite 808, Arlington, VA 22209, or at its web site *http://www.safetycentral.org/isea*.

[5] ''American with Disabilities Act Accessibility Guidelines for Buildings and Facilities,'' as amended through January 1998, is published by the U.S. Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW, Suite 1000, Washington, D.C. 20004–1111. It may be obtained from the Access Board, or viewed electronically at *http://www.access-board.gov*.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that signs mounted lower than 2.1 m (7 ft) should not project more than 100 mm (4 in) into pedestrian facilities, in accordance with the ''Americans With Disabilities Act Accessibility Guidelines For Buildings And Facilities (ADAAG)''.

Additionally, the FHWA proposes adding to the OPTION statement at the end of the section that sign supports that are approved for use with longer-term signs may be used for shorter-term signs.

206. In Section 6F.06 Regulatory Sign Design, the FHWA proposes changing the first sentence of the SUPPORT statement to become a new STANDARD statement at the beginning of the section, stating that temporary traffic control regulatory signs shall conform to the standards for regulatory signs presented in Part 2 and in the FHWA's ''Standard Highway Signs'' book. This sentence currently contains a ''shall'' but is inadvertently in the SUPPORT statement. The remainder of the SUPPORT statement will remain a SUPPORT statement.

Additionally, the FHWA proposes identifying the three existing page images of regulatory signs that follow page 6F–7 as Figures 6F–3, 6F–4, and 6F–5 and titling them as ''Regulatory Signs in Temporary Traffic Control Zones,'' ''Additional Regulatory Signs in Temporary Traffic Control Zones,'' and ''Regulatory Signs for Road Closure and Weight Limits in Temporary Traffic Control Zones.'' Additionally, on the figure proposed to be identified as Figure 6F–4, Regulatory Signs in Temporary Traffic Control Zones, the FHWA proposes to increase the size of the PEDESTRIAN CROSSWALK sign from 600 × 300 mm (24 × 12 in) to 900 × 450 mm (36 × 18 in), increase the size of the SIDEWALK CLOSED sign from 600 × 300 mm (24 × 12 in) to 750 × 450 mm (30 × 18 in), increase the size of the SIDEWALK CLOSED USE OTHER SIDE and SIDEWALK CLOSED CROSS HERE signs from 600 × 300 mm (24 × 12 in) to 1200 × 600 (48 × 24 in), and increase the size of the SIDEWALK CLOSED AHEAD CROSS HERE sign from 600 × 300 mm (24 × 12 in) to 1200 × 900 mm (48 × 36 in), to make it easier for a pedestrian to read these signs from across a wide street.

207. In Section 6F.12 PEDESTRIAN CROSSWALK Sign (R9–8), the FHWA proposes adding a STANDARD statement following the OPTION statement that if a temporary crosswalk is established, it shall be accessible to pedestrians with disabilities. This proposed change reflects the need to provide accessibility for disabled pedestrians.

208. In Section 6F.13, SIDEWALK CLOSED Signs (R9–9, R9–10, R9–11, R9–11a), the FHWA proposes adding to the first GUIDANCE statement that Bicycle/Pedestrian Detour (M4–9a) or Pedestrian Detour (M4–9b) signs should be used where pedestrian flow is rerouted, to provide adequate route guidance information to pedestrians.

Additionally, the FHWA proposes adding to the SUPPORT statement that printed signs are not useful to pedestrians with visual disabilities. Nearby accessible pedestrian signals can provide temporary audible information about closures and alternate routes. Tactile map modules available on some accessible pedestrian signal housings can also provide information about closures and alternate routes. These proposed changes are to enhance the provision of information to pedestrians with visual disabilities.

209. In Section 6F.14 Special Regulatory Signs, the FHWA proposes adding a SUPPORT statement referencing Section 2B.15 for information regarding the use of the FINES HIGHER sign, since this sign can be useful in enhancing speed enforcement in temporary traffic control zones.

210. In Section 6F.15 Warning Sign Function, Design, and Application, the FHWA proposes adding to the first OPTION statement that warning signs used for temporary traffic control incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange. This is consistent with proposed changes in Section 6F.02 and the proposed new Chapter 6I.

Additionally, the FHWA proposes adding to the GUIDANCE statement that where road users include pedestrians with hearing or visual disabilities, the provision of supplemental audible or tactile warning information should be considered to alert pedestrians.

211. In Section 6F.17 ROAD (STREET) WORK Sign (W20–1), the FHWA proposes adding an OPTION statement indicating that, where traffic can enter a temporary traffic control zone from a crossroad or a major (high volume) driveway, an advance warning sign may be used on the crossroad or major driveway to alert road users. This proposed change allows jurisdictions additional flexibility to provide warning signs when needed.

212. In Section 6F.24 the FHWA proposes changing the title of the section from ''Lane Reduction Sign (W4–2)'' to ''Lane Ends Sign (W4–2)'' to reflect the sign's name change and to be consistent with Part 2.

213. In Section 6F.28 EXIT OPEN, EXIT CLOSED Signs (E5–2, E5–2a), the FHWA proposes adding a GUIDANCE statement indicating that when an exit ramp is closed, a black on orange EXIT CLOSED panel should be placed diagonally across the interchange/intersection guide signs, to enhance the information provided to road users.

214. In Section 6F.41, the FHWA proposes changing the title of the section from ''SHOULDER DROP–OFF Sign (W8–9a)'' to ''Shoulder and UNEVEN LANES Signs (W8–4, W8–9, W8–9a, and W8–11)'' to reflect the additional signs added to this section.

Additionally, the FHWA proposes adding an OPTION statement to allow the use of the SOFT SHOULDER sign to warn of a soft shoulder condition and the LOW SHOULDER sign to warn of a shoulder condition where there is an elevation difference of less than 75 mm (3 in) between the shoulder and the travel lane. This is proposed to differentiate from shoulder drop-off conditions, which exceed 75 mm (3 in).

Additionally, the FHWA proposes moving the text from Section 6F.42 UNEVEN LANES Sign (W8–11), in its entirety to this section. This information will become a GUIDANCE statement regarding the use of the UNEVEN LANES Sign. With the proposed deletion of Section 6F.42 the remaining sections will be renumbered accordingly.

215. The FHWA proposes adding a new section following existing Section 6F.43 (new Section 6F.42) NO CENTER STRIPE Sign (W8–12). This proposed new section will be numbered and titled ''Section 6F.43 Double Reverse Curve Signs (W24 Series)'' and will provide information regarding the use of the new Double Reverse Curve signs. The FHWA is proposing these new signs to provide a better depiction of actual roadway conditions when the tangent distance between two reverse curves is insufficient for a second Reverse Curve sign to be placed between the curves.

216. In Section 6F.47 Guide Signs, the FHWA proposes adding to the OPTION statement that guide signs used for temporary traffic control incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange, to correspond with the proposed change in Section 6F.02.

217. In Section 6F.50 the FHWA proposes changing the title of the section from ''Detour Signs and Markers (M4–8, M4–8a, M4–8b, M4–9, and M4–10)'' to ''Detour Signs and Markers (M4–8, M4–8a, M4–8b, M4–9, M4–9a, M4–

9b, M4–9c, and M4–10)'' to include signs specifically for detouring pedestrians and bicyclists.

Additionally, the FHWA proposes adding to the first OPTION statement that signs used for temporary traffic control of incident management situations may have a black legend and border on a fluorescent coral background, as an alternative to black on orange, to correspond to proposed changes in Section 6F.02.

Additionally, the FHWA proposes adding a STANDARD statement following the first GUIDANCE statement that the Pedestrian/Bicycle Detour (M4–9a) sign shall be used where a pedestrian/bicycle detour route has been established because of the closing of a pedestrian/bicycle facility to through traffic. If used, the Pedestrian/Bicycle Detour sign shall have an arrow pointing in the appropriate direction.

Additionally, the FHWA proposes adding to the second OPTION statement that an arrow may be on the sign face or on a supplemental plaque. The Pedestrian/Bicycle Detour (M4–9a) sign or Bicycle Detour (M4–9c) sign may be used where a pedestrian or bicycle detour route (not both) has been established because of the closing of that particular facility to through traffic.

218. In Section 6F.52 Portable Changeable Message Signs, the FHWA proposes adding to the first STANDARD statement that each character module shall use at least a five wide and seven high pixel matrix, based on research regarding visibility and legibility of changeable message signs.

Additionally, the FHWA proposes adding to the first GUIDANCE statement that for a trailer or large truck mounted sign, the letter height should be a minimum of 450 mm (18 in). For a service patrol truck mounted sign, the letter height should be a minimum of 250 mm (10 in). The message panel should have adjustable display rates (minimum of 3 seconds per phase) so that the entire message can be read at least twice at the posted speed, the off-peak 85th percentile prior to work starting, or the anticipated operating speed. Since the FHWA is proposing to retain the current guidance that road users should be able to read the entire message twice, there may be a need in some temporary traffic control zones to use more than one portable Changeable Message sign. The FHWA proposes these changes in response to research addressing the needs of older road users.

Additionally, the FHWA proposes moving the GUIDANCE information regarding the factors that should be taken into account when designing changeable messages from the end of the section to the end of the first GUIDANCE statement, for better clarity.

Additionally, the FHWA proposes changing and relocating from the first GUIDANCE statement to the following OPTION statement that smaller letter sizes may be used on a sign mounted on a trailer or large truck provided that the message is legible from a minimum distance of 200 m (650 ft), or a sign mounted on a service patrol truck provided that the message is legible from a minimum distance of 100 m (330 ft). This proposed change will provide flexibility to use smaller letter sizes as long as the legibility distance can be maintained

Additionally, the FHWA proposes adding to the second STANDARD statement to clarify that the mounting of Portable Changeable Message signs on a trailer, a large truck, or a service patrol truck shall be such that the bottom of the message sign panel shall be a minimum or 2.1 m (7 ft) above the roadway in urban areas and 1.5 m (5 ft) in rural areas when it is in the operating mode, to correspond with mounting heights for post-mounted signs.

219. In Section 6F.53 Arrow Panels, the FHWA proposes adding to the first GUIDANCE statement that an arrow panel in the arrow mode should be used to advise approaching road users of a lane closure along major multilane roadways in situations involving heavy traffic volumes, high speeds, and or limited sight distances, or at other locations and under other conditions where road users are less likely to expect such lane closures. This change is proposed to enhance the information provided to road users.

220. In Section 6F.55 Channelizing Devices, following the first SUPPORT statement, the FHWA proposes adding a STANDARD statement, GUIDANCE statement, and another STANDARD statement defining the use of channelizing devices to channelize pedestrians and that they have to be detectable to users of long canes.

Additionally, the FHWA proposes adding a note to Figure 6F–14 (Sheet 1 of 2) that where drums, cones, or tubular markers are used to channelize pedestrians, they shall be located such that there are no gaps between the bases of the devices, in order to create a continuous bottom, and the height of each individual drum, cone, or tubular marker shall be no less than 915 mm (36 in) to be detectable to users of long canes.

Additionally, the FHWA proposes adding a note to Figure 6F–14 (Sheet 2 of 2) that where barricades are used to channelize pedestrians, there shall be continuous detectable bottom and top rails with no gaps between individual barricades to be detectable to users of long canes. The bottom of the bottom rail shall be no higher than 150 mm (6 in) above the ground surface. The top of the top rail shall be no lower than 915 mm (36 in) above the ground surface.

These proposed changes are needed to assure detectability to long cane users of devices used to channelize pedestrians in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

221. In Section 6F.56 Cones, the FHWA proposes adding to the STANDARD statement that retroreflectorization of cones that are more than 900 mm (36 in) in height shall be provided by horizontal, circumferential, alternating orange and white retroreflective stripes that are 100–150 mm (4 to 6 in) wide. Each cone shall have a minimum of two orange and two white stripes with the top stripe being orange. Any non-retroreflective spaces between the orange and white striped shall not exceed 75 mm (3 in) in width. These proposed changes will enhance the visibility of cones and improve safety in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

Additionally, in the first GUIDANCE statement the FHWA proposes adding that cones should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. Non-continuous, non-detectable series of cones have been found to be safety problems for pedestrians with visual disabilities.

222. In Section 6F.57 Tubular Markers, the FHWA proposes adding to the GUIDANCE statement that tubular markers should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. . Non-continuous, non-detectable series of tubular marker have been found to be safety problems for pedestrians with visual disabilities.

223. In Section 6F.58 Vertical Panels, the FHWA proposes adding to the first STANDARD statement that vertical panels shall be mounted with the top a minimum of 900 mm (36 in) above the roadway and a minimum of 1050 mm

(42 in) above the pedestrian travel way, so as not to interfere with pedestrians.

219. In Section 6F.59 Drums, the FHWA proposes adding to the GUIDANCE statement that drums should not be used for pedestrian channelization or as pedestrian barriers in temporary traffic control zones on or along sidewalks unless they are continuous between individual devices and detectable to users of long canes. Non-continuous, non-detectable series of drums have been found to be safety problems for pedestrians with visual disabilities.

220. In Section 6F.60 Type I, II, or III Barricades, the FHWA proposes adding a STANDARD statement following the first GUIDANCE statement that barricade supports shall not project into circulation routes more than 100 mm (4 in) from the support between 675 mm (27 in) and 2000 mm (80 in) from the surface, as described in Section 4.4.1 of THE ''AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES (ADAAG)'', and supports shall not narrow the pedestrian facility to less than 1200 mm (48 in) in width, with a 1500 × 1500 mm (60 × 60 in) passing space at least every 60 m (200 ft), as described in Section 4.3.4 of ADAAG.

Additionally, the FHWA proposes adding to the third existing STANDARD statement that the ballast used with barricades shall not extend into the accessible passage width of 1500 mm (60 in).

These proposed changes will provide for accessible pedestrian passes in temporary traffic control zones. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

226. In Section 6F.62 Temporary Traffic Barriers as Channelizing Devices, the FHWA proposes adding SUPPORT and STANDARD statements related to the use of temporary traffic barriers as traffic control devices. These statements are being relocated from Section 6G.04, as they more properly belong in Section 6F.62.

227. The FHWA proposes adding two new sections following Section 6F.62 Temporary Traffic Barriers as Channelizing Devices. The remaining sections will be renumbered accordingly.

Proposed Section 6F.63 Longitudinal Channelizing Barricades, consists of GUIDANCE, OPTION, and SUPPORT statements relating to the use of longitudinal channelizing barricades that are lightweight, deformable devices that can be used singly as Type I, II, or III barricades.

Proposed Section 6F.64 Other Channelizing Devices, consists of an OPTION statement and a GUIDANCE statement that there may be channelizing devices other than those already described in Part 6 that may be used in special situations based on an engineering study. If used, these other channelizing devices should conform to the general size, color stripe pattern, retroreflectivity, and placement characteristics established for the devices described in Chapter 6F. This use of other channelizing devices was included in the 1988 MUTCD but was inadvertently omitted in the Millennium Edition of the MUTCD.

228. In existing Section 6F.63 (new Section 6F.65) Temporary Raised Islands, the FHWA proposes adding a STANDARD statement following the GUIDANCE statement that at pedestrian crossing locations temporary raised islands shall be cut through or reduced in size to provide at least a 1500 mm (60 in) wide pathway for pedestrians, to meet the ADA requirements and to ensure that all pedestrians, including disabled pedestrians, have a clear and useable facility. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local highway agencies.

229. In existing Section 6F.64 (new Section 6F.66) Opposing Traffic Lane Divider, the FHWA proposes adding to the STANDARD statement that opposing traffic lane dividers shall not be placed across pedestrian crossings, to ensure that pedestrians have a clear and useable facility.

230. In existing Section 6F.65 (new Section 6F.67) Pavement Markings, the FHWA proposes adding to the STANDARD statement that delineation and channelizing devices for use by pedestrians shall be accessible and detectable to pedestrians who have disabilities and shall be continuous throughout the temporary traffic control zone, to ensure that pedestrians have a useable facility.

Additionally, the FHWA proposes adding a SUPPORT statement at the end of the section that pavement markings alone are generally not sufficient for use by pedestrians who have visual disabilities. Tactile warnings on the roadway surface or audible devices are usually more helpful to these pedestrians.

231. In existing Section 6F.66 (new Section 6F.68) Temporary Pavement Markings, the FHWA proposes modifying the OPTION statement and the second GUIDANCE statement to indicate the acceptable use of DO NOT PASS and PASS WITH CARE signs instead of pavement markings for temporary situations, rather than the NO PASSING ZONE sign, because these signs provide a more effective regulatory message.

232. In existing Section 6F.69 (new Section 6F.71) Lighting Devices, the FHWA proposes adding to the GUIDANCE statement that the maximum spacing for warning lights should be identical to the channelizing device space requirements, for consistency.

Additionally, the FHWA proposes changing the SUPPORT statement to an OPTION statement to more accurately reflect the uses of lighting devices.

233. In existing Section 6F.70 (new Section 6F.72) Floodlights, the FHWA proposes adding a SUPPORT statement at the end of the section that research indicates that 50 lux (5 foot candles) is a desirable nighttime illumination level where workers are active.

234. In existing Section 6F.72 (new Section 6F.74) Warning Lights, the FHWA proposes adding Type D 360-degree warning lights to the first and second STANDARD statements, the third OPTION statement, and the second GUIDANCE statement, to provide more flexibility in the use of lighting devices.

235. In existing Section 6F.74 (new Section 6F.76) Temporary Traffic Control Signals, the FHWA proposes adding to the first GUIDANCE statement that, where pedestrian traffic is detoured to a temporary traffic control signal, engineering judgment should be used to determine if pedestrian signals or accessible pedestrian signals are needed, to enhance consideration of pedestrian needs in temporary traffic control zones.

Additionally, the FHWA proposes adding a new STANDARD statement that indicates that the supports for temporary traffic control signals shall not encroach into the minimum required pedestrian pathway width of 1500 mm (60 in), to meet the ADA requirements and assure a clear pathway for all pedestrians, including disabled pedestrians.

Additionally, the FHWA proposes adding to the second SUPPORT statement a new item, ''the nature of adjacent land uses'' to the list of factors related to the design and application of temporary traffic control signals. The remaining items will be re-lettered.

236. In existing Section 6F.75 (new Section 6F.77) Temporary Traffic Barriers, the FHWA proposes modifying the first SUPPORT statement by deleting the last two sentences related to the

functions of temporary traffic barriers and adding a portion of text from Section 6G.11, to more clearly describe the four primary functions of temporary traffic barriers.

237. In existing Section 6F.76 (new Section 6F.78) Crash Cushions, the FHWA proposes adding a STANDARD statement that damaged crash cushions shall be promptly repaired or replaced, to maintain their crashworthiness.

238. In existing Section 6F.78 (new Section 6F.80) Rumble Strips, the FHWA proposes adding to the SUPPORT statement a definition for longitudinal rumble strips, and clarifying throughout the section which statements refer specifically to longitudinal rumble strips and which statements refer specifically to transverse rumble strips, to clarify which ones go on travel lanes and which ones go on the shoulder.

Additionally, the FHWA proposes adding a STANDARD statement following the SUPPORT statement that, if it is desirable to use a color other than the color of the pavement for a longitudinal rumble strip, the color of the rumble strip shall be the same as the longitudinal line the rumble strip supplements. If the color of a transverse rumble strip used within a travel lane is not the color of the pavement, the color of the rumble strip shall be white. These proposed changes are needed to conform to general principles for colors of pavement markings.

Additionally, the FHWA proposes adding to the GUIDANCE statement that transverse rumble strips should not be placed on roadways used by bicyclists unless a minimum clear path of 1.2 m (4 ft) is provided at the edge or the roadway; that rumble strips should not be placed through pedestrian crossings or on bicycle routes; and that longitudinal rumble strips should not be placed on the shoulder of a roadway that is used by bicyclists unless a minimum clear path of 1.2 m (4 ft) is also provided at each edge of the roadway. These proposed changes will minimize interference caused by rumble strips to bicyclists using the roadway or shoulder.

239. In Section 6G.01 Introduction, the FHWA proposes adding to the SUPPORT statement that temporary traffic control zones are subject to all accessibility requirements for use by all types of pedestrians. This is in accordance with the requirements of the Americans with Disability Act of 1990 (ADA).

Additionally, the FHWA proposes adding a GUIDANCE statement following the second SUPPORT statement that bicyclists and pedestrians should not be exposed to unprotected excavations, open utility access, overhanging equipment, or other hazards.

240. In Section 6G.04 Modifications to Fulfill Special Needs, the FHWA proposes adding throughout the GUIDANCE statement additional information related to the need to take into account pedestrian and bicycle usage.

Additionally, the FHWA proposes moving the SUPPORT and STANDARD statements at the end of the section to Section 6F.62, because this text regarding temporary traffic barriers is more appropriately located there.

241. In Section 6G.05 Work Outside of Shoulder, the FHWA proposes adding to the first GUIDANCE statement that pedestrians should be separated from the worksite by appropriate barriers that maintain the accessibility and detectability for pedestrians with disabilities.

242. In Section 6G.06 Work on the Shoulder with No Encroachment, the FHWA proposes adding to the first STANDARD statement that, where pedestrian routes are closed, alternate pedestrian routes shall be provided.

Additionally, the FHWA proposes adding to the GUIDANCE statement that, where feasible, signs should be placed such that they do not narrow any existing pedestrian passage to less than 1500 mm (60 in).

243. In Section 6G.07 Work on the Shoulder with Minor Encroachment, the FHWA proposes adding to the GUIDANCE statement that, where feasible, pedestrian routes should be protected or alternate accessible and detectable routes should be provided.

244. In Section 6G.09 Work within the Traveled Way of Two-Lane Highways, the FHWA proposes adding to the GUIDANCE statement that pedestrian detours should be avoided, since pedestrians rarely observe them and the cost of providing accessibility and detectability might outweigh the cost of maintaining a continuous route.

Additionally, the FHWA proposes adding to the GUIDANCE statement that, whenever possible, work should be done in a manner that it does not create a need to detour pedestrians from existing routes or crossings.

245. In Section 6G.10 Work Within the Traveled Way of Urban Streets, the FHWA proposes adding to the first STANDARD statement that, if the temporary traffic control zone affects an accessible and detectable pedestrian facility, the accessibility and detectability along the alternate pedestrian route shall be maintained.

Additionally, the FHWA proposes adding to the GUIDANCE statement that work sites within the intersection should be protected against inadvertent pedestrian incursion by providing detectable barriers.

246. In Section 6G.11 Work Within the Traveled Way of Multilane, Nonaccess Controlled Highways, the FHWA proposes adding to the first SUPPORT statement that Chapter 6D contains information regarding the steps to follow when pedestrian facilities are affected by the worksite.

Additionally, the FHWA proposes moving the information in the second SUPPORT statement related to the four primary functions of temporary traffic barriers to existing Section 6F.75 (new Section 6F.77) as they more properly belong in that section.

247. In Section 6G.12 Work Within the Traveled Way at an Intersection, the FHWA proposes adding to the first STANDARD statement and the second GUIDANCE statement regarding contact with the highway agency having jurisdiction at intersections where pedestrian visibility problems are anticipated, to reinforce proper contact procedures.

Additionally, the FHWA proposes adding a STANDARD statement after the second GUIDANCE statement that pedestrian crossings shall be protected with a pedestrian barrier detectable to pedestrians with visual disabilities.

Additionally, the FHWA proposes modifying the third OPTION statement to indicate that flaggers or uniformed law enforcement officers can be used to direct road users when work is within an intersection.

248. In Section 6G.19 Control of Traffic Through Incident Areas, the FHWA proposes moving all of the information in this section to a new chapter, numbered and titled ''Chapter 6I Control of Traffic Through Traffic Incident Management Areas.'' In its place, the FHWA proposes a new Section 6G.19 titled ''Temporary Traffic Control During Nighttime Hours.'' This proposed new section will contain SUPPORT and GUIDANCE statements regarding the temporary traffic control measures appropriate during nighttime hours.

249. In Section 6H.01 Typical Applications, the FHWA proposes changing the Typical Applications to reflect the proposed changes to all parts of the MUTCD with particular reference to Part 6 changes.

Additionally, the FHWA proposes changing the titles of Figure 6H–11 from ''Lane Closure on Low-Volume Two-Lane Road'' to ''Lane Closure on Two-Lane Road with Low Traffic Volumes,''

Figure 6H–15 from ''Work in Center of Low-Volume Road'' to ''Work in Center of Road with Low Traffic Volumes,'' and Figure 6H–16 from ''Surveying Along Centerline of Low-Volume Road'' to ''Surveying Along Centerline of Road with Low Traffic Volumes.'' These proposed changes will avoid confusion with material in Part 5 Traffic Control Devices for Low-Volume Roads. Low-volume roads as covered in Part 5 are specifically defined in Section 5A.01 as, among other criteria, being outside a built-up area and having a traffic volume of less than 400 AADT. The Typical Applications in Part 6 that refer to low volume roads are not intended to be limited only to roads meeting the limited definition of Part 5.

Additionally, the FHWA proposes the following changes to the notes to the figures of typical applications:

a. Notes for Figure 6H–1: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

b. Notes for Figure 6H–3: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity. Additionally, the FHWA proposes to add a new item 7 to the STANDARD statement at the end of the Notes that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. This change is proposed to enhance safety for road users.

c. Notes for Figure 6H–4: The FHWA proposes replacing existing item 5 in the STANDARD statement with a new item 5 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 6 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

d. Notes for Figure 6H–6: The FHWA proposes replacing existing item 10 in the STANDARD statement with a new item 10 in the OPTION statement, stating that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 11 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

e. Notes for Figure 6H–11: The FHWA proposes removing item 2 of the STANDARD statement because this Typical Application specifically does not involve the use of flaggers. Typical Application 10 covers the temporary traffic control zone applicable to this STANDARD, using flaggers.

f. Notes for Figure 6H–12: The FHWA proposes adding to item 2 of the STANDARD statement that durations of red clearance intervals shall be adequate to clear the one-lane section of conflicting vehicles. Additionally, the FHWA proposes adding a new item 5 to the STANDARD statement that adequate means, such as interconnection, shall be provided to prevent conflicting signal indications at opposite ends of the lane closure. The remaining items would be renumbered. These changes are proposed for consistency with applicable requirements for temporary traffic control signals in Part 4.

g. Notes for Figure 6H–13: The FHWA proposes modifying item 2 of the STANDARD statement to indicate that a flagger or law enforcement officer shall be used during a temporary road closure. Additionally, the FHWA proposes removing item 3 of the OPTION statement, since it is not applicable. The FHWA also proposes adding a new item 3 as a GUIDANCE statement, which states that the law enforcement officer, if used for this application, should follow the procedures of Section 6E.04 and 6E.05. This proposal is to encourage law enforcement officers to use proper flagging devices and procedures for a temporary road closure, if it is practical.

h. Notes for Figure 6H–15: The FHWA proposes adding a new item 2 to the GUIDANCE statement that workers in the roadway should wear high-visibility clothing as described in Section 6D.02. Additionally, the FHWA proposes replacing existing item 6 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

i. Notes for Figure 6H–17: The FHWA proposes adding a new item 3 to the STANDARD statement that if an arrow panel is used, it shall be used in the caution mode. The remaining items would be renumbered. Additionally, the FHWA proposes removing existing item 5 of the GUIDANCE statement and moving it to the OPTION statement as part of existing item 9 that the use of a truck mounted attenuator is optional on either a shadow vehicle or a work vehicle. These changes are proposed for clarity.

j. Notes for Figure 6H–21: The FHWA proposes replacing existing item 7 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

k. Notes for Figure 6H–22: The FHWA proposes removing item 5, regarding a right-turn island using channelizing devices, from the OPTION statement, since it is inappropriate for the depicted application.

l. Notes for Figure 6H–26: The FHWA proposes replacing existing item 7 in the STANDARD statement with a new item 7 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 8 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

m. Notes for Figure 6H–27: The FHWA proposes replacing existing item 9 in the STANDARD statement with a new item 9 in the OPTION statement, which states that vehicle hazard warning signals may be used to supplement rotating lights or strobe lights, and a new item 10 in the STANDARD statement, which states that vehicle hazard warning signals shall not be used instead of the vehicle's rotating lights or strobe lights. This change is proposed for clarity.

n. Notes for Figure 6H–28: The FHWA proposes adding a new item 3 to the GUIDANCE statement that audible

warnings should be considered where midblock closings and changed crosswalk areas cause inadequate communication to be provided to pedestrians who have visual disabilities. The remaining items would be renumbered. Additionally, the FHWA proposes to add the use of Type D 360-degree Steady-Burn warning lights to existing item 6 (new item 7) of the OPTION statement. These changes are proposed for consistency with other sections in Part 6.

o. Notes for Figure 6H–29: The FHWA proposes to add a new item 3 to the GUIDANCE statement that audible warnings should be considered where midblock closings and changed crosswalk areas cause inadequate communication to be provided to pedestrians who have visual disabilities, for consistency. The remaining items would be renumbered.

p. Notes for Figure 6H–32: The FHWA proposes adding a new item 2 to the STANDARD statement that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. The remaining items would be renumbered. The FHWA also proposes removing the word ''optional'' from the shoulder taper illustrated on Figure 6H–32, to correspond to the proposed addition of new item 2 in the STANDARD statement. These changes are proposed to improve advance warning and channelization for road users approaching the half road closure on multilane high-speed highways.

q. Notes for Figure 6H–33: The FHWA proposes to add a new item 3 to the STANDARD statement that when paved shoulders having a width of 2.4 m (8 ft) or more are closed, at least one advance warning sign shall be used. In addition, channelizing devices shall be used to close the shoulder in advance to delineate the beginning of the work space and direct motor vehicle traffic to remain within the traveled way. These changes are proposed to improve advance warning and channelization for road users approaching a lane closure on a divided highway. Additionally, the FHWA proposes removing existing item 3 of the GUIDANCE statement, since it is not applicable to the application depicted.

r. Notes for Figure 6H–40: The FHWA proposes adding to item 3 that YIELD or STOP lines should be installed, if needed, across the ramp to indicate the point at which road users should YIELD or STOP. Additionally, the FHWA proposes adding a dimension of 7.5 m (25 ft) spacing between channelizing devices shown on Figure 6H–40. This additional guidance, beyond the general guidance in Section 6F.55 about channelizing device spacing, is proposed to help improve channelization specifically in the median crossover by providing a recommended device spacing to minimize the tendency of vehicles to drive between devices.

s. Figure 6H–41: The FHWA proposes adding a dimension of 7.5 m (25 ft) spacing between channelizing devices shown on Figure 6H–41. This additional guidance, beyond the general guidance in Section 6F.55 about channelizing device spacing, is proposed to help improve channelization specifically in the median crossover by providing a recommended device spacing to minimize the tendency of vehicles to drive between devices.

t. Notes for Figure 6H–42: The FHWA proposes removing items 6 and 7 of the OPTION statement since they are not applicable to the specific application depicted on Figure 6H–42. The remaining item would be renumbered.

u. Notes for Figure 6H–44: the FHWA proposes removing item 5 in the GUIDANCE statement since it is too vague and there is no accepted practice to determine how traffic is stabilized. The remaining items would be renumbered.

250. The FHWA proposes adding a new chapter, numbered and titled ''Chapter 6I Control of Traffic Through Traffic Incident Management Areas.'' This proposed new chapter will contain existing Section 6G.19 Control of Traffic Through Incident Areas in its entirety with several modifications and additional information on the use of temporary traffic control devices for traffic incident management zones. The proposed new chapter will contain a general section as well as sections on major, intermediate, and minor traffic incidents, and on use of emergency-vehicle lighting (flashing or rotating beacons or strobes.) The FHWA proposes this new chapter in recognition of the importance of safely and efficiently controlling traffic through traffic incident management areas, and the unique characteristics of incidents and the traffic controls that should be utilized.

Discussion of Proposed Amendments to Part 7—Traffic Controls for School Areas

251. In Section 7B.01 Size of School Signs, the FHWA proposes revising Table 7B–1 to increase the standard and special sizes of the End School Zone (S5–2) sign and the Speed Limit (School Use) (English) (R2–1) sign from 600 × 750 mm (24 × 30 in) and 900 × 1200 mm (36 × 48 in) respectively to 900 × 1125 mm (36 × 45 in) and 1200 × 1500 mm (48 × 60 in) respectively. The FHWA also proposes revising Table 7B–1 to add the School Speed Limit Ahead (S4–5, S4–5a) and the School Speed Limit XX When Flashing (English and Metric) (S5–1) signs. The FHWA also proposes revising Table 7B–1 to revise the standard size of the When Children are Present (S4–2) plaque from 900 × 500 mm (36 × 20 in) to 900 × 375 mm (36 × 15 in), to revise the minimum, standard, and special sizes of the XXX FT (W16–2) plaque from 600 × 450 mm (24 × 18 in), 750 × 600 mm (30 × 24 in), and 750 × 600 mm (30 × 24 in) respectively to 600 × 300 mm (24 × 12 in), 750 × 375 mm (30 × 15 in), and 900 × 450 mm (36 × 18 in) respectively, to revise the minimum, standard, and special sizes of the XXX Feet (W16–2a) plaque from 600 × 300 mm (24 × 12 in), 750 × 450 mm (30 × 18 in), and 750 × 450 mm (30 × 18 in) respectively to 600 × 450 mm (24 × 18 in), 750 × 525 mm (30 × 21 in), and 900 × 600 mm (36 × 24 in) respectively. The FHWA also proposes to revise Table 7B–1 to revise the standard and special sizes of the Ahead (W16–9p) plaque from 900 × 500 mm (36 × 20 in) and 1200 × 750 mm (48 × 30 in) respectively to 900 × 375 mm (36 × 15 in) and 1200 × 500 mm (48 × 20 in) respectively, and to revise the standard and special sizes of the Diagonal Arrow (W16–7) plaque from 750 × 450 mm (30 × 18 in) and 750 × 450 mm (30 × 18 in) respectively to 900 × 375 mm (36 × 15 in) and 1200 × 500 mm (48 × 20 in) respectively. These proposed changes in the table are to reflect proposed changes throughout Part 7 and to make the sizes of supplemental plaques correspond more closely with the sizes of the signs they supplement.

252. In Section 7B.07 Sign Color for School Warning Signs, the FHWA proposes changing item D in the OPTION statement to clarify that only the SCHOOL portion on the School Speed Limit (S5–1) sign may have a fluorescent yellow-green background. The SCHOOL portion of the sign is the warning message.

253. In Section 7B.08 School Advance Warning Sign (S1–1), the FHWA proposes giving the page of sign images a number and title, ''Figure 7B–1 School Area Signs'' for easier reference.

Additionally, the FHWA proposes adding a new figure to be numbered and titled, ''Figure 7B–2 Example of Signing for School Crosswalk Warning

Assembly'' to illustrate the placement of these assemblies as described in Section 7B.09.

Additionally, the FHWA proposes renumbering and retitling Figure 7B–1 to ''Figure 7B–3 Example of Signing for School Area Traffic Control with School Speed Limits.''

254. In Section 7B.11 School Speed Limit Assembly (S4–1, S4–2, S4–3, S4–4, S5–1), the FHWA proposes adding to the OPTION statement that changeable message signs should subscribe to the principles established in Section 2A.07 and other sections of the MUTCD, for consistency with Section 6F.52. The FHWA also proposes adding at the end of the OPTION statement to provide information on the use of the FINES HIGHER (R2–6) sign to advise road users when increased fines are imposed for traffic violations in school zones. This sign can be used to enhance road user compliance with school speed limits.

255. In Section 7C.03 Crosswalk Markings, the FHWA proposes adding a new SUPPORT statement at the beginning of the section to provide information on the use of crosswalk markings. While this SUPPORT statement is identical to that in Section 3B.17, the FHWA believes that it is important to have this information in both parts of the MUTCD.

Additionally, the FHWA proposes adding at the end of the first GUIDANCE statement additional guidance that crosswalks should not be used indiscriminately and that an engineering study should be performed before placing crosswalks at locations away from traffic control signals or STOP signs, for consistency with Section 3B.17.

256. In Section 7C.04 the FHWA proposes revising the title from ''Stop Line Markings'' to ''Stop and Yield Lines'' because the FHWA proposes to include both stop and yield lines in this section. The FHWA also proposes revising the entire section to appropriately mirror the STANDARD, GUIDANCE, OPTION, and SUPPORT statements contained in Part 3. The FHWA believes that it is important to have this information in both parts of the MUTCD.

257. In Section 7E.04 Uniform of Adult Guards and Student Patrols, the FHWA proposes adding a STANDARD statement that adult guards shall wear high-visibility retroreflective clothing labeled as ANSI 107–1999 standard performance for Class 2, and that student patrols shall wear high-visibility retroreflective material or clothing labeled as ANSI 107–1999 standard performance for Class 1. This clothing would make the guards and patrols (and the students they are managing) far more visible to approaching road users. The FHWA proposes a phase-in compliance period of 5 years for these changes in order to minimize any impact on State or local agencies.

258. In Section 7E.05 Operating Procedures for Adult Guards, the FHWA proposes adding an OPTION statement at the end of the section to allow the STOP paddle to be modified by adding white flashing lights, to enhance conspicuity of the paddle.

Additionally, the FHWA proposes adding a STANDARD statement following the new OPTION statement to define the acceptable flashing rate of the optional flashing lights on STOP paddles. This proposed change is consistent with the flashing rate in other parts of the MUTCD.

Discussion of Proposed Amendments to Part 8—Traffic Controls for Highway-Rail Grade Crossings

259. In Section 8A.01 Introduction, in the STANDARD statement the FHWA proposes revising the definitions for ''Advance Preemption and Advance Preemption Time'' (change to ''Advance Preemption'' and ''Advance Preemption Time''), ''Clear Storage Distance,'' ''Dynamic Envelope Delineation'' (change to ''Dynamic Envelope''), ''Minimum Track Clearance Distance,'' and ''Queue Clearance Time'' to reflect accepted practice and terminologies. The FHWA also proposes adding definitions for the following, since they are referred to later in the MUTCD: ''Dynamic Exit Lane Gate Operating Mode,'' ''Exit Lane Gate Clearance Time,'' ''Exit Lane Gate Operating Mode,'' ''Flashing-Light Signals,'' ''Timed Exit Gate Operating Mode,'' ''Wayside Equipment,'' and ''Vehicle Intrusion Detection Devices'' to reflect accepted practice and terminologies.

260. In Section 8A.02 Use of Standard Devices, Systems, and Practices, the FHWA proposes adding a GUIDANCE statement following the STANDARD statement. This proposed GUIDANCE statement will be identical to the second GUIDANCE statement in Section 10A.02 and reinforces that Part 1 principles of design, placement, operation, maintenance, and uniformity of traffic control devices should be considered for both highway-rail and highway-light rail transit grade crossings.

261. In Section 8A.04 Highway-Rail Grade Crossing Elimination, the FHWA proposes adding a GUIDANCE statement at the beginning of the section. This proposed GUIDANCE statement will be identical to the first GUIDANCE statement in Section 10A.04 and reinforces that both highway-rail and highway-light rail transit grade crossings are a potential source of congestion, and agencies should conduct engineering studies to determine the cost and benefits of eliminating such crossings.

Additionally, the FHWA proposes adding an OPTION statement at the end of the section. This proposed OPTION statement will be identical to the last OPTION statement in Section 10A.04 and reinforces that TRACKS OUT OF SERVICE (R8–9) signs may be temporarily installed at locations where both rail or light rail transit is eliminated at a highway-rail or highway-light rail transit grade crossing until the tracks are removed or paved over.

262. In Section 8A.05 Temporary Traffic Control Zones, the FHWA proposes adding a SUPPORT statement at the beginning of the section. This proposed SUPPORT statement will be identical to the SUPPORT statement in Section 10A.05 and reinforces that temporary traffic control planning provides for continuity of operations when the normal function of a roadway at both a highway-rail and a highway-light rail transit grade crossing is suspended because of temporary traffic control operations.

263. In Section 8B.02, the FHWA proposes changing the title from ''Highway-Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2)'' to ''Highway-Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2, R15–9)'' to reflect the proposed addition to the OPTION statement for the optional use of a new sign, the Crossbuck Shield (R15–9) sign, that is a wing-shaped sign that may be mounted below the Crossbuck (R15–1) sign or Number of Tracks (R15–2) sign. Experimentation with Crossbuck Shield signs has shown benefits in calling attention to the presence of passive grade crossings, particularly at night. The FHWA is aware that in one of the evaluations of the Crossbuck Shield (R15–9) sign, words (or symbols) to indicate the State law about yielding or stopping at the grade crossing were included on the center panel of the shield. The FHWA is not including such words or symbols as an option as it believes that the Crossbuck Shield (R15–9) sign should be uniform in design and that, if a stop or yield is required either by State law or by regulation at any given crossing, the use of a standard YIELD or STOP sign is more appropriate and will be more universally recognized and complied with by road users than small lettering on the Crossbuck Shield would be. The FHWA proposes that this option

to use a Crossbuck Shield (R15–9) sign become effective immediately for new or replacement of damaged existing sign installations. The FHWA proposes a phase-in compliance period of 10 years for existing signs in good condition to minimize any impact on State or local highway agencies.

Additionally, the FHWA proposes revising the second STANDARD statement to clarify the placement of retroreflective white material on the front and back of the supports for highway-rail grade crossing Crossbuck signs, to within 0.3 m (1 ft) of the ground level, except on the side of those supports where a Crossbuck Shield sign or flashing lights have been installed. This proposed change reflects a reasonable distance from the ground level and reflects that such strips are not needed to face approaching traffic when a Crossbuck Shield or flashing lights are on that side of the support.

264. In Section 8B.03 Highway-Rail Grade Crossing Advance Warning Signs (W10 series), the FHWA proposes revising the first STANDARD statement, item A, to better define where Highway-Rail Grade Crossing Advance Warning (W10–1) signs are not required on an approach to a crossing from a T-intersection with a parallel highway.

Additionally, the FHWA proposes revising the second STANDARD statement to clarify the proper use of the W10–2, W10–3, and W10–4 advance warning signs if the distance from the parallel highway to the railroad tracks is less than 30m (100 feet).

265. The FHWA proposes adding two new sections following Section 8B.08 TRACKS OUT OF SERVICE Sign (R8–9). The first proposed new section will be numbered and titled ''Section 8B.09 STOP HERE WHEN FLASHING Sign (R8–10)'' and will contain an OPTION statement describing the use of the STOP HERE WHEN FLASHING (R8–10) sign as it relates to highway-rail grade crossings.

The second proposed new section will be numbered and titled ''Section 8B.10 STOP HERE ON RED Sign (R10–6)'' and will contain SUPPORT, OPTION, and GUIDANCE statements describing the use of the STOP HERE ON RED (R10–6) sign at highway-rail grade crossings. The remaining sections would be renumbered accordingly.

266. In existing Section 8B.12 NO SIGNAL Sign (W10–10), the FHWA proposes renumbering and retitling the section as ''Section 8B.14 NO SIGNAL Sign (W10–10) or NO GATES OR LIGHTS sign (W10–13)'' and adding to the OPTION statement that the NO GATES OR LIGHTS (W10–13) sign may used as an alternate to the NO SIGNAL (W10–10) sign.

267. In existing Section 8B.13 (new Section 8B.15) LOOK Sign (R15–8), the FHWA proposes modifying the OPTION statement by removing the phrase, ''that do not have active warning devices'' to clarify that the LOOK (R15–8) sign may be mounted at any highway-rail grade crossing.

268. The FHWA proposes adding a new section following existing Section 8B.15 (new Section 8B.17) Storage Space Signs (W10–11, W10–11a, W10–11b). This proposed new section will be numbered and titled ''Section 8B.18 Skewed Crossing Sign (W10–12)'' and will describe the use of the Skewed Crossing (W10–12) sign at highway-rail grade crossings when railroad tracks are not perpendicular to the highway.

269. In existing Section 8B.18 Dynamic Envelope Delineation, the FHWA proposes renumbering and retitling this section as ''Section 8B.21 Dynamic Envelope Markings'' to clarify that the text refers to pavement markings.

Additionally, the FHWA proposes adding a second paragraph to the OPTION statement to clarify that dynamic envelope markings may be installed at any highway-rail grade crossing unless a Four-Quadrant Gate system is used.

270. In Section 8C.01 Illumination of Highway-Rail Grade Crossings, the FHWA proposes changing the OPTION statement to a GUIDANCE statement to indicate that illumination should be installed at and adjacent to a highway-rail grade crossing when an engineering study determines such illumination is needed to improve grade crossing safety.

271. In Section 8D.01 Introduction, the FHWA proposes revising the first OPTION statement to clarify that flashing-light signals that are post-mounted or overhead-mounted may be used separately or in combination with each other and that flashing-light signals may be used without automatic gate assemblies as determined by an engineering study.

Additionally, the FHWA proposes adding to the second OPTION statement information that In-Roadway Stop Line Lights and In-Roadway Warning Lights may be installed at highway-rail grade crossings that are controlled by active grade crossing warning systems, as discussed in Chapter 4L.

272. In Section 8D.02 Flashing-Light Signals, Post-Mounted, the FHWA proposes modifying the GUIDANCE statement to clarify the sizes of lenses for use in highway-rail grade crossing flashing-light signals and to provide guidance for choosing the size of background behind the lenses.

273. In Section 8D.05 Four-Quadrant Gate Systems, the FHWA proposes revising and adding to the GUIDANCE statement information to describe the various operating modes of exit lane gates and how they should be used.

Additionally, the FHWA proposes changing the title of Figure 8D–2 from ''Typical Location Plan for Flashing-Light Signals and Four-Quadrant Gates'' to ''Example of Location Plan for Flashing-Light Signals and Four-Quadrant Gates.''

274. In Section 8D.07 Traffic Control Signals at or Near Highway-Rail Grade Crossings, following the second paragraph of the second STANDARD statement, the FHWA proposes adding additional GUIDANCE, STANDARD, GUIDANCE, and OPTION statements to better describe the use of pre-signals to improve safety at highway-rail grade crossings at locations in proximity to intersections controlled by traffic control signals.

Additionally, the FHWA is proposing adding to the last OPTION statement that at locations where a highway-rail grade crossing is located more than 15m (50 ft) (or more that 23 m (75 ft) for a highway regularly used by multi-unit vehicles) from an intersection controlled by a traffic control signal, a pre-signal may be used if an engineering study determines a need.

The FHWA proposes that these changes become effective immediately for new installations. The FHWA proposes a phase-in compliance period of 10 years for existing installations in good condition to minimize any impact on State or local highway agencies.

Discussion of Proposed Amendments to Part 9—Traffic Controls for Bicycle Facilities

275. In Section 9A.03 Definitions Relating to Bicycles, the FHWA proposes adding to the first STANDARD statement a definition for ''Bicycle Facilities,'' since the term is frequently used in Part 9. The remaining items would be renumbered accordingly.

276. In Section 9B.01 Application and Placement of Signs, the FHWA proposes removing the first SUPPORT statement as it only references Figure 9B–1. The FHWA proposes referencing Figure 9B–1 in the first STANDARD statement, since the sign installation standards shown in Figure 9B–1 are discussed in this STANDARD.

277. In Section 9B.02 Design of Bicycle Signs, the FHWA proposes replacing the term ''shared-use path'' with the term ''bicycle facilities'' in the first STANDARD statement and in the

first SUPPORT statement because the information in these statements relates only to bicycle facilities. Shared-use paths are for the use of pedestrians (with or without disabilities), skaters, joggers, and other non-motorized users in addition to bicyclists.

Additionally, the FHWA proposes changing the title of Table 9B–1 from ''Sign Sizes for Shared-Use Paths'' to ''Minimum Sign Sizes for Bicycle Facilities'' and separating the column headed ''Minimum Sign Size'' into two sub columns headed ''Path'' and ''Roadway,'' to better distinguish between the applications of signs on paths and roadways and to be consistent with sign sizes used on roadways as described in Part 2. The FHWA also proposes revising Table 9B–1 by adding additional signs to reflect proposed changes elsewhere in Part 9.

278. In Section 9B.03 STOP and YIELD Signs (R1–1, R1–2), the FHWA proposes modifying the first GUIDANCE statement so that it applies to the installation of both STOP and YIELD signs, and not exclusively to STOP signs. This change is proposed because YIELD signs as well as STOP signs may be appropriate for assignment of the right-of-way at a shared-use path/roadway intersection.

279. In Section 9B.04, the FHWA proposes changing the title from ''Bicycle Lane Signs (R3–16, R3–17)'' to ''Bicycle Lane Signs (R3–17, R3–17a, R3–17b).''

Additionally, the FHWA proposes removing existing text in this section in its entirety and replacing it with new text regarding the use of Bicycle Lane signs. This proposed modification will replace the existing Bicycle LANE AHEAD (R3–16), Bicycle LANE ENDS (R3–16a), and RIGHT LANE Bicycle ONLY (R3–17) signs with a redesigned BIKE LANE (R3–17) sign to be used in conjunction with new supplemental AHEAD (R3–17a) and ENDS (R3–17b) plaques. These proposed sign combinations will more clearly provide the information contained on the old R3–16, R3–16a, R3–17, and R3–17a signs, and will reduce road user confusion.

280. The FHWA proposes adding a new section following Section 9B.05 BEGIN RIGHT TURN LANE YIELD TO BIKES Sign (R4–4). The proposed new section will be numbered and titled ''Section 9B.06 Bicycle WRONG WAY and RIDE WITH TRAFFIC Signs (R5–1b, R9–3c)'' and will standardize the design and placement of Bicycle WRONG WAY Signs. Wrong way travel by bicyclists is a major cause of conflicts and collisions, and should be discouraged at appropriate locations. The remaining sections would be renumbered accordingly.

281. In existing Section 9B.08 (new Section 9B.09), the FHWA proposes changing the title from ''No Parking Bicycle Lane Signs (R7–9, R7–9a)'' to ''No Parking BIKE LANE Signs (R7–9, R7–9a)'' and in the first STANDARD statement changing the name of the sign accordingly.

282. The FHWA proposes adding a new section following existing Section 9B.10 (new Section 9B.11) Shared-Used Path Restriction Sign (R9–7). The proposed new section will be numbered and titled ''Section 9B.12 Bicycle Signal Actuation Sign (R10–15)'' and will provide a new sign giving information to bicyclists on how to best situate themselves within the proposed new Bicycle Detector pavement marking symbol so that they can actuate the traffic signal. The remaining sections would be renumbered accordingly.

283. In existing Section 9B.14 (new Section 9B.16) Bicycle Surface Condition Warning Sign (W8–10), the FHWA proposes revising the first OPTION statement to clarify that BUMP, DIP, Pavement Ends, and any other word message signs are not supplemental plaques used with the W8–10 sign, but are instead standard signs to be used independently.

284. In Section 9C.01 Functions of Markings, the FHWA proposes modifying the SUPPORT statement to remove the first sentence, since it only refers to roadways with a designated bicycle lane and is not broad enough to describe markings used for all types of bicycle facilities.

285. In Section 9C.02 General Principles, the FHWA proposes to add a new STANDARD statement after the GUIDANCE statement. This proposed new STANDARD statement is being moved from Section 9C.03 to Section 9C.02 because this text is applicable to all bicycle facilities, not just shared-use paths and is more appropriate in this section than Section 9C.03.

286. In Section 9C.03 Marking Patterns and Colors on Shared-Use Paths, the FHWA proposes moving the STANDARD statement to Section 9C.02, since this text is applicable to all bicycle facilities, not just shared-use paths and is more appropriate in this section than Section 9C.03.

Additionally, the FHWA proposes removing the first SUPPORT statement since it discourages the use of centerlines. Centerlines may be useful and valuable for user guidance in many applications, and, therefore, should not be discouraged.

Additionally, the FHWA proposes adding to the GUIDANCE statement additional information on the marking of obstructions in a path.

Additionally, the FHWA proposes moving to the OPTION statement the second item of the OPTION statement currently in Section 9C.05, because letter, symbol, and arrow sizes to be used on shared-use paths represent markings rather than markers.

Additionally, the FHWA proposes moving the contents of existing Section 9C.06 in its entirety to Section 9C.03, because this information is more applicable in Section 9C.03 as it clarifies the design and placement of marking patterns and object markers on shared-use paths.

287. In Section 9C.04 Markings For Bicycle Lanes, the FHWA proposes revising the first sentence of the STANDARD statement to remove the specific distance of ''not closer than 20 m (65 ft) from the crossroad'' from the requirement for placing bicycle lane symbols, to provide jurisdictions with additional flexibility. The specific distance may not be feasible in urban locations, and is not necessary for marking durability.

Additionally, the FHWA proposes adding a new item to the STANDARD statement to prohibit the placement of bicycle lanes to the right of a right turn only lane. A bicyclist continuing straight through an intersection from the right of a right turn lane would be inconsistent with normal traffic behavior and would violate the expectation of right-turning drivers. The FHWA also proposes adding a new item to the STANDARD statement to prohibit the placement of bicycle lanes in the circular roadway of a roundabout, because such markings have been found to cause a false sense of security for bicyclists traveling through the roundabout with conflicting and turning traffic. This proposed change is consistent with state of the practice for roundabout design and is consistent with proposed changes to Section 3B.24.

Additionally, the FHWA proposes adding a new paragraph to the SUPPORT statement describing that a bicyclist continuing straight through an intersection from the right of a right turn lane would be inconsistent with normal traffic behavior and would violate the expectation of right-turning drivers.

Additionally, at the end of this section, the FHWA proposes adding a new GUIDANCE statement to establish guidance for bicycle lane markings at locations where a right through lane becomes an exclusive right turn lane, and at locations where there is a shared through and right turn lane next to a right turn only lane. This guidance is important to ensure that bicycle lanes

are not poorly designed at such intersections.

Additionally, the FHWA proposes adding a GUIDANCE statement and a SUPPORT statement to provide guidance on not using posts or raised pavement markers to separate bicycle lanes from adjacent travel lanes, since they can hinder maintenance of the bicycle lane and prevent proper vehicle merging.

288. The FHWA proposes removing Section 9C.05 Word Messages and Symbols Applied to the Pavement, and Section 9C.06 Object Markers on Share-Used Paths, in their entirety. The FHWA proposes incorporating the information from these sections into Section 9C.03 Marking Patterns and Colors on Shared-Use Paths, as this more properly locates the information. The remainder of the sections would be renumbered accordingly.

289. The FHWA proposes adding a new Section 9C.05 Bicycle Detector Symbol, containing an OPTION statement that defines a standard symbol for the marking of detector locations for traffic signals actuated by bicyclists. This symbol marking is shown in a proposed new figure numbered and titled ''Figure 9C–7 Example of Bicycle Detector Pavement Marking.'' This symbol marking, along with the Bicycle Signal Actuation (R10–15) sign, will assist bicyclists at signalized intersections by clearly showing the best location to achieve detection by loops or other vehicle detector equipment.

290. In Section 9D.02 Signal Operations for Bicycles, the FHWA proposes revising the STANDARD statement to require that signal timing and actuation be reviewed and adjusted to consider the needs of bicyclists, instead of simply requiring the consideration of bicyclists' needs when timing signals. This greater emphasis is to ensure that the different operating characteristics of bicyclists are accounted for.

Discussion of Proposed Amendments to Part 10—Traffic Controls for Highway-Light Rail Transit Grade Crossings

291. In Section 10A.01 Introduction, the FHWA proposes adding a SUPPORT statement at the end of the section to reference Section 8A.01 for the definitions applicable to Part 10.

292. In Section 10A.03 Uniform Provisions, the FHWA proposes adding to the STANDARD statement that no sign or signal shall be located in the center of an undivided highway except in an island with non-mountable curbs.

Additionally, the FHWA proposes adding a GUIDANCE statement at the end of the section to reinforce that where the distance between tracks exceeds 30 m (100 ft), additional signs or other appropriate traffic control devices should be used.

293. In Section 10A.04 Highway-Light Rail Transit Grade Crossing Elimination, the FHWA proposes removing from the second GUIDANCE statement and adding to the STANDARD statement that if the existing traffic control devices at a multiple-track highway-light rail transit grade crossing become improperly placed or inaccurate because of the removal of some of the tracks, the existing devices shall be relocated and/or modified.

Additionally, the FHWA proposes adding to the second GUIDANCE statement that, when a roadway is removed from a highway-light rail transit grade crossing, appropriate signs should be placed at the end of roadway and other appropriate locations, to alert road users that the road no longer crosses the light rail transit tracks.

294. In Section 10A.05 Temporary Traffic Control Zones, the FHWA proposes combining the two separate STANDARD statements into one STANDARD statement at the beginning of the section for clarity.

295. In Section 10C.01, the FHWA proposes changing the title from ''Introduction'' to ''Purpose'' to more accurately reflect the contents of the section.

Additionally, the FHWA proposes correcting the text in the STANDARD statement to properly indicate that the design and location of signs shall conform to all of Part 2.

296. The FHWA proposes adding a new section following Section 10C.01 Introduction. The proposed new section will be numbered and titled ''Section 10C.02 Highway-Light Rail Grade Crossing (Crossbuck) Signs (R15–1, R15–2, R15–9)'' and will provide information regarding the use of Crossbuck signs at highway-light rail grade crossings. While this section would be identical to Section 8B.02 (as it is proposed to be revised as described above), the use of Crossbuck signs and the proposed optional Crossbuck Shield signs is applicable to both highway-light rail transit and highway-rail grade crossings, so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

297. In existing Section 10C.03 STOP or YIELD Signs (R1–1, R1–2, W3–1a, W3–2a), the FHWA proposes renumbering and retitling the section as ''Section 10C.04 STOP (R1–1) or YIELD (R1–2) Signs at Highway-Light Rail Transit Grade Crossings'' to clarify the content of the section.

Additionally, the FHWA proposes revising the last sentence of the STANDARD statement to clarify that Stop Ahead (W3–1a) and Yield Ahead (W3–2a) Advance Warning signs shall also be installed if the criteria for their installation given in Section 2C.26 is met.

Additionally, in the GUIDANCE statement the FHWA proposes adding to the list of characteristics to clarify when STOP or YIELD signs may be used the at highway-light rail transit grade crossings. The FHWA proposes adding the following characteristics to the list: that the determination of what constitutes low traffic volumes and low speed limits of crossing roadways should be made by local agencies, that light rail transit speeds do not exceed 40 km/h (25 mph), that the line of sight for an approaching light rail transit operator is adequate from a significant distance such that the operator can sound an audible signal and bring the vehicle to a stop before arriving at the crossing, and that the light rail transit tracks are located such that vehicles are not likely to stop on the tracks while waiting to enter a cross street or highway.

298. In Section 10C.04 (new Section 10C.05) DO NOT STOP ON TRACKS Sign (R8–8), the FHWA proposes adding to the OPTION statement to clarify that DO NOT STOP ON TRACKS (R8–8) signs may be placed on both sides of the track, to enhance visibility of the signs for road users.

299. Following existing Section 10C.04 (new Section 10C.05) DO NOT STOP ON TRACKS Sign (R8–8), the FHWA proposes adding a new section. This proposed new section will be numbered and titled ''Section 10C.06 TRACKS OUT OF SERVICE Sign (R8–9)'' and will describe the use of the TRACKS OUT OF SERVICE (R8–9) sign at highway-light rail transit grade crossings. While this section would be identical to Section 8B.08, the use of the TRACKS OUT OF SERVICE (R8–9) sign is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

300. Following existing Section 10C.05 (new Section 10C.07) STOP HERE ON RED Sign (R10–6), the FHWA proposes adding a new section. This proposed new section will be numbered and titled ''Section 10C.08 STOP HERE WHEN FLASHING Sign (R8–10)'' and will describe the use of the STOP HERE WHEN FLASHING (R8–10) sign at

highway-light rail transit grade crossings. While this section would be identical to proposed new Section 8B.09, the use of the STOP HERE WHEN FLASHING (R8–10) sign is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

301. In existing Section 10C.06 (new Section 10C.09) Light Rail Transit-Activated Blank-Out Turn Prohibition Signs (R3–1a, R3–2a), the FHWA proposes adding a STANDARD statement at the end of the section. This proposed STANDARD statement will be identical to STANDARD statement in Section 8B.05 and reinforces that at both highway-rail and highway-light rail transit grade crossings turn prohibition signs that are associated with preemption shall be visible only when the grade crossing restriction is in effect in order not to cause confusion to road users.

302. Following existing Section 10C.06 (new Section 10C.09) Light Rail Transit-Actuated Blank-Out Turn Prohibition Signs (R3–1a, R3–2a), the FHWA proposes adding a new section. This proposed new section will be numbered and titled ''Section 10C.10 EXEMPT Highway-Light Rail Transit Grade Crossing Signs (R15–3, W10–1a)'' and will describe the use of the supplemental EXEMPT Highway-Light Rail Transit Grade Crossing (R15–3, W10–1a) signs at highway-light rail transit grade crossings. While this section would be identical to Section 8B.04, the use of these supplemental signs is applicable to both highway-light rail transit and highway-rail grade crossings, so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

303. In existing Section 10C.09 (new Section 10C.13) Light Rail Transit Only Lane Signs (R15–4 Series), the FHWA proposes titling the figure illustrating regulatory sign panels as ''Figure 10C–3 Regulatory Signs'' and adding to and revising the signs illustrated in the figure, to be consistent with Section 2B.48 Preferential Lane Signs, and to reflect changes elsewhere in Part 10.

304. In existing Section 10C.11 (new Section 10C.15) Highway-Light Rail Advance Warning Signs (W10 Series), the FHWA proposes revising the entire section by replacing it with the STANDARD, OPTION, and GUIDANCE statements contained in Section 8B.03, including the proposed revisions as described above in Part 8. While these sections would be identical, the use of advance warning signs is applicable to both highway-light rail transit and highway-rail grade crossings, and the FHWA believes that it is important to have consistency in the use of these signs so this information is included in both parts of the MUTCD.

The FHWA also proposes titling the figure illustrating predominantly warning sign panels as ''Figure 10C–4 Warning Signs and Light Rail Station Sign'' and adding to and revising the signs illustrated in the figure, to reflect changes elsewhere in Part 10.

305. Following existing Section 10C.11 (new Section 10C.15) Highway-Light Rail Advance Warning Signs (W10-Series), the FHWA proposes adding a new section. This proposed new section will be numbered and titled ''Section 10C.16 Low Ground Clearance Highway-Light Rail Transit Grade Crossing Sign (W10–5)'' and will describe the use of the Low Ground Clearance (W10–5) sign at highway-light rail transit grade crossings. While this section would be identical to Section 8B.16, the use of Low Ground Clearance (W10–5) signs is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

306. Following existing Section 10C.12 (new Section 10C.17) Light Rail Transit Approaching-Activated Blank-Out Warning Sign (W10–7), the FHWA proposes adding two new sections. The first proposed new section will be numbered and titled ''Section 10C.18, Storage Space Signs (W10–11, W10–11a, W10–11b)'' and will describe the use of Storage Space (W10–11) signs at highway-light rail transit grade crossings. The second proposed new section will be numbered and titled ''Section 10C.19 Skewed Crossing Sign (W10–12)'' and will describe the use of Skewed Crossing (W10–12) signs at highway-light rail transit grade crossings. While these sections would be identical to proposed Sections 8B.17 and 8B.18, respectively, these signs are applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

307. Following existing Section 10C.13 (new Section 10C.20) Light Rail Station Sign (I–12), the FHWA proposes adding a new section. This proposed new section will be numbered and titled ''Section 10C.21 Emergency Notification Sign (I–13 or I–13a)'' and will describe the use of Emergency Notification (I–13 or I–13a) signs at highway-light rail transit grade crossings. While this section would be identical to Section 8B.14, the use of these signs is applicable to both highway-light rail transit and highway-rail grade crossings so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

308. Following existing Section 10C.14 (new Section 10C.22) Illumination at Highway-Light Rail Transit Crossings, the FHWA proposes adding two new sections. The first proposed new section will be numbered and titled ''Section 10C.23 Pavement Markings'' and will describe the use of pavement markings at highway-light rail transit grade crossings. The second proposed new section will be numbered and titled ''Section 10C.24 Stop Lines'' and will describe the use of stop lines at highway-light rail transit grade crossings. While these sections would be identical to Sections 8B.19 and 8B.20, respectively, it is important that the use of pavement markings and stop lines at highway-light rail transit and highway-rail grade crossings is consistent so the FHWA believes that it is important to have this information in both parts of the MUTCD. The remaining sections would be renumbered accordingly.

309. In existing Section 10C.15, the FHWA proposes renumbering and retitling the section from ''Dynamic Envelope Delineation Markings'' to ''Section 10C.25 Dynamic Envelope Markings'' to clarify that the text refers to pavement markings.

Additionally, the FHWA proposes modifying the STANDARD statement to clarify that, if used, the pavement marking used to delineate the dynamic envelope shall be a normal solid white line, contrasting pavement color, and/or contrasting pavement texture. This STANDARD would be identical to that in Section 8B.21.

310. At the end of Chapter 10C, the FHWA proposes adding two new figures. The first proposed new figure will be numbered and titled ''Figure 10C–10 Example of Placement of Warning Signs and Pavement Markings at Highway-Light Rail Transit Grade Crossings'' and will illustrate the placement of warning signs and pavement markings at highway-light rail transit grade crossings. The second proposed new figure will be numbered and titled ''Figure 10C–11 Examples of Highway-Light Rail Transit Grade Crossing Pavement Markings'' and will

illustrate the use of R X R and associated pavement markings at highway-light rail transit grade crossings. While these figures would be identical to Figures 8B–7 and 8B–8, respectively, it is important that the warning signs and pavement markings at highway-light rail transit and highway-rail grade crossings is consistent so the FHWA believes that it is important to have this information in both parts of the MUTCD.

311. In Section 10D.01 Introduction, the FHWA proposes removing the STANDARD statement since the information is already properly contained in Section 10A.01.

Additionally, the FHWA proposes adding to the OPTION statement that In-Roadway Stop Line Lights and In-Roadway Warning Lights may be installed at highway-light rail transit grade crossings that are controlled by active grade crossing warning systems, as discussed in Chapter 4L.

312. In existing Section 10D.02 Four-Quadrant Gate Systems, the FHWA proposes moving this entire section to follow Section 10D.03 and renumbering it Section 10D.04. This reordering is proposed so that content contained in these sections would appear in the same order as it appears in Part 8.

Additionally, the FHWA proposes revising the STANDARD statement to clarify that the exit lane gate arms shall be designed to fail-safe in the up position except as noted in the OPTION statement, for consistency with Section 8D.05.

Additionally, the FHWA proposes adding to the GUIDANCE statement to make it identical to the GUIDANCE statement in Section 8D.05, to provide information that describes the various operating modes of exit lane gates and how they should be used at both highway-rail and highway-light rail transit grade crossings.

313. In Section 10D.03 Automatic Gates, the FHWA proposes changing the last SUPPORT statement to an OPTION statement to be consistent with the same language contained in Section 8D.04 on how the effectiveness of gates may be enhanced by the use of channelizing devices or raised median islands to discourage driving around lowered automatic gates.

314. In existing Section 10D.04 Flashing Light Signals, the FHWA proposes moving this entire section to follow Section 10D.01 and renumbering it Section 10D.02. This reordering is proposed so that content contained in these sections would appear in the same order as it appears in Part 8.

315. In Section 10D.08 Pedestrian and Bicycle Signals and Crossings, the FHWA proposes changing the first OPTION statement to a GUIDANCE statement to emphasize that if an engineering study shows that flashing-light signals alone would not provide sufficient notice of an approaching light rail transit vehicle, the LOOK (R15–8) sign and/or pedestrian gates should be considered.

Discussion of Proposed Amendments to Appendix A1—Congressional Legislation

316. In Appendix A1 Congressional Legislation, the FHWA proposes to add to the listing of pertinent sections of Public Law 104–59—Nov. 28, 1995 (National Highway System Designation Act of 1995) Section 306. Motorist Call Boxes. This section discusses the uses of motorist call boxes along the National Highway System.

Rulemaking Analysis and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this notice of proposed amendments will not be a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. The proposed standards and other changes in this notice are intended to improve traffic operations and safety, and to provide additional guidance, optional applications, and support clarification for traffic control devices. The FHWA expects that these proposed standards, guidance, optional applications, and support material will create roadway uniformity, and enhance the safety and mobility of the public at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this notice of proposed amendments on small entities. This notice of proposed amendments revising standards, guidance, optional applications, and support material wording will improve the design and installation of traffic control devices. The proposed changes are intended to improve traffic operations and safety, expand guidance, and clarify the application of traffic control devices. The FHWA hereby certifies that these revisions would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This notice of proposed amendments would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). This proposed action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

This notice of proposed amendments has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and the FHWA has determined that this proposed action does not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policymaking discretion of the States and local governments. Nothing in this document directly preempts any State law or regulation. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, which requires that changes to the national standards issued by the FHWA shall be adopted by the States or other Federal agencies within two years of issuance. The proposed amendment is in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of highways.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more

Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. While the proposed changes in this notice of proposed amendments revise standards, guidance, optional applications, and support material, they will create roadway uniformity, and enhance the safety and mobility of the public at little additional expense to public agencies. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

This proposed action 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.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been 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. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this proposed action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: May 10, 2002.

Mary E. Peters,

Administrator, Federal Highway Administration.

[FR Doc. 02–12269 Filed 5–20–02; 8:45 am]

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Federal Register

Tuesday,
May 21, 2002

Part III

Department of Education

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.215V—State Educational Agencies; CFDA No. 84.215S—Local Educational Agencies]

Office of Educational Research and Improvement; Fund for the Improvement of Education (FIE) Program—Partnerships in Character Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of this program is to provide grants to eligible entities to assist them in designing and implementing character education programs that teach students any of the following elements of character: caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, or any other elements deemed appropriate by the eligible entity, having taken into consideration the views of parents and students. The character education programs supported must be programs that can be integrated into classroom instruction, are consistent with State academic content standards, and can be carried out in conjunction with other educational reform efforts.

Eligible Applicants: An eligible applicant under the *84.215V* competition is:

(a) A State educational agency (SEA) in partnership with one or more local educational agencies (LEAs); or

(b) An SEA in partnership with one or more (LEAs) and nonprofit organizations or entities, including an institution of higher education.

An eligible applicant under the *84.215S* competition is:

(a) An LEA or consortium of LEAs; or

(b) An LEA or LEAs in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

In making selections for funding, the Secretary will ensure, to the extent practicable, that the projects are equitably distributed among the geographic regions of the United States, and among urban, suburban and rural areas.

Applications Available: May 23, 2002.

The application package for this competition is available on line at: *http://ed.gov/GrantApps/.* At this site, you may download and print a paper copy of the application package. Using these paper forms, you may submit a paper copy of your application to the Department.

If you want to submit an application electronically, please refer to the instructions, ''Pilot Project for Electronic Submission of Applications'' later on in this notice. You must use the ''e-APPLICATION'' process described in these instructions to submit an application electronically.

Deadline for Transmittal of Applications: July 11, 2002.

Deadline for Intergovernmental Review: September 9, 2002.

Estimated Available Funds: $16,000,000.

Estimated Range of Awards: $100,000—$500,000 per year.

Estimated Average Size of Awards: The size of an award will be commensurate with the scope of the activities to be carried out.

Minimum Award: We will reject any application from an SEA that proposes a total budget for the entire project period that is *less* than $500,000. There is no such restriction on applications from LEAs.

Estimated Number of Awards: 40 to 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months, of which no more than 12 months may be used for planning and program design.

Budget Period: 12 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. It is strongly suggested that you limit Part III to the equivalent of no more than 25 pages using the following standards:

- A page is 8.5″ × 11,″ on one side only, with 1″ margins at the top, bottom and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative.
- Use a font that is either 12 point or larger or not smaller than 10 pitch (characters per inch).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, 97, 98 and 99.

SUPPLEMENTARY INFORMATION:

Background

Eligible entities awarded grants under this program may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of: (1) Evaluating the program for which the assistance is made available; (2) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and (3) measuring the success of the program in fostering the elements of character selected by the recipient.

Entities receiving grants may also contract with the same types of outside sources, for assistance in: (1) Developing secular curricula, materials, teacher training, and other activities related to character education; and (2) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

An SEA receiving a grant may use no more than 3 percent of the grant funds, each year, for administrative purposes. The remainder may be used for: (1) Collaborative initiatives with and between LEAs and schools; (2) the preparation or purchase of materials, and teacher training; (3) providing assistance to LEAs, schools, or institutions of higher education; and (4) technical assistance and evaluation.

Each application for a grant under this program must include information that: (1) Demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research; (2) describes any partnerships or collaborative efforts among the organizations and entities comprising the eligible entity; (3) describes the activities that will be carried out with the grant funds and how such activities will meet the project objectives, including: (a) How parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program; (b) curriculum and instructional practices that will be used or developed; and (c) methods of teacher training and parent education that will be used or developed; (4) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including: (a) Broader educational reforms that are being instituted by the eligible entity or its partners; and (b) State academic content standards; and (5) describes how the eligible entity will evaluate the success of its program based on the project objectives.

In addition, any application from an SEA must also include information that describes how the SEA: (1) Will provide technical and professional assistance to its LEA partners in the development and implementation of character education programs; and (2) will assist other

interested LEAs that are not members of the original partnership in designing and establishing character education programs.

Each eligible entity receiving a grant must provide, to the extent feasible and appropriate, for the participation in the funded programs and activities of students and teachers in private elementary and secondary schools.

Factors that may be considered in evaluating the success of programs funded include the following: Discipline issues, student academic achievement, participation in extracurricular activities, parental and community involvement, faculty and administration involvement, student and staff morale, and overall improvements in school climate for all students, including students with disabilities.

Selection Criteria: In selecting eligible entities to receive grants, the Secretary will use a peer review process that includes the participation of experts in the field of character education and development. Peer reviewers will use the criteria listed below in evaluating applications. The criteria will receive the points indicated.

(1) The extent to which project objectives are significant, clearly identified, measurable, and likely to be achieved. (20 points)

(2) The extent to which the applicant utilizes scientifically based research to select character education program components that are likely to foster character in students and achieve project objectives. (20 points)

(3) The extent to which the character education program activities are integrated into teacher professional development, curricula, materials, and classroom instruction. (20 points)

(4) The extent and ongoing nature of the involvement of students, parents, and community, such as faith-based organizations, in the design, implementation, and evaluation of the project. (20 points)

(5) The extent to which the factors to be considered in evaluating the success of the project will be clearly identified and the quality of the plan for evaluating the project. (20 points)

Priority

This competition focuses on projects designed to meet the following priority. Under 34 CFR 75.105(c)(2)(i), applications will receive up to 20 additional points depending on how well they meet the priority. These points are in addition to any points the application earns under the selection criteria.

Competitive Preference Priority

The project is designed to determine whether the character education program implemented produces meaningful effects on students. In order to do this, the project preferably employs an experimental design with random assignment. If random assignment is not feasible, the project may employ a quasi-experimental design with carefully matched comparison conditions. For experimental designs, random assignment to the character education program being evaluated versus one or more comparison conditions may occur at the level of students, or classrooms, or schools. Alternatively, in a quasi-experimental design, schools or students or classrooms that are receiving the character education program are matched with comparable schools or students or classrooms that are not receiving a character education program. Data from reliable and valid measures of the elements of character that the character education program intends to teach and any other characteristics of school climate that the program intends to influence should be collected before and after participation in the character education program or the comparison condition.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on selection criteria, competitive preference priority, and special application requirements. Section 437(d)(1) of the General Education Provisions Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. This is the first competition under the Fund for the Improvement of Education: Character Education Program, which was substantially revised by the No Child Left Behind Act of 2001. These selection criteria, competitive preference priority, and application requirements will apply to the FY 2002 grant competition only.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Fund for the Improvement of Education (FIE): Partnerships in Character Education Program (84.215V for SEAs and 84.215S for LEAs) is one of the programs included in the pilot project. If you are an applicant under either the SEA competition or the LEA competition for the FIE: Partnerships in Character Education Program, you may submit your application to the Department in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). The Department requests your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary but strongly encouraged.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- On the deadline date, the deadline time for transmitting applications is 4:30 p.m. Washington, DC Time.
- If you wait until the deadline date to submit your application electronically and you are unable to access the e-Application system, you must contact the Help Desk by 4:30 p.m. Washington DC time on the deadline date.
- Keep in mind that e-Application is not operational 24 hours a day every day of the week. Click on Hours of Web Site Operation for specific hours of access during the week.
- You will have access to the e-Application Help Desk for technical support: 1–888–336–8930 (TTY: 1–866–697–2696, local 202–401–8363). The Help Desk hours of operation are limited to: 8 a.m.–6 p.m. Washington, DC time Monday–Friday.
- If you submit your application electronically by the transmittal date but also wish to submit a paper copy of your application, then you must mail the paper copy of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA # 84.305G, 7th and D Streets, SW., Room 3671, Regional Office Building 3, Washington, DC 20202–4725.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application fax a signed copy of the Application for Federal Assistance (ED 424) to the

Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.

2. Make sure that the institution's Authorizing Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right hand corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the FIE: Partnerships in Character Education Program: 84.215V for SEAs or 84.215S for LEAs at:

http://e-grants.ed.gov.

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Beverly A. Farrar, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502J, Washington, DC 20208–5645. FAX: (202) 219–2053 or via the Internet: *beverly.a.farrar@ed.gov.* If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format, e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities also may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 7247.

Dated: May 16, 2002.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–12693 Filed 5–20–02; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 495/P.L. 107–175

To designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building.'' (May 17, 2002; 116 Stat. 576)

H.R. 819/P.L. 107–176

To designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building''. (May 17, 2002; 116 Stat. 577)

H.R. 3093/P.L. 107–177

To designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse''. (May 17, 2002; 116 Stat. 578)

H.R. 3282/P.L. 107–178
To designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse''. (May 17, 2002; 116 Stat. 579)
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