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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 762

RIN 0560–AG44

Collecting Guaranteed Loss Payments From FSA Farm Loan Program Borrowers

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This action revises the regulations governing the Farm Service Agency's (FSA) guaranteed farm loan programs by adding a provision clarifying that any amounts paid by FSA on account of the liabilities of the guaranteed loan borrower will constitute a Federal debt owing to FSA by the guaranteed loan borrower. FSA may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996, to collect the debt from the borrower. This action will affect only those guaranteed loan borrowers after a final loss claim is paid by FSA to the lender from whom they received a guaranteed loan.

DATES: This rule is effective on July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Polly M. Anderson, Senior Loan Officer, Farm Service Agency; telephone: 202–720–2558; Facsimile: 202–690–1196; E-mail: *Polly__Anderson@wdc.fsa.usda.gov*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Agency certifies that this rule will not have a significant economic effect on a substantial number of small entities, because it does not require actions on the part of the borrower or the lenders. The Agency, therefore, is not required to perform a Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act, Public Law 96–534, as amended (5 U.S.C. 601). This rule does not impact small entities to a greater extent than large entities.

Environmental Impact Statement

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except that Agency servicing under this rule will apply to loans guaranteed prior to the effective date of the rule and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before requesting judicial review.

Executive Order 12372

For reasons contained in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in expenditures of $100 million or more in any 1 year for state, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined by title II of the UMRA, for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Paperwork Reduction Act

The amendments to 7 CFR part 762 contained in this rule require no revisions to the information collection requirements that were previously approved by OMB under control number 0560–0155.

Federal Assistance Program

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Final Rule

This rule clarifies the policy of the Farm Service Agency Farm Loan Programs concerning the statutory mandate imposed on the Agency by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3716) (DCIA). Section 3701 of 31 U.S.C. defines ''claim'' or ''debt'' in part to include funds owed on account of loans guaranteed by the government. This rule puts guaranteed borrowers on notice that FSA will attempt to collect from guaranteed borrowers through Treasury Offset and any other available remedies when a final loss claim is paid to a guaranteed lender.

The Federal Claims Collection Act of 1966 (Act), (31 U.S.C. 3711 et seq.) provides for the use of administrative, salary, and Internal Revenue Service (IRS) offsets by Government agencies to collect delinquent Federal debts. Any money that is or may become payable

from the United States to an individual or entity indebted to FSA may be offset for the collection of a debt owed to FSA. In addition, money may be collected from the debtor's retirement payments for delinquent amounts owed to the Agency if the debtor is an employee or retiree of a Federal agency, the U.S. Postal Service, the Postal Rate Commission, or a member of the U.S. Armed Forces or the Reserve. Current regulations published in 7 CFR part 762, do not discuss whether amounts paid by the Agency on guaranteed final loss claims are considered Federal debts.

This rule is consistent with the Act and clarifies that a Federal debt is established when a guaranteed final loss claim is paid. The Agency will offset all payments available in accordance with 31 U.S.C. 3716 and 7 CFR part 1951, subpart C. Federal Crop Insurance indemnity payments are prohibited from offset under section 509 of the Federal Crop Insurance Act (7 U.S.C. 1509). FSA also will not offset environmental cost-share assistance payments for establishment costs that are made for newly enrolled FSA Conservation Reserve Program acres or in other situations not in the best interests of the Government. FSA's current policy for direct loan debt collections will be used for collection of Federal debt arising from guaranteed loans.

Some borrowers have established corporations, partnerships and other entities to avoid offsets and to circumvent other Agency regulations. Offset will be taken against the borrower's pro rata share of entity payments pursuant to 7 CFR 792.7(l), 1403.7(q), and 1951.106. A Federal debt cannot be established on debts discharged in bankruptcy. In a reorganization bankruptcy, a borrower will not be offset even when a final loss claim is paid provided the borrower successfully completes the confirmed plan. If a borrower's debt is discharged in a Chapter 7 bankruptcy, offset will not be pursued when the final loss claim is paid.

The Agency has revised its guaranteed loan application forms to include the applicant's certification and acknowledgment that any amounts paid by FSA on account of liabilities of the guaranteed loan borrower will constitute a Federal debt to FSA. The forms provide direct notice to interested applicants of FSA's debt collection policy and memorialize their understanding and acknowledgment of FSA's collection policy.

The guaranteed farm loan program has been in existence since 1973. Currently, there are 40,559 guaranteed farm loan borrowers with 67,540 loans. Approximately 1,200 loss claims are paid on guaranteed loans per year. Approximately 100 of the 1,200 loans are discharged in bankruptcy, leaving about 1,100 loans that could be considered for offset and other collection methods. Sixty days after a final loss claim is paid, Agency loan officials will notify the guaranteed borrowers with a Notice of Intent to Collect by Administrative Offset that any FSA payment that they may be scheduled to receive will be offset. The notice will advise such borrowers of their options to either pay the claim off, relinquish some or all of the payment to FSA, or seek administrative review or appeal.

This rule is not published for notice and comment because it implements statutory and regulatory provisions which are binding on the Agency. Since the Agency does not have discretion in this matter, public comment would not be able to affect the provisions of the rule. Therefore the rule is published as final and effective upon publication.

List of Subjects in 7 CFR Part 762

Agriculture, Loan programs—Agriculture.

Accordingly, 7 CFR chapter VII is amended as follows:

PART 762—GUARANTEED FARM LOANS

1. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989.

2. Amend § 762.149 by adding paragraph (m), to read as follows:

§ 762.149 Liquidation.

* * * * *

(m) *Establishment of Federal debt.* Any amounts paid by the Agency on account of liabilities of the guaranteed loan borrower will constitute a Federal debt owing to the Agency by the guaranteed loan borrower. In such case, the Agency may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996, to collect the debt from the borrower. Interest charges will be established at the note rate of the guaranteed loan on the date the final loss claim is paid.

Signed in Washington, DC, on June 25, 2002.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 02–16474 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–068–1]

Change in Disease Status of Poland Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Poland to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in a native-born animal in that region. Poland has been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. Therefore, the effect of this action is a continued restriction on the importation of ruminants, meat, meat products, and certain other products of ruminants that have been in Poland. This action is necessary in order to update the disease status of Poland regarding bovine spongiform encephalopathy.

DATES: This interim rule was effective May 5, 2002. We will consider all comments that we receive on or before August 30, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No.02–068–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–068–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–068–1'' on the subject line.

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

APHIS documents published in the **Federal Register**, and related

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

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

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of cattle and is not known to exist in the United States. It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants, were to be imported into the United States and fed to ruminants in the United States. BSE could also become established in the United States if ruminants with BSE were imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States.

Paragraph (a)(1) of § 94.18 lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. Paragraph (b) of § 94.18 prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraph (a)(1) or (a)(2). Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in 9 CFR part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service may deny the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (*see* § 93.404(a)(3)).

Poland has been among the regions listed in § 94.18(a)(2), which are regions that present an undue risk of introducing BSE into the United States. However, on May 5, 2002, a case of BSE was confirmed in a native-born animal in Poland. Therefore, in order to update the disease status of Poland regarding BSE, we are amending the regulations by removing Poland from the list in § 94.18(a)(2) of regions that present an undue risk of introducing BSE into the United States and adding Poland to the list in § 94.18(a)(1) of regions where BSE is known to exist. The effect of this action is a continued restriction on the importation of ruminants, meat, meat products, and certain other products and byproducts of ruminants that have been in Poland. We are making these amendments effective retroactively to May 5, 2002, which is the date that BSE was confirmed in a native-born animal in Poland.

Emergency Action

This rulemaking is necessary on an emergency basis to update the disease status of Poland regarding BSE. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations by adding Poland to the list of regions where BSE exists because the disease has been detected in a native-born animal in that region. Poland has been listed among the regions that present an undue risk of introducing BSE into the United States.

Regardless of which of the two lists a region is on, the same restrictions apply to the importation of ruminants and meat, meat products, and most other products and byproducts of ruminants that have been in the region. Therefore, this action, which is necessary in order to update the disease status of Poland regarding BSE, will not result in any change in the restrictions that apply to the importation of ruminants and meat, meat products, and certain other products and byproducts of ruminants that have been in Poland.

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to May 5, 2002; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

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

Accordingly, we are amending 9 CFR part 94 as follows:

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

1. The authority citation for part 94 continues to read as follows:

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

§ 94.18 [Amended]

2. Section 94.18 is amended as follows:

a. In paragraph (a)(1), by adding, in alphabetical order, the word ''Poland,''.

b. In paragraph (a)(2), by removing the word ''Poland,''.

Done in Washington, DC, this 26th day of June, 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–16422 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM213; Special Conditions No. 25–201–SC]

Special Conditions: Airbus, Model A340–500 and –600 Series Airplanes; Interaction of Systems and Structure; Electronic Flight Control System, Longitudinal Stability and Low Energy Awareness; and Use of High Incidence Protection and Alpha-Floor Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus Model A340–500 and –600 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes associated with the systems that affect the structural performance of the airplane; the electronic flight control system (EFCS); and the use of high incidence protection and alpha-floor systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These 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: July 31, 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 airplane that 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 A340–500 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 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 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, and 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. In addition, Airbus has elected to redefine the reference stall speed as the 1-g stall speed as proposed in Notice No. 95–17 (61 FR 1260, January 18, 1996).

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

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A340–500 and –600 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, as amended on the date of type certification.

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 § 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 § 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 features.

1. Interaction of Systems and Structure

The Model A340–500 and –600 airplanes will have systems that affect the structural performance of the airplane, either directly or as a result of a failure or malfunction. These novel or unusual design features are systems that

can serve to alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. The current regulations do not adequately account for the effects of these systems and their failures on structural performance. These special conditions provide the criteria to be used in assessing the effects of these systems on structures.

2. Electronic Flight Control System: Longitudinal Stability and Low Energy Awareness

The EFCS of the Model A340–500 and –600, as with its predecessors, will result in the airplanes having neutral static longitudinal stability. This condition, when combined with the automatic trim feature of the EFCS, could result in insufficient feedback cues to the pilot of speed excursions below normal operating speeds. The longitudinal flight control laws provide neutral static stability within the normal flight envelope; therefore, the novel or unusual design features for these new airplane model designs will make them unable to show compliance with the static longitudinal stability requirements of §§ 25.171, 25.173, and 25.175.

The unique features of the Model A340–500 and –600 airplanes could cause an unsafe condition if the airspeed becomes too slow near the ground and results in the airplane stalling. The flightcrew would be unaware of the flight condition and would not be able to intervene and recover before stall. The French Direction Generale De L'Aviation Civile (DGAC) took action for this condition by introducing a special condition for predecessor airplanes with the same design features that required adequate awareness of the flightcrew to unsafe low speed conditions; there was no corresponding special condition developed by the FAA. The French special conditions allowed for awareness to be provided by an appropriate warning in the cockpit to allow for recovery. This special condition provides for an appropriate warning in the cockpit of the A340–500 and –600 airplanes to allow for recovery.

Subsequent to certification of the predecessor Model A330 and A340 airplanes and in establishing the certification requirements for the A340–500 and –600, the French DGAC decided to combine two special conditions from the A330 into a new special condition titled ''Static Longitudinal Stability and Low Energy Awareness.'' Since the FAA did not take action on the introduction of the low energy awareness requirement during the A330 and A340 certification, this special condition for the Model A340–500 and –600 airplane certification harmonizes to the French DGAC special condition for static longitudinal stability and low energy awareness. The purpose of the new low energy awareness special condition item 2(a)(2) is to provide awareness to the pilot of a low speed (or low energy state) of flight when the flight control laws provide neutral static longitudinal stability significantly below the normal operating speeds, and offer no cues to the pilot through the side stick controller. The special condition item 2(a)(1) addresses the fact that the airplane has neutral stability and does not meet regulatory requirements for positive dynamic and static longitudinal stability (§§ 25.171, 25.173, and 25.175, and 25.181(a)).

3. High Incidence Protection and Alpha-floor Systems

The Model A340–500 and –600 airplanes will have a novel or unusual feature to accommodate the unique features of the high incidence protection and the alpha-floor systems. The high incidence protection system replaces the stall warning system during normal operating conditions by prohibiting the airplane from stalling. The high incidence protection system limits the angle of attack at which the airplane can be flown during normal low speed operation, impacts the longitudinal airplane handling characteristics, and can not be over-ridden by the crew. The existing regulations do not provide adequate criteria to address this system.

The function of the alpha-floor system is to automatically increase the thrust on the operating engines under unusual circumstances where the airplane pitches to a predetermined high angle of attack or bank angle. The regulations do not provide adequate criteria to address this system.

Discussion of Comments

Notice of proposed special conditions No. 25–02–05–SC for the Airbus Model A340–500 and –600 airplanes was published in the **Federal Register** on April 8, 2002 (67 FR 16656). No comments were received, and the special conditions are adopted as proposed.

Applicability

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

Conclusion

This action affects only certain novel or unusual design features on the Model A340–500 and –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 by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A340–500 and –600 series airplanes.

1. Interaction of System and Structures

The following special conditions are in lieu of compliance with the criteria of previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75), item 4, ''Interaction of Systems and Structure.''

(a) *General.* For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of subparts C and D of part 25. The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, and fuel management systems. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

(1) The criteria defined herein only address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or

stability requirements when operating in the system degraded or inoperative modes are not provided in these special conditions.

(2) Depending upon the specific characteristics of the airplane, additional studies that go beyond the criteria provided in these special conditions may be required in order to demonstrate the capability of the airplane to meet other realistic conditions; such as alternative gust or maneuver descriptions for an airplane equipped with a load alleviation system.

(3) The following definitions are applicable to these special conditions.

Structural performance: Capability of the airplane to meet the structural requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (*e.g.*, speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

Failure condition: The term failure condition is the same as that used in § 25.1309; however, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, lower flutter margins, or change the response of the airplane to inputs such as gusts or pilot actions).

(b) *Effects of Systems on Structures.* The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

(1) System fully operative. With the system fully operative, the following apply:

(i) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in subpart C, taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(ii) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

(iii) The airplane must meet the aeroelastic stability requirements of § 25.629.

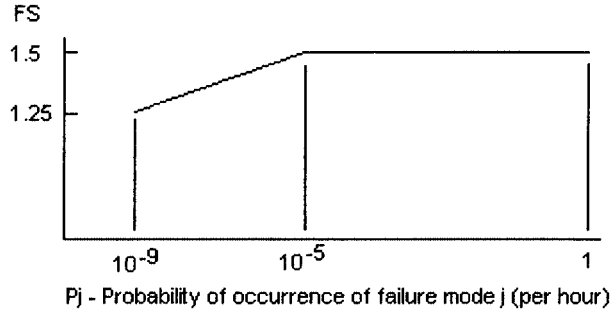
(2) *System in the failure condition.* For any system failure condition not shown to be extremely improbable, the following apply:

(i) At the time of occurrence. Starting from 1–g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(A) 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 (FS) is defined in Figure 1.

Figure 1

Factor of safety at the time of occurrence



(B) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in these special conditions item 1(b)(1)(ii).

(C) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond Vc/Mc, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(D) 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.

(ii) For the continuation of the flight. For the airplane in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(A) The loads derived from the following conditions at speeds up to Vc, or the speed limitation prescribed for the remainder of the flight, must be determined:

(*1*) The limit symmetrical maneuvering conditions specified in § 25.331 and in § 25.345.

(*2*) The limit gust and turbulence conditions specified in § 25.341 and in § 25.345.

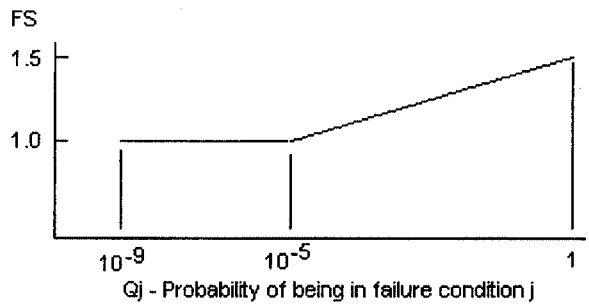
(*3*) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(*4*) The limit yaw maneuvering conditions specified in § 25.351.

(*5*) The limit ground loading conditions specified in § 25.473 and § 25.491.

(B) For static strength substantiation, each part of the structure must be able to withstand the loads defined in special condition item 1(b)(2)(ii)(A), multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
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).

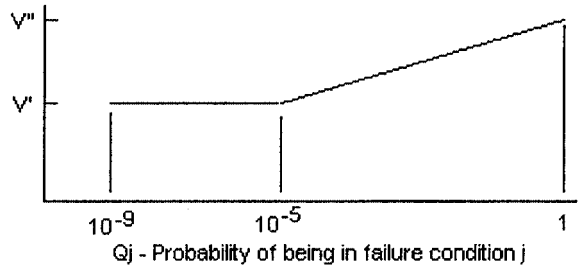
Note to paragraph (B): If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in subpart C.

(C) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in special condition item 1(b)(2)(ii)(B).

(D) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(E) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds V^I and V^{II} may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3
Clearance speed



V^I = Clearance speed as defined by § 25.629(b)(2).

V^{II} = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (Tj)(Pj)$ where:

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

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

Note to paragraph (E): If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V^{II}.

(F) Freedom from aeroelastic instability must also be shown up to V^I in Figure 3 above for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(iii) 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 following apply:

(i) 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.

(ii) The existence of any failure condition, not shown to be extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of subpart C below 1.25, or flutter margins below V^{II}, must be signaled to the crew during flight.

(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 Figures 2 and 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.

2. Electronic Flight Control System: Longitudinal Stability and Low Energy Awareness

(a) The following special conditions are in lieu of compliance with the requirements of 14 CFR 25.171, 25.173, 25.175, and 25.181(a), and in lieu of compliance with the previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75), item 11(b) ''Flight Characteristics—Longitudinal Stability.''

(1) The airplane must be shown to have suitable dynamic and static longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance.

(2) The airplane must provide adequate awareness to the pilot of a low energy state when flight control laws provide neutral longitudinal stability significantly below the normal operating speeds.

3. High Incidence Protection and Alpha-Floor Systems

(a) The following special conditions are in lieu of compliance with certain 14 CFR sections (listed below), and in lieu of compliance with previously issued Special Conditions No. 25–ANM–69 (Docket No. NM–75) item 12(b), ''Flight Envelope Protection, Angle-of-Attack Limiting.''

(1) The following definitions are applicable to these special conditions.

High Incidence Protection System. A system that operates directly and automatically on the airplane's flying controls to limit the maximum incidence that can be attained to a value below that at which an aerodynamic stall would occur.

Alpha-floor System. A system that automatically increases thrust on the operating engines when incidence increases through a particular value.

Alpha-limit. The maximum steady incidence at which the airplane stabilizes with the High Incidence Protection System operating and the longitudinal control held on its aft stop.

V_{min}. The minimum steady flight speed, for the airplane configuration under consideration and with the High Incidence Protection System operating, is the final stabilized Calibrated Airspeed obtained when the airplane is decelerated at an entry rate not exceeding 1 knot per second until the longitudinal pilot controller is on its stop.

$V_{min}1g$. V_{min} corrected to 1g conditions. It is the minimum Calibrated Airspeed at which the airplane can develop a lift force normal to the flight path and equal to its weight when at an angle of attack not greater than that determined for V_{min}.

(2) *Capability and Reliability of the High Incidence Protection System:* In lieu of compliance with the requirements of previously issued Special Conditions No. 25–ANM–69, this special condition requires that acceptable capability and reliability of the High Incidence Protection System must be established by flight test, simulation, and analysis as appropriate. The capability and reliability required are as follows:

(i) It shall not be possible during pilot induced maneuvers to encounter a stall and handling characteristics shall be acceptable, as required by special condition item 3(a)(5) of this special condition.

(ii) The airplane shall be protected against stalling due to the effects of windshears and gusts at low speeds as required by special condition item 3(a)(6) of this special condition.

(iii) The ability of the High Incidence Protection System to accommodate any reduction in stalling incidence resulting from residual ice must be verified.

(iv) The reliability of the system and the effects of failures must be acceptable in accordance with § 25.1309, and the associated policy.

(3) *Minimum Steady Flight Speed and Reference Stall Speed.* In lieu of compliance with the requirements of § 25.103 the following special conditions apply:

(i) V_{min}. The minimum steady flight speed, for the airplane configuration under consideration and with the High Incidence Protection System operating, is the final stabilized Calibrated Airspeed obtained when the airplane is decelerated at an entry rate not exceeding 1 knot per second until the longitudinal control is on its stop.

(ii) The Minimum Steady Flight Speed, V_{min}, must be determined with:

(A) The High Incidence Protection System operating normally.

(B) Idle thrust and Alpha-floor System inhibited.

(C) All combinations of flap settings and landing gear positions.

(D) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard.

(E) The most unfavorable center of gravity allowable, and

(F) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(iii) $V_{min}1g$. V_{min} corrected to 1g conditions. It is the minimum calibrated airspeed at which the airplane can develop a lift force normal to the flight path and equal to its weight when at an angle of attack not greater than that determined for V_{min}. $V_{min}1g$ is defined as follows:

$$V_{min}1g = \frac{V_{min}}{\sqrt{n_{zw}}}$$

where n_{ZW} = load factor normal to the flight path at V_{min}

(iv) The Reference Stall Speed, V_{SR}, is a calibrated airspeed defined by the applicant. V_{SR} may not be less than a 1-g stall speed. V_{SR} is expressed as:

$$V_{SR} \geq \frac{V_{CL_{MAX}}}{\sqrt{n_{zw}}}$$

where:

$V_{CL_{MAX}}$ = Calibrated airspeed obtained when the load factor-corrected lift coefficient

$$\left(\frac{n_{zw}W}{qS}\right)$$

is first a maximum during the maneuver prescribed in paragraph (v)(H) of this section.

n_{ZW} = Load factor normal to the flight path at $V_{CL_{MAX}}$

W = Airplane gross weight;

S = Aerodynamic reference wing area; and

q = Dynamic pressure.

Note: Unless Angle of Attack (AOA) protection system (stall warning and stall identification) production tolerances are acceptably small, so as to produce insignificant changes in performance determinations, the flight test settings for stall warning and stall identification should be set at the low AOA tolerance limit; high AOA tolerance limits should be used for characteristics evaluations.

(v) V_{SR} must be determined with the following conditions:

(A) Engines idling, or, if that resultant thrust causes an appreciable decrease in stall speed, not more than zero thrust at the stall speed.

(B) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test or performance standard in which V_{SR} is being used.

(C) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard.

(D) The Center of gravity position that results in the highest value of reference stall speed.

(E) The airplane trimmed for straight flight at a speed achievable by the automatic trim system, but not less than 1.13 V_{SR} and not greater than 1.3 V_{SR}.

(F) The Alpha-floor system inhibited.

(G) The High Incidence Protection System adjusted to a high enough incidence to allow full development of the 1g stall.

(H) Starting from the stabilized trim condition, apply the longitudinal control to decelerate the airplane so that the speed reduction does not exceed one knot per second.

(vi) The flight characteristics at the AOA for $V_{CL_{MAX}}$ must be suitable in the traditional sense at FWD and AFT CG in straight and turning flight at IDLE power. Although for a normal production EFCS and steady full aft stick this AOA for $V_{CL_{MAX}}$ cannot be achieved, the AOA can be obtained momentarily under dynamic circumstances and deliberately in a steady state sense with some EFCS failure conditions.

(4) *Stall Warning*

(i) Normal Operation. If the conditions of special conditions item 3(a)(2) are satisfied, equivalent safety to the intent of § 25.207, Stall Warning, shall be considered to have been met without provision of an additional, unique warning device.

(ii) Failure Cases. Following failures of the High Incidence Protection System, not shown to be extremely improbable, such that the capability of the system no longer satisfies special conditions item 3(a)(2)(i), (ii), and (iii), stall warning must be provided in accordance with §§ 25.207(a), (b) and (f).

(5) *Handling Characteristics at High Incidence*

(i) *High Incidence Handling Demonstrations.* In lieu of compliance with the requirements of § 25.201 the following apply:

(A) Maneuvers to the limit of the longitudinal control, in the nose up direction, must be demonstrated in straight flight and in 30 degree banked turns with:

(*1*) The high incidence protection system operating normally.

(*2*) Initial power condition of:

(*i*) Power off

(*ii*) The power necessary to maintain level flight at 1.5 V_{SR1}, where V_{SR1} is the stall speed with the flaps in the approach position, the landing gear retracted, and the maximum landing weight. The flap position to be used to determine this power setting is that position in which the stall speed, V_{SR1}, does not exceed 110 percent of the stall speed, V_{SR0}, with the flaps in the most extended landing position.

(*3*) Alpha-floor system operating normally unless more severe conditions are achieved with alpha-floor inhibited.

(*4*) Flaps, landing gear and deceleration devices in any likely combination of positions.

(*5*) Representative weights within the range for which certification is requested, and

(*6*) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(B) The following procedures must be used to show compliance with the requirements of special condition item 3(a)(5)(ii).

(*1*) Starting at a speed sufficiently above the minimum steady flight speed to ensure that a steady rate of speed reduction can be established, apply the longitudinal control so that the speed reduction does not exceed one knot per second until the control reaches the stop.

(*2*) The longitudinal control must be maintained at the stop until the airplane has reached a stabilized flight condition and must then be recovered by normal recovery techniques.

(*3*) The requirements for turning flight maneuver demonstrations must also be met with accelerated rates of entry to the incidence limit, up to the maximum rate achievable.

(ii) *Characteristics in High Incidence Maneuvers.* In lieu of compliance with the requirements of § 25.203, the following apply:

(A) Throughout maneuvers with a rate of deceleration of not more than 1 knot per second, both in straight flight and in 30 degree banked turns, the airplane's characteristics shall be as follows:

(*1*) There shall not be any abnormal airplane nose-up pitching.

(*2*) There shall not be any uncommanded nose-down pitching, which would be indicative of stall. However, reasonable attitude changes associated with stabilizing the incidence at alpha limit as the longitudinal control reaches the stop would be acceptable. Any reduction of pitch attitude associated with stabilizing the incidence at the alpha limit should be achieved smoothly and at a low pitch rate, such that it is not likely to be mistaken for natural stall identification.

(*3*) There shall not be any uncommanded lateral or directional motion, and the pilot must retain good lateral and directional control, by conventional use of the cockpit controllers, throughout the maneuver.

(*4*) The airplane must not exhibit severe buffeting of a magnitude and severity that would act as a deterrent to completing the maneuver.

(B) In maneuvers with increased rates of deceleration, some degradation of characteristics is acceptable, associated with a transient excursion beyond the stabilized Alpha-limit. However, the airplane must not exhibit dangerous characteristics or characteristics that would deter the pilot from holding the longitudinal controller on the stop for a period of time appropriate to the maneuvers.

(C) It must always be possible to reduce incidence by conventional use of the controller.

(D) The rate at which the airplane can be maneuvered from trim speeds associated with scheduled operating speeds such as V_2 and V_{ref} up to Alpha-limit shall not be unduly damped or significantly slower than can be achieved on conventionally controlled transport airplanes.

(6) *Atmospheric Disturbances.*

Operation of the High Incidence Protection System and the Alpha-floor System must not adversely affect aircraft control during expected levels of atmospheric disturbances, nor impede the application of recovery procedures in case of windshear. Simulator tests and analysis may be used to evaluate such conditions, but must be validated by limited flight testing to confirm handling qualities at critical loading conditions.

(7) *Alpha Floor.*

The Alpha-floor setting must be such that the aircraft can be flown at normal landing operational speed and maneuvered up to bank angles consistent with the flight phase (including the maneuver capabilities specified in § 25.143(g)) of the 1-g stall Equivalent Safety Finding without

triggering Alpha-floor. In addition, there must be no Alpha-floor triggering unless appropriate when the airplane is flown in usual operational maneuvers and in turbulence.

(8) *In lieu of compliance with the requirements of § 25.145, the following apply:*

(i) It must be possible, at any point between the trim speed prescribed in special condition item 3(a)(ii)(F), and V_{min}, to pitch the nose downward so that the acceleration to this selected trim speed is prompt with:

(ii) The airplane trimmed at the trim speed prescribed in special condition item 3(a)(ii)(F);

(A) The landing gear extended;

(B) The wing flaps retracted and extended; and

(C) Power off and at maximum continuous power on the engines.

(9) *In lieu of compliance with the requirements of § 25.145(b)(6), the following apply:*

With power off, flaps extended and the airplane trimmed at 1.3 V_{SR1}, obtain and maintain airspeeds between V_{min} and either 1.6V_{SR1} or V_{FE}, whichever is lower.

(10) *In lieu of compliance with the requirements of § 25.1323(c), the following apply:*

(i) V_{MO} to V_{min} with the flaps retracted; and

(ii) V_{min} to V_{FE} with flaps in the landing position.

Issued in Renton, Washington, on June 17, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16386 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–22–AD; Amendment 39–12789; AD 2002–13–02]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. Models AT–300, AT–301, AT–302, AT–400, and AT–400A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Air Tractor, Inc. (Air Tractor) Models AT–300, AT–301, AT–302, and AT–400A airplanes that have aluminum spar caps; certain Air Tractor Models AT–400 airplanes that have aluminum spar caps; and all Models AT–300 and AT–301 airplanes that have aluminum spar caps and are or have been converted to turbine power. This AD requires you to inspect (one-time) the wing centerline splice joint for cracks and, if any crack is found, replace the affected wing spar lower cap. This AD also requires you to report the results of the inspection to the Federal Aviation Administration (FAA) and replace the wing spar lower caps after a certain amount of usage. This AD is the result of an incident on one of the affected airplanes where the wing separated from the airplane. Preliminary reports indicate that fatigue caused the lower aluminum spar cap to fail across the ⅜-inch bolt hole (6.5 inches outboard of the fuselage centerline in the centersplice connection). The actions specified by this AD are intended to detect and correct cracks in the wing centerline splice joint. If not detected and corrected, these cracks could eventually result in the wing separating from the airplane during flight.

DATES: This AD becomes effective on July 9, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of July 9, 2002.

The FAA must receive any comments on this rule on or before August 23, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–22–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–22–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get the service information referenced in this AD from Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–22–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andy McAnaul, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Recently, the wing of an Air Tractor Model AT–400A separated from the airplane during flight. Investigation reveals that the right-hand lower spar cap failed due to fatigue at the ⅜-inch outboard bolt, which is located 6.5 inches outboard of the fuselage centerline.

The following airplanes have a similar type design to that of the accident airplane:

—All Models AT–300, AT–301, AT–302, and AT–400A airplanes that have aluminum spar caps;

—Air Tractor Models AT–400 airplanes, serial numbers 400–0244 through 400–0415, that have aluminum spar caps; and

—All Models AT–300 and AT–301 airplanes that have aluminum spar caps and are or have been converted to turbine power.

In addition, some airplanes have had Snow Engineering Co. Service Letter #55 incorporated. When incorporated, the affected area would be (1) the left and right side second outermost 7⁄16-inch boltholes, which are located 5.38 inches from centerline; and (2) the left and right side outermost ⅜-inch boltholes, which are located 6.5 inches outboard from centerline.

What Are the Consequences if the Condition is Not Corrected?

If not detected and corrected in a timely manner, cracks in the wing centerline splice joint could eventually result in the wing separating from the airplane during flight.

Is There Service Information That Applies to This Subject?

Air Tractor has issued the following:

—Snow Engineering Co. Process Specification 197, dated February 23, 2001; Revised May 1, 2002, and Revised May 3, 2002, which specify procedures for accomplishing an eddy current inspection of the wing centerline splice joint on the affected airplanes; and

—Snow Engineering Co. Service Letter #220, dated May 3, 2002, which

specifies the procedures for gaining access to perform the eddy current inspection.

The FAA's Determination and an Explanation of the Provisions of this AD

What Has FAA Decided?

The FAA has reviewed all available information and determined that:

—The unsafe condition referenced in this document exists or could develop on other Air Tractor Models AT–300, AT–301, AT–302, AT–400, and AT–400A airplanes of the same type design;

—A one-time eddy current inspection should be accomplished on these airplanes to detect and correct cracks in the wing centerline splice joint;

—The wing lower spar caps should be replaced at a certain time; and

—Final rule; request for comments (immediately adopted rule) AD action should be taken to address this condition.

What Does This AD Require?

This AD requires you to inspect (one-time) the wing centerline splice joint for cracks and, if any crack is found, replace the affected wing spar lower cap. This AD also requires you to report the results of the inspection to FAA and replace the wing spar lower caps after a certain amount of usage.

You must accomplish these actions in accordance with the previously-referenced service information.

We will evaluate the information received from the reporting requirement of this AD to determine whether additional rulemaking action should be taken. This could include repetitive inspections, parts replacement, modifications, or no further action.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Will I have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in the wing separating from the airplane during flight, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention to?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–22–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2002–13–02 Air Tractor, Inc.: Amendment 39–12789; Docket No. 2002–CE–22–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplanes that are certificated in any category:

(1) Models AT–300, AT–301, AT–302, and AT–400A airplanes, all serial numbers, that have aluminum spar caps;

(2) Models AT–400 airplanes, serial numbers 400–0244 through 400–0415, that have aluminum spar caps; and

(3) Models AT–300 and AT–301 airplanes, all serial numbers that have aluminum spar caps and are or have been converted to turbine power.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane identified in paragraph (a)(1), (a)(2), or (a)(3) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the wing centerline splice joint. If not detected and corrected, these cracks could eventually result in the wing separating from the airplane during flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Actions	Compliance	Procedures
(1) Inspect, using eddy current inspection methods, the wing centerline splice joint. The particular inspection area depends on whether Snow Engineering Service Letter #55 is incorporated. Specifics are included in the service information. The inspection must be accompanied by one of the following: (i) a Level 2 or Level 3 inspector that is certified for eddy-current inspection using the guidelines established by the American Society for Nondestructive Testing or MIL–STD–410; or (ii) A person authorized to perform AD work who has completed and passed the Air Tractor, Inc. training course on Eddy Current Inspection on wing lower spar caps.	*For affected airplanes (turbine-powered or piston engine-powered) with at least one wing spar lower cap having 6,990 or more hours time-in-service (TIS) as of the effective date of this AD:* Inspect within the next 10 hours TIS after July 9, 2002 (the effective date of this AD), unless already accomplished after accumulating 6,000 hours TIS; For affected piston engine-powered airplanes with at least one wing spar lower cap having less than 6,990 hours TIS as of the effective date of this AD: Inspect upon the accumulation of 6,000 hours TIS or within the next 50 hours TIS after July 9, 2002 (the effective date of this AD), whichever occurs later, unless already accomplished after accumulating 6,000 hours TIS; or *For affected turbine-powered aiplanes with at least one wing spar lower cap having less than 6,999 hours TIS as of the effective day of this AD.* Upon the accumulation of 4,000 hours TIS or within the next 50 hours TIS after July 9, 2002 (the effective date of this AD), whichever occurs later, unless already accomplished after accumlating 4,000 hours TIS.	Inspect in accordance with Snow Engineering Co. Service Letter #220, dated May 3, 2002; and Snow Enigneering Co. Process Specification 197, dated February 23, 2001; Revised May 1, 2002, or Revised May 3, 2002.
(2) If cracks are found during the inspection required by paragraph (d)(1) of this AD, replace the affected wing spar lower cap.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	In accordance with the instructions in the applicable maintenance manual.
(3) Report the results of the inspection in paragraph (d)(1) of this AD to FAA. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and assigned OMB Control Number 2120–0056.	*If the inspection is accomplished after the effective date of this AD:* Within 10 days after the inspection required in paragraph (d)(1) of this AD; or *If the inspection was already accomplished prior to the effective date of this AD:* within the next 10 days after July 9, 2002 (the effective date of this AD).	Submit the form (Figure 1 of paragraph (d)(3) of this AD) to FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.
(4) Replace each wing spar lower cap	Replace each lower cap upon the accumulation of 7,000 hours TIS on each wing spar lower cap or within the next 200 hours TIS after July 9, 2002 (the effective date of this AD), whichever occurs later.	In accordance with instructions in the applicable maintenance manual.

BILLING CODE 491013U

AD 2002-13-02 INSPECTION REPORT

1. Inspection Performed By:	2. Phone:
3. Aircraft Model:	4. Aircraft Serial Number:
5. Engine Model Number:	6. Aircraft Total TIS:
7. Wing Total TIS:	8. Lower Spar Cap TIS:
9. Has the lower spar cap been inspected before? (Eddy-Current, Dye Penetrant, Magnetic Particle, Ultrasound) ☐ Yes ☐ No	9a. If yes, Date: _____ Inspection Method: _____ Lower Spar Cap TIS: _____ Cracks found? ☐ Yes ☐ No
10. Has there been any major repair or alteration performed to the spar cap? ☐ Yes ☐ No	10a. If yes, specify (Description and TIS)

11. Date of AD inspection: _____

12. Inspection Results: Were any cracks found? ☐ Yes ☐ No	12a. If yes, Crack #1 ☐ Left Hand ☐ Right Hand Crack #2 ☐ Left Hand ☐ Right Hand
12b. Reference Location(s) by Crack Number: 4-Bolt Joint / 5-Bolt Joint ☐ Outermost Hole / ☐ Outermost Hole ☐ 2nd Outermost Hole	12c. Crack Size Crack #1 Length/Depth: _____ Crack #2 Length/Depth: _____

Additional Description/Comments:

_____

_____

Return to: Manager, Fort Worth ACO, ASW-150, 2601 Meacham Blvd., Fort Worth, TX 76193-0150; or fax to (817) 222-5960

Figure 1 of paragraph (d)(3) of this AD

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth ACO.

Note: This AD applies to each airplane identified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(g) *Are any service bulletins incorporated into this AD by reference?* Replacement and inspection actions required by this AD must be done in accordance with Snow Engineering Co. Service Letter #220, dated May 3, 2002; and Snow Engineering Co. Process Specification 197, dated February 23, 2001, Revised May 1, 2002, or Revised May 3, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374. You may view copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(h) *When does this amendment become effective?* This amendment becomes effective on July 9, 2002.

Issued in Kansas City, Missouri, on June 18, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–15937 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–70–AD; Amendment 39–12796; AD 2002–13–08]

RIN 2120–AA64

Airworthiness Directives; de Havilland Inc. Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain de Havilland Inc. (de Havilland) Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. This AD requires you to modify the elevator tip rib on each elevator; repetitively inspect underneath the mass balance weights at each elevator tip rib for corrosion; and either remove the corrosion or replace a corroded elevator tip rib depending on the corrosion damage. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Canada. The actions specified by this AD are intended to detect and correct corrosion in the mass balance weights at the elevator tip ribs, which could result in loss of balance weight during flight and the elevator control surface separating from the airplane.

DATES: This AD becomes effective on August 13, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 13, 2002.

ADDRESSES: You may get the service information referenced in this AD from Bombardier Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone: (416) 633–7310. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–70–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Hjelm, Aerospace Engineer, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York, 11581–1200, telephone: (516) 256–7523, facsimile: (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Transport Canada, which is the airworthiness authority for Canada, notified FAA that an unsafe condition may exist on certain de Havilland Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. Transport Canada reports incidents of corrosion found in the area of the elevator tip rib underneath the mass balance weights on several of the above-referenced airplanes.

What Is the Potential Impact if FAA Took no Action?

These conditions, if not detected and corrected, could result in loss of balance weight during flight and the elevator control surface separating from the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain de Havilland Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 4, 2002 (67 FR 9627). The NPRM proposed to require you to modify the elevator tip rib on each elevator; repetitively inspect underneath the mass balance weights at the elevator rib tip for corrosion; and either remove the corrosion or replace the corroded elevator tip rib depending on the corrosion damage.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 160 airplanes in the U.S. registry.

What is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification and initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
13 workhours × $60 = $780	No parts cost required	$780	$780 × 160 = $124,800

These figures only take into account the modification and initial inspection costs and do not take into account the costs of any of the repetitive inspections or the cost to replace any elevator tip rib that would be found corroded past a certain extent. We have no way of determining the number of repetitive inspections each owner/operator will incur over the life of each affected airplane or the number of elevator tip ribs that will need to be replaced.

Compliance Time of This AD

What Will be the Compliance Time of This AD?

The compliance time of this AD is ''within the next 6 calendar months after the effective date of this AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

We have determined that a calendar time compliance is the most desirable method because the unsafe condition described in this AD is caused by corrosion. Corrosion develops regardless of whether the airplane is in service and is not a result of airplane operation.

Therefore, to ensure that the above-referenced condition is detected and corrected on all airplanes within a reasonable period of time without inadvertently grounding any airplanes, a compliance schedule based upon calendar time instead of hours TIS is required.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does this AD Involve a Significant Rule or Regulatory Action?

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–13–08 de Havilland Inc.: Amendment 39–12796; Docket No. 97–CE–70–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct corrosion in the mass balance weights at the elevator tip ribs, which could result in loss of balance weight during flight and the elevator control surface separating from the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes: cut an access hole and fabricate and install an access cover and ring doubler on the elevator tip rib of each elevator.	Within the next 6 calendar months after August 13, 2002 (the effective date of this AD).	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either de Havilland Beaver Service Bulletin Number 2/50, dated May 9, 1997 (for Models DHC–2 Mk. I and DHC–2 Mk. II airplanes); or de Havilland Beaver Service Bulletin Number TB/58, dated May 9, 1997 (for Model DHC–2 Mk. III airplanes), as applicable.
(2) For all affected airplanes: inspect underneath the mass balance weights at each elevator tip rib for corrosion.	Within the next 6 calendar months after August 13, 2002 (the effective date of this AD) and thereafter at intervals not to exceed 5 years.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either de Havilland Beaver Service Bulletin Number 2/50, dated May 9, 1997 (for Models DHC–2 Mk. I and DHC–2 Mk. II airplanes); or de Havilland Beaver Service Bulletin number TB/58, dated May 9, 1997 (for Model DHC–2 Mk. III airplanes), as applicable.
(3) For all affected airplanes: if corrosion is found (during any inspection required by paragraph (d)(2) of this AD) that is equal to or less than 0.004 inches depth, remove the corrosion.	Prior to further flight after any inspection required in paragraph d(2) of this AD where the applicable corrosion is found.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either de Havilland Beaver Service Bulletin Number 2/50, dated May 9, 1997 (for Models DHC–2 Mk. I and DHC–2 Mk. II airplanes); or de Havilland Beaver Service Bulletin Number TB/58, dated May 9, 1997 (for Model DHC–2 Mk. III airplanes), as applicable.
(4) For all affected airplanes: if corrosion is found (during any inspection required by paragraph (d)(2) of this AD) that is greater than 0.004 inches depth, accomplish one of the following:. (i) use the procedures in the service bulletin to manufacture a new tip rib, part number 2DKC2–TE–77, and replace the affected tip rib with this new tip rib; or (ii) replace any affected elevator tip rib with a part number (P/N) C2–TE–103AND elevator tip rib. You may obtain a P/N C2–TE–103AND elevator tip rib from Viking Air Limited, 9574 Hampden Road, Sidney, BC, Canada VL8 SV5.	Prior to further flight after any inspection required in paragraph d(2) of this AD where the applicable corrosion is found.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either de Havilland Beaver Service Bulletin Number 2/50, dated May 9, 1997 (for Models DHC–2 Mk. I and DHC–2 Mk. II airplanes); or de Havilland Beaver Service Bulletin Number TB/58, dated May 9, 1997 (for Model DHC–2 Mk. III airplanes), as applicable.

Actions	Compliance	Procedures
(5) In addition to that required by paragraph (d)(4) of this AD for the affected DHC–2 MK III airplanes: if corrosion is found (during any inspection required by paragraph (d)(2) of this AD) that is greater than 0.004 inches depth on the channel, accomplish one of the following:. (i) use the procedures in the service bulletin to manufacture a new channel replacement, part number 2DKC2TE1020–13, and replace the affected channel with this new channel; or (ii) replace the channel with a part number (P/N) C2–TE–89ND channel. You may obtain a P/N C2–TE–89ND channel from Viking Air Limited, 9574 Hampden Road, Sidney, BC, Canada VL8 SV5.	Prior to further flight after any inspection required in paragraph d(2) of this AD where the applicable corrosion is found..	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland Beaver Service Bulletin Number TB/58, dated May 9, 1997.

Note 1: General maintenance procedures specify that the elevators should be rebalanced any time work is done in that area.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, New York Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mr. Jon Hjelm, Aerospace Engineer, New York Aircraft Certification Office, 10 Fifth Street, 3rd Floor, Valley Stream, New York, 11581–1200, telephone: (516) 256–7523, facsimile: (516) 568–2716.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with de Havilland Beaver Service Bulletin Number 2/50, dated May 9, 1997 or de Havilland Beaver Service Bulletin Number TB/58, dated May 9, 1997. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Bombardier Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian AD No. CF–97–06, dated May 28, 1997.

(i) *When does this amendment become effective?* This amendment becomes effective on August 13, 2002.

Issued in Kansas City, Missouri, on June 21, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16306 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–28–AD; Amendment 39–12795; AD 2002–13–07]

RIN 2120–AA64

Airworthiness Directives; Honeywell, Inc. Part Number HG1075AB05 and HG1075GB05 Inertial Reference Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Honeywell, Inc. part number (P/N) HG1075AB05 and HG1075GB05 inertial reference units (IRU) that are installed on aircraft. This AD requires you to inspect the affected IRU's for proper function and remove the IRU either immediately or at a certain time depending on the result of the inspection. This AD is the result of a report that these IRU's may not function when using backup battery power in certain installations. The actions specified by this AD are intended to ensure the correct transition of the IRU to backup battery power upon the loss of primary power. Failure of an IRU to transition to backup battery power could result in loss of attitude, heading, and position reference and lead to the pilot making flight decisions that put the aircraft in unsafe flight conditions.

DATES: This AD becomes effective on August 9, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 9, 2002.

ADDRESSES: You may get the service information referenced in this AD from Honeywell, Inc., Customer Response Center at 1–877–436–2005. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-CE–28-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wesley Rouse, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294–7564; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

A ground test for proper inertial reference unit (IRU) function revealed a wiring defect that is attributed to a

manufacturing error on certain Honeywell, Inc. part number (P/N) HG1075AB05 and HG1075GB05 IRUs. This wiring defect disables the IRU's capability to detect a loss of primary input power and transition to backup battery input power in some installations.

The affected IRU's incorporate the following:

—P/N HG1075AB05: any serial number (last four digits) 0644 through 0723 (excluding 0652 and 0659) that incorporates modification status 3; and

—P/N HG1075GB05: any serial number (last four digits) 0652 or 0659 that incorporates modification status 2.

What Is the Potential Impact if FAA Took No Action?

This condition, if not corrected, could result in loss of attitude, heading, and position reference and lead to the pilot making flight decisions that put the aircraft in unsafe flight conditions.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Honeywell, Inc. part number (P/N) HG1075AB05 and HG1075GB05 inertial reference units (IRU) that are installed on aircraft. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 28, 2002 (67 FR 3844). The NPRM proposed to require you to inspect any affected IRU for proper function and remove the IRU either immediately or at a certain time depending on the result of the inspection.

Was the Public Invited to Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Change the List of Aircraft That Could Have an Affected IRU Installed

What Is the Commenter's Concern?

One commenter requests FAA to focus on those aircraft where the affected IRUs would most likely be installed. The commenter acknowledges that this equipment could be installed on other aircraft through the technical standard order (TSO) or supplemental type certificate (STC), but points out that the IRUs are primarily used on Dassault Falcon Jets.

What Is FAA's Response to the Concern?

We concur that these IRUs are primarily used on Dassault Falcon Jets. We will add a note in the AD that states these IRUs are primarily used on early manufactured Dassault Falcon Jets, but could be incorporated on other aircraft through the TSO or an STC.

Comment Issue No. 2: Write the Applicability To Ensure That Certain IRU Units Are Not Affected

What Is the Commenter's Concern?

One commenter requests that FAA change the Applicability so aircraft incorporating the following are not affected by this AD:

—An IRU with a part number of (P/N) HG1075AB05, any serial number (last four digits) 0644 through 0723 (excluding 0652 and 0659), that incorporates modification status 7; and

—An IRU with a P/N of HG1075GB05, serial number (last four digits) 0652 or 0659, that incorporates modification status 6.

The commenter points out that this change will make it clear that the AD does not apply to aircraft that already incorporate a modified IRU.

What Is FAA's Response to the Concern?

We concur that those airplanes with either of these configurations are not affected by the AD. The presumption in the AD is that if the units do not incorporate the affected modification status, then they have the corrected modification status. We concur that this can be confusing and we are rewriting the Applicability to clarify this.

Comment Issue No. 3: Add the Toll Free Phone Number of Where to Obtain Service Information

What Is the Commenter's Concern?

One commenter requests that FAA add the toll free telephone number of Honeywell Commercial Aviation Products to aid in the customer obtaining service information.

What Is FAA's Response to the Concern?

We concur and will add this toll free number in the AD.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the additions described above and minor editorial corrections. We have determined that these additions and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 80 airplanes in the U.S. registry.

What Is the Cost Impact of this AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection and modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours at $60 per hour = $120	Honeywell to provide at no cost	$120	$9,600

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–13–07 Honeywell, Inc.: Amendment 39–12795; Docket No. 2001–CE–28–AD.

(a) *What aircraft are affected by this AD?* This AD affects any aircraft, certificated in any category, that incorporates one of the following:

(1) Inertial Reference Unit (IRU) part number (P/N) HG1075AB05, any serial number (last four digits) 0644 through 0723 (excluding 0652 and 0659), that incorporates modification status 3. This AD does not apply to these units if they incorporate modification status 7; or

(2) IRU P/N HG1075GB05, any serial number (last four digits) 0652 or 0659, that incorporates modification status 2. This AD does not apply to these units if they incorporate modification status 6.

Note 1: These IRUs are primarily used on early manufactured Dassault Falcon Jets, but could be incorporated on other aircraft through the technical standard order (TSO) or supplemental type certificate (STC).

(b) *Who must comply with this AD?* Anyone who wishes to operate an aircraft with any of the equipment identified in paragraph (a) of this AD installed must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to ensure the correct transition of the IRU to battery power upon the loss of primary power. Failure of an IRU to transition to backup battery power could result in loss of attitude, heading, and position reference and lead to the pilot making flight decisions that put the aircraft in unsafe flight conditions.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect any affected IRU for proper function	Within the next 50 hours time-in-service (TIS) after August 9, 2002 (the effective date of this AD).	In accordance with the instructions in Honeywell Alert Service Bulletin HG1075AB–34–A0013, dated May 21, 2001; or Honeywell Alert Service Bulletin HG1075GB–34–A0005, dated May 21, 2001, as applicable.
(2) Remove any affected IRU from the airplane.	If found to not function properly during the inspection required by paragraph (d)(1) of this AD, remove prior to further flight after the inspection. If found to function properly, remove within 200 hours time-in-service (TIS) after the inspection required by paragraph (d)(1) of this AD..	In accordance with the instructions in Honeywell Alert Service Bulletin HG1075AB–34–A0013, dated May 21, 2001; or Honeywell Alert Service Bulletin HG1075GB–34–A0005, dated May 21, 2001, as applicable.
(3) Do not install, on any aircraft, one of the IRU's identified in paragraphs (a)(1) and (a)(2) of this AD, unless it has been modified at Honeywell, Inc. and updated to one of the following: (i) IRU P/N HG1075AB05 IRU Mod 7; or (ii) IRU P/N HG1075GB05 IRU Mod 6..	As of August 9, 2002 (the effective date of this AD).	Not Applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Chicago Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Wesley Rouse, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Honeywell Alert Service Bulletin HG1075AB–34-A0013, dated May 21, 2001 or Honeywell Alert Service Bulletin HG1075GB–34-A0005, dated May 21, 2001, as applicable. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Honeywell, Inc., Customer Response Center at 1–877–436–2005. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on August 9, 2002.

Issued in Kansas City, Missouri, on June 20, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16307 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30318; Amdt. No. 436]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airway, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4162.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on June 28, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—AMENDMENT 436

[Effective Date: August 8, 2002; Final 06/24/2002]

From	To	MEA
§ 95.1001 Direct Routes—U.S.		
Atlantic Route—A761 is Added to Read		
Downt, OA FIX	Etoca, OA FIX	31000
Etoca, OA FIX	Foggs, OA FIX	31000
Foggs, OA FIX	Galwy, OA FIX	31000
Galwy, OA FIX	Hanri, OA FIX	31000
Hanri, OA FIX	Perie, OA FIX	31000
Perie, OA FIX	Satly, OA FIX	31000
Satly, OA FIX	Torry, FL FIX	31000
Atlantic Route—R511 is Added to Read		
Azezu, OA FIX	Cowri, OA FIX	5500
Cowri, OA FIX	Foggs, OA FIX	5500
Foggs, OA FIX	Eltee, OA FIX	5500
Eltee, OA FIX	Odeal, OA FIX	5500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—AMENDMENT 436—Continued

[Effective Date: August 8, 2002; Final 06/24/2002]

From	To	MEA
Bahamas Route—G466 is Added to Read		
Oldey, SC FIX	Perie, OA FIX	2500
Perie, OA FIX	Carps, FL FIX	2500
Carps, FL FIX	Scoby, FL FIX	2500
Scoby, FL FIX	Nucar, BS FIX	2500
Nucar, BS FIX	Omaly, OA FIX	5500
Omaly, OA FIX	Lasee, OA FIX	5500
Lasee, OA FIX	Alute, OA FIX	5500
Alute, OA FIX	Rinny, OA FIX	5500
Is Amended to Read		
Rinny, OA FIX	Grand Turk, BS VORTAC	5500
§ 95.6001 Victor Routes—U.S.		
§ 95.6013 VOR Federal Airway 13 is Amended to Read in Part		
Ascot, TX FIX *1300–MOCA	Solon, TX FIX	*4000
§ 95.6014 VOR Federal Airway 14 is Amended to Read in Part		
Chisum, NM VORTAC *6000–MOCA	Onsom, NM FIX:	
	E Bnd	*7000
	W Bnd	*7500
Onsom, NM FIX *6300–MOCA	Winns, TX FIX	*8000
Winns, TX FIX *5200–MOCA	Flatt, TX FIX	*8000
Flatt, TX FIX	Shalo, TX FIX	*5100
§ 95.6020 VOR Federal Airway 20 is Added to Read in Part		
Ascot, TX FIX *1300–MOCA	Solon, TX FIX	*4000
§ 95.6049 VOR Federal Airway 49 is Added to Read in Part		
Vulcan, AL VORTAC *4200–MRA	*Bount, AL FIX	3100
Bount, AL FIX *7000–MRA **2400–MOCA	*Folso, AL FIX	**3100
Folso, AL FIX *2400–MOCA	Decatur, AL VOR/DME	*3000
Elked, AL FIX	Nashville, TN VORTAC	*3500
Bowling Green, KY VORTAC	Mystic, KY VOR	2700
§ 95.6105 VOR Federal Airway 105 is Amended to Read in Part		
Phoenix, AZ VORTAC	Karlo, AZ FIX	10000
Karlo, AZ FIX *10000–MOCA	Drake, AZ VORTAC	*12000
§ 95.6154 VOR Federal Airway 154 is Amended to Read in Part		
Ocone, GA FIX *1700–MOCA	Savannah, GA VORTAC	*3000
§ 95.6157 VOR Federal Airway 157 is Amended to Read in Part		
Alma, GA VORTAC *1700–MOCA	Lotts, GA FIX	*4000
Lotts, GA FIX *1700–MOCA	Allendale, SC VOR	*9000
§ 95.6159 VOR Federal Airway 159 is Amended to Read in Part		
Cross City, FL VORTAC	Greenville, FL VORTAC	2000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—AMENDMENT 436—Continued

[Effective Date: August 8, 2002; Final 06/24/2002]

From	To	MEA
§ 95.6163 VOR Federal Airway 163 is Amended to Read in Part		
Brownsville, TX VORTAC	Manny, TX FIX	1500
Manny, TX FIX	Ascot, TX FIX	*5000
*1300–MOCA		
Ascot, TX FIX	Solon, TX FIX	*4000
*1300–MOCA		
Yenns, TX FIX	San Antonio, TX VORTAC	*3000
*2500–MOCA		
San Antonio, TX VORTAC	Slimm, TX FIX	*3500
*2900–MOCA		
Slimm, TX FIX	Lampasas, TX VORTAC	*3500
§ 95.6222 VOR Federal Airway 222 is Amended to Read in Part		
Lake Charles, LA VORTAC	Maxon, LA FIX	2000
LaGrange, GA VORTAC	*Tiroe, GA FIX	2600
*4000–MRA		

From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7056 Jet Route No. 56 is Amended to Read in Part			
Wasatch, UT VORTAC	Hayden, Co VOR/DME	25000	45000
§ 95.7058 Jet Route No. 58 is Amended to Read in Part			
Milford, UT VORTAC	Farmington, NM VORTAC	33000	45000
§ 95.7086 Jet Route No. 86 is Amended to Read in Part			
Peach Springs, AZ VORTAC	Bavpe, AZ Fix	18000	45000
Bavpe, AZ FIX	Winslow, AZ VORTAC	18000	45000
§ 95.7180 Jet Route No. 180 is Amended to Read in Part			
Humble, TX VORTAC	Daisetta, TX VORTAC	18000	45000
Daisetta, TX VORTAC	Cidor, LA FIX	18000	45000
Cidor, LA FIX	Fosin, LA FIX	19000	45000
Fosin, LA FIX	Sawmill, LA VOR/DME	18000	45000
Sawmill, LA VOR/DME	Little Rock, AR VORTAC	18000	45000
§ 95.7614 Jet Route No. 614 is Amended to Read in Part			
Sarasota, FL VORTAC	Lee County, FL VORTAC	18000	45000
Lee County, FL VORTAC	Dolphin, FL VORTAC	18000	45000
§ 95.7616 Jet Route No. 616 is Amended to Read			
Sarasota, FL VORTAC	La Belle, FL VORTAC	18000	45000
La Belle, FL VORTAC	Dolphin, FL VORTAC	18000	45000

§ 95.8005 Jet Routes Changeover Points Airway Segment

From	To	Changeover points	
		Distance	From
J–56 is Amended to Modify Changeover Point			
Wasatach, UT VORTAC	Hayden, Co VOR/DME	66	Wasatch

[FR Doc. 02–16501 Filed 6–28–02; 8:45 am]
BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Establish a new schedule of fees.

SUMMARY: The Commission charges fees to designated contract markets and the National Futures Association (NFA) to recover the costs incurred by the Commission in the operation of a program which provides a service to these entities. The fees are charged for the Commission's conduct of its program of oversight of self-regulatory rule enforcement programs (17 CFR part 1 Appendix B) (NFA and the contract markets are referred to as SROs). Newly-designated contract markets are not being assessed any fees for Fiscal 2001 because to date they have modest, if any, volume.

The calculation of the fee amounts to be charged for the upcoming year is based on an average of actual program costs incurred in the most recent three full fiscal years, as explained below. The new fee schedule is set forth in the **SUPPLEMENTARY INFORMATION** and information is provided on the effective date of the fees and the due date for payment.

EFFECTIVE DATES: The fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Madge A. Bolinger, Acting Executive Director, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

SUPPLEMENTARY INFORMATION:

I. General

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations and contract markets regulated by the Commission.

II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and contract markets regulated by the Commission:

Entity	Fee amount
Cantor Financial Futures Exchange	$5,606
Chicago Board of Trade	199,253
Chicago Mercantile Exchange	192,731
Kansas City Board of Trade	9,262
New York Mercantile Exchange/COMEX	158,927
Minneapolis Grain Exchange	6,978
National Futures Association	206,046
New York Board of Trade	92,612
Philadelphia Board of Trade	0
Total	871,415

III. Background Information

A. General

The Commission recalculates the fees charged each year with the intention of recovering the costs of operating this Commission program.[1] All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which records each employee's time for each pay period. The fees are set each year based on direct program costs, plus an overhead factor.

B. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs consist generally of the following Commission-wide costs: indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 105 percent for fiscal year 1999, and 105 percent for fiscal year 2000, and 117 percent for fiscal year 2001. These overhead rates are applied to the direct labor costs to calculate the costs of oversight of SRO rule enforcement programs.

C. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted in 1993 (58 FR 42643, Aug. 11, 1993) which appears at 17 CFR part 1 appendix B, the Commission calculates the fee to recover the costs of its review of rule enforcement programs, based on a three-year average of the actual cost of performing reviews at each SRO. The cost of operation of the Commission's program of SRO oversight varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging is intended to smooth out year-to-year variations in cost. Timing of reviews may affect costs—a review may span two fiscal years and reviews are not conducted at each SRO each year. Adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately large share of program costs.

The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation made is as follows: The fee required to be paid to the Commission by each contract market is equal to the lesser of actual costs based on the three-year historical average of costs for that contract market or one-half of average costs incurred by the Commission for each contract market for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all contract markets for the most recent three years. The formula for calculating the second factor is: 0.5a + 0.5 vt = current fee. In this formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across exchanges over the last three years, and ''t'' equals the average annual cost for all exchanges. NFA, the only registered futures association regulated by the Commission, has no contracts traded; hence its fee is based simply on costs for the most recent three fiscal years.

This table summarizes the data used in the calculations and the resulting fee for each entity:

[1] *See* Section 237 of the Futures Trading Act of 1982, 7 USC 16a and 31 USC 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

	Three-year average actual costs	Three-year percentage of volume	Average year 2002 fee
Cantor Financial Futures Exchange	$10,990	0.0286	$5,606
Chicago Board of Trade	199,253	39.0619	199.253
Chicago Mercantile Exchange	192,731	40.8601	192,731
NYMEX/COMEX	191,576	16.3441	158,927
New York Board of Trade	161,025	3.1319	92,612
Kansas City Board of Trade	15,396	.4047	9,262
Minneapolis Grain Exchange	12,645	.1696	6,978
Philadelphia Board of Trade	0	.0000	0
Subtotal	772,627	100.0000	665,369
National Futures Association	206,046	N/A	206,046
Total	978,673	100.0000	871,415

An example of how the fee is calculated for one exchange, the Minneapolis Grain Exchange, is set forth here:

a. Actual three-year average costs equal $12,645.

b. The alternative computation is:

(.5)($12,645) + (.5)(.001696)($772,627) = $6,978.

c. The fee is the lesser of a or b; in this case $6,978.

As noted above, the alternative calculation based on contracts traded, is not applicable to the NFA because it is not a contract market and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1999 through 2001 was $206,046 (one-third of $618,139). The fee to be paid by the NFA for the current fiscal year is $206,046.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 USC 601, *et seq.*, requires agencies to consider the impact of rules on small business. The fees implemented in this release affect contract markets (also referred to as exchanges) and registered futures associations. The Commission has previously determined that contract markets and registered futures associations are not ''small entities'' for purposes of the Regulatory Flexibility Act. Accordingly, the Chairman on behalf of the Commission, certifies pursuant to 5 USC 605(b), that the fees implemented here will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on June 21, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–16201 Filed 6–28–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R–02A]

RIN 1218–AC06

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is revising the hearing loss recording provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916–6135), scheduled to take effect on January 1, 2003 (66 FR 52031–52034). This final rule revises the criteria for recording hearing loss cases in several ways, including requiring the recording of Standard Threshold Shifts (10 dB shifts in hearing acuity) that have resulted in a total 25 dB level of hearing above audiometric zero, averaged over the frequencies at 2000, 3000, and 4000 Hz, beginning in year 2003.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In January, 2001 (66 FR 5916–6135), OSHA published revisions to its rule on recording and reporting occupational injuries and illnesses (29 CFR parts 1904 and 1952) to take effect on January 1, 2002. On July 3, 2001, the agency proposed to delay the effective date of §§ 1904.10 *Recording criteria for cases involving occupational hearing loss,* and 1904.12 *Recording criteria for cases involving work-related musculoskeletal disorders,* until January 1, 2003 (66 FR 35113–35115). In that notice, OSHA explained that the Agency was reconsidering the requirement in § 1904.10 to record all cases involving an occupational hearing loss averaging 10 decibels (dB) or more. OSHA found that there were reasons to question the appropriateness of 10 dB as the recording criterion, and asked for comment on other approaches and criteria, including recording losses averaging 15, 20 or 25 dB. OSHA also stated that it was reconsidering the requirement in § 1904.12 that employers check the MSD column on the OSHA Log for a case involving a ''musculoskeletal disorder'' as defined in that section.

OSHA received a total of 77 written comments on the July 3, 2001 proposal. After considering the views of interested parties, OSHA published a final rule on October 12, 2001 (66 FR 52031—52034) delaying the effective date of §§ 1904.10(a) and 1904.12(a) and (b) until January 1, 2003, adding a new paragraph (c) to § 1904.10 establishing a 25–dB recording criterion for hearing loss cases for calendar year 2002, and modifying the regulatory note to paragraph 1904.29(b)(7)(vi) to delay the language referring to privacy case consideration for MSD cases.

This final rule contains amended hearing loss recording criteria codified at 29 CFR 1904.10(a) and 1904.10(b)(1)–(7). In a separate **Federal Register** document published today, OSHA is proposing to delay the effective date of § 1904.10(b)(7), which requires employers to check the hearing loss column on the Log for hearing loss cases

meeting the revised recording criteria, as well as the MSD provisions addressed in the October 12 final rule. Additional information about the proposal to delay the effective date of the hearing loss column is contained in the section of this rule titled *Adding a column to the 300 Log,* and in the separate **Federal Register** publication *Proposed Delay of Effective Dates; Request for Comment,* published today.

II. Recording Occupational Hearing Loss Cases

Section 1904.10 of the January 19, 2001 final recordkeeping rule required employers to record, by checking the ''hearing loss'' column on the OSHA 300 Log, all cases in which an employee's hearing test (audiogram) revealed that a Standard Threshold Shift (STS) in hearing acuity had occurred. An STS was defined as ''a change in hearing threshold, relative to the most recent audiogram for that employee, of an average of 10 decibels or more at 2000, 3000 and 4000 Hertz (Hz) in one or both ears.'' The recordkeeping rule itself does not require the employer to test employee's hearing. However, OSHA's occupational noise standard (29 CFR 1910.95) requires employers in general industry to conduct periodic audiometric testing of employees when employees' noise exposures are equal to, or exceed, an 8-hour time-weighted average of 85dBA. Under the provisions of § 1910.95, if such testing reveals that an employee has sustained a hearing loss equal to an STS, the employer must take protective measures, including requiring the use of hearing protectors, to prevent further hearing loss. Employers in the construction, agriculture, oil and gas drilling and servicing, and shipbuilding industries are not covered by § 1910.95, and therefore are not required by OSHA to provide hearing tests. If employers in these industries voluntarily conduct hearing tests they are required to record hearing loss cases meeting the recording criteria set forth in the final Section 1904.10 rule.

The former recordkeeping rule, which remained in effect until January 1, 2001, contained no specific threshold for recording hearing loss cases. In 1991, OSHA issued an enforcement policy on the criteria for recording hearing loss cases, to remain in effect until new criteria were established by rulemaking. The 1991 policy stated that OSHA would cite employers for failing to record work related shifts in hearing of an average of 25 dB or more at 2000, 3000 and 4000 Hz in either ear. Subsequently, OSHA released interpretations stating that the employer could adjust the audiogram for aging using the tables in Appendix F of the Noise Standard, and that the employer was to use the employee's original baseline audiogram as the baseline reference audiogram for determining a recordable hearing loss.

One of the major issues in the recordkeeping rulemaking was to determine the level of occupational hearing loss that constitutes a health condition serious enough to warrant recording. This was necessary because the final rule no longer requires recording of minor or insignificant health conditions that do not result in one or more of the general recording criteria such as medical treatment, restricted work, or days away from work (*See,* e.g., 66 FR 5931). In its 1996 **Federal Register** notice OSHA proposed a requirement to record hearing loss averaging 15 dB at 2000, 3000 and 4000 Hz in one or both ears (61 FR 4040). OSHA adopted the lower 10–dB threshold in the final rule based in part upon comments that ''(a)n age-corrected STS is a large hearing change that can affect communicative competence'' (66 FR 6008).

Comments on the Recording of 10-dB Shifts

Most commenters opposed the adoption of the 10-dB threshold for recording hearing loss (Exs. 3–1, 3–13, 3–14, 3–19, 3–20, 3–22, 3–25, 3–26, 3–27, 3–29, 3–34, 3–35, 3–37, 3–43, 3–45, 3–48, 3–49, 3–50, 3–54, 3–57, 3–58, 3–59, 3–61, 3–62, 3–63, 4–3, 4–5, 5–5, 5–7). A number of these commenters challenged the significance of a 10-dB shift, stating that: 10-dB shifts are not significant—only significant health conditions should be captured (Exs. 3–14, 3–26, 3–48); the level selected must amount to a significant alteration in an employee's ability to hear (Exs. 3–50, 3–54, 3–59); a 10-dB shift from audiometric zero is a virtually imperceptible loss in hearing—10-dB shifts at higher levels become more important (Ex. 3–49); the medical community and workers' compensation do not recognize a 10 dB shift as a significant hearing loss (Exs. 3–19, 3–20, 3–25, 3–35, 3–43, 3–63); a 10-dB shift is not a material impairment, so it should not be a recordable illness (Exs. 3–25, 3–26, 3–34, 3–50, 3–54, 3–59, 3–58, 3–61); and, 10 dB is an early warning mechanism that is appropriate for the hearing standard but not for injury and illness recording—the 1904 provisions are intended to collect data on serious injuries and illnesses, not potential precursors (Exs. 3–25, 3–49, 3–50, 3–54, 3–59, 3–62). Organization Resources Counselors (ORC) remarked that:

> [a] 10 dB shift from audiometric zero is a virtually imperceptible loss in hearing * * * ORC understands that the finding of a Standard Threshold Shift (STS) to be a ''flag'' for the implementation of a series of actions required by the OSHA standard on exposure to noise. It was not intended, of and by itself, to be an indicator of illness, or impairment, but, rather, a sentinel event that triggers a series of actions that will prevent illness or impairment from occurring. As such a tool, it has been an effective indicator of employee hearing, but does not, by itself, rise to the level of recordability (Ex. 3–49).

A number of the commenters objected to recording 10-dB shifts because this recording level would result in the recording of too many ''false positive'' cases, either because of audiometric testing errors, because the hearing loss was temporary and not persistent, or because the case was insufficiently work-related (Exs. 3–14, 3–19, 3–20, 3–25, 3–26, 3–27, 3–29, 3–35, 3–37, 3–43, 3–45, 3–49, 3–50, 3–54, 3–56, 3–58, 3–59, 3–61, 3–62, 3–63, 4–5). The issues of audiometric error, persistence, and work-relationship are discussed in more detail below. The commenters opposed to the 10-dB shift also remarked that using 10-dB shifts will lead to overrecording (Ex. 3–37), 10 dB will result in a 5 to 10 fold increase in hearing loss recording (Ex. 3–49), too many *non-occupational* (emphasis added) cases are captured by 10 dB (See, e.g., Ex. 4–5), changing to 10 dB would make the past data useless and make it difficult to establish trends (Ex. 3–19), and that if OSHA adopts 10 dB, the states may be influenced to change their workers' compensation standards, resulting in higher workers' compensation costs (Ex. 3–34).

Some of the commenters opposed to the recording of all 10-dB shifts recognized a critical difference between the 25-dB criteria contained in the *American Medical Association [AMA] Guides to the Evaluation of Permanent Impairment* and the 25-dB level OSHA has enforced since 1991 (Exs. 3–25, 3–49, 3–50, 3–54, 3–59, 3–62). The AMA Guides measure hearing loss from a baseline of audiometric zero, which represents the statistical average hearing threshold level of young adults with no history of aural pathology (ANSI S3.6–1969). The 1991 OSHA recording level used the individual employee's original baseline audiogram taken at the time the worker was first placed in a hearing conservation program. If an individual employee has experienced some hearing loss before being hired, a 25-dB shift from the original baseline will be a larger hearing loss than the hearing impairment recognized by the AMA as a disabling condition. In a single comment submitted by both

organizations, the National Association of Manufacturers (NAM) and the Can Manufacturing Institute (CMI) stated that:

[i]t is generally accepted in the medical community that an average hearing level of more than 25 dB from audiometric zero (the hearing level of healthy young adults never exposed to high noise levels) at certain frequencies constitutes a material impairment. Accordingly, an employee with near-perfect hearing (at or near audiometric zero) might very well suffer a 10 or 15 dB shift in hearing yet continue to function within the normal range of hearing with no impairment whatsoever. Conversely, an employee with hearing on the outer edge of the normal range who experiences a 15 dB shift would likely suffer a material impairment. The NAM and CMI believe that a shift in hearing should not be recorded unless it is confirmed and it results in hearing levels in excess of 25 dB at the shift frequencies (Ex. 3–50).

Industrial Health, Inc, a mobile hearing testing vendor, added that:

[i]t is almost universally accepted in the profession that hearing impairment starts when hearing levels exceed 25 dB * * *. We believe there should be an ''impairment fence'' of 25 which must be crossed before a shift in hearing is required to be recorded. We recommend that to be recordable a shift must result in an average hearing level at 2000, 3000, and 4000 Hz in excess of 25 dB. This fence would not be adjusted for aging (however, the shift calculation itself should retain OSHA's allowance for aging) (Ex. 3–62).

A number of commenters urged OSHA to adopt the 10-dB threshold for recording occupational hearing loss, consistent with the January 19, 2001 **Federal Register** notice (Exs. 3–3, 3–4, 3–10, 3–11, 3–15, 3–17, 3–18, 3–21, 3–23–1, 3–24, 3–30, 3–36, 3–40, 3–47, 3–52, 3–53, 4–2, 5–2, 5–3, 5–6). Many of these commenters argued that an age-corrected 10-dB shift is a large change in hearing that can affect communication ability (Exs. 3–3, 3–21, 3–23–1, 3–53), that a persistent 10-dB shift represents a permanent and irreversible loss of hearing acuity (Ex. 3–21), that a 10-dB shift is a material impairment (Exs. 3–17, 3–23–1, 3–53), and that real and debilitating hearing loss may not be detected if a higher threshold is selected (Ex. 3–3). The remarks of the Coalition to Protect Workers Hearing are representative:

An age-corrected STS represents a significant amount of cumulative hearing change from baseline, enough to affect communicative competence, safety, and job productivity in the workplace. A confirmed, age corrected STS is not a sensitive indicator of early hearing damage; rather it reflects a very substantial permanent hearing change over time. The appropriate sensitive indicator of early hearing damage is a temporary threshold shift (TTS), which recovers quickly as the worker is noise free. This indicator is currently used in hearing conservation programs. (Ex. 2–23–1)

Commenters also stated that use of a 10-db shift reduces recordkeeping and data management burdens for industry (Exs. 3–3, 3–10, 3–23–1, 3–47, 3–53, 5–2), reduces confusion for industrial managers and occupational hearing conservation technicians—''[a] problem that occurred with OSHA's 1991 policy'' (Ex. 3–23–1), that current STS rates are not sufficiently high to result in an undue or inappropriate number of recordable events (Ex. 3–3), that many of the states (Michigan, North Carolina, South Carolina, Puerto Rico and Tennessee) require the recording of 10-db shifts with little detrimental effect on industry (Exs. 3–3, 3–4, 3–24), that a 10-db shift is comparable to other permanent injuries that are recorded on the OSHA 300 Form, such as an amputated finger (Ex. 3–23–1) or medical removal under the lead standard (Ex. 3–47), and that the 10-db shift is better for mobile and transient employees because the original baseline may not follow employees when they change jobs (Ex. 3–23–1).

Several of the commenters argued that recording 10-db shifts would be more protective for workers (3–3, 3–10, 3–17, 3–18, 3–21, 3–23–1, 3–24, 3–30, 3–47, 3–53). In a representative comment, the AFL–CIO argued that: ''[t]he requirement to record a 10-db hearing loss on the Log would aid in the early detection and prevention of occupational hearing loss.'' It stated that ''(r)ecording a 10-db STS on Form 300 is a practical and reasonable means to assist in the early detection of a loss in hearing so that workplace intervention measures can be implemented to protect workers from the hazards of noise. Having employers continue to record shifts in hearing of an average of 25 dB * * * is too high a threshold of loss in hearing acuity to be sufficiently proactive in preventing worker hearing loss'' (Ex. 3–24).

Other commenters added that by recognizing disease earlier, employers may take preventive measures to avoid potential workers' compensation cases that are sometimes triggered at the 25-dB level (Ex. 3–10), that recording triggers action on the part of employers (Ex. 3–23–1), that 10-db shifts provide consistency for construction employers who are not required to test hearing (Ex. 3–10), and that the 10-db recording criterion is more protective and reasonable for employers who are not covered by the OSHA noise standard (Exs. 3–10, 3–17, 3–18, 3–24).

Alternatives Offered

Most of the commenters who objected to the recording of 10-db shifts presented alternative recording thresholds. The American Chemistry Council recommended a 15-db shift (Ex. 5–5), the Rubber Manufacturers Association recommended a 20-dB shift (Ex. 3–27), and Abbott Laboratories recommended recording second and subsequent 10-db shifts (Ex. 3–13). By far, the most common alternative offered was a shift of 25 dB (Exs. 3–1, 3–14, 3–19, 3–20, 3–22, 3–26, 3–29, 3–34, 3–35, 3–37, 3–43, 3–45, 3–48, 3–50, 3–57, 3–58, 3–61, 3–63, 4–3, 4–5). The commenters supporting a 25-dB shift argued that 25 dB was superior because medical and health care professionals recommend using 25 dB (Exs. 3–29, 3–50, 3–54, 3–59), 25 dB is consistent with the American Medical Association (AMA) guidelines (Exs. 3–50, 3–54, 3–59), 25 dB is used for workers' compensation (Ex. 3–13), 25 dB is protective and provides an easily identifiable measurement for determining injuries (Ex. 3–35), and OSHA adopted 25 dB in 1991 because it is widely accepted as a meaningful loss of hearing and is well documented (Exs. 3–37, 3–50, 3–54, 3–59).

The National Association of Manufacturers (Ex. 3–50), the Can Manufacturing Institute (Ex. 3–50), and Industrial Health, Inc. (Ex. 3–62) recommended a system where 15-db shifts would be recorded, but only when the shift crossed the disability boundary of 25 dB from audiometric zero. These commenters argued that the 15-db difference eliminated most shifts caused by audiometric error, and that by requiring them to cross the 25-dB fence, they would also clearly involve a hearing disability.

Organization Resources Counselors (ORC) urged OSHA to adopt a ''sliding scale'' recording criteria whereby the employer would record the first STS that exceeds 25 dB over audiometric zero, and all subsequent STS cases (Ex. 3–49). ORC argued that ''[t]here is no single objective level of hearing loss that is uniformly identifiable for every employee. Different employees enter the workplace with different levels of hearing capability, and noise affects people differently'' and that this concept reflects the intent of the OSH Act and the new rule in capturing significant injuries and illnesses.

The American Iron and Steel Institute (Ex. 3–54), the Society for the Plastics Industry (Ex. 3–25) and the American Forest & Paper Association (Ex. 3–59) encouraged the adoption of a similar recording criteria where shifts would be

averaged over the frequencies of 500, 1000, 2000, and 3000 Hz, and the first shift of 10 dB over the disability fence of 25 dB would be recorded. This approach also set forth thresholds for the recording of subsequent shifts when they crossed boundaries used by various organizations for delineating mild, moderate, and severe hearing disability at the 40, 55 and 70-dB levels from audiometric zero.

OSHA's Decision

Following consideration of the comments received in response to the July 3, 2001 proposal to modify the hearing loss recording criteria, OSHA has decided to require employers to record audiometric results indicating a Standard Threshold Shift (STS) only when such STS cases also reflect a total hearing level of at least 25 dB from audiometric zero. The STS calculation uses audiometric results averaged over the frequencies 2000, 3000 and 4000 Hz, using the original baseline and annual audiograms required by the OSHA noise standard § 1910.95. The rule also allows the employer to adjust the employee's audiogram results used to determine an STS to subtract hearing loss caused by aging, allows the employer to retest the workers' hearing to make sure the hearing loss is persistent, and allows the employer to seek and follow the advice of a physician or licensed health care professional in determining whether or not the hearing loss was work-related.

The approach adopted in the final rule has several advantages. By using the STS definition from the OSHA noise standard § 1910.95, the § 1904.10 regulation uses a sensitive measure of hearing loss that has occurred while the employee is employed by his or her current employer. By requiring all STSs to exceed 25 dB from audiometric zero, the regulation assures that all recorded hearing losses are significant illnesses. OSHA received no comments suggesting that a shift of 25 dB from audiometric zero was anything less than a serious hearing loss case. While there is little consensus among the commenters concerning the appropriate level that should be used to record hearing loss cases, there is widespread agreement that a 25-dB shift from audiometric zero is a serious hearing loss.

The hearing loss recording level is also compatible with the final rule's definition of injury or illness, ''an abnormal condition or disorder'' (§ 1904.46). Various scales used to rate hearing loss consider hearing levels less than 25 dB to be within the ''normal range'' (American Medical Association Guidelines to the evaluation of Material Impairment, American Academy of Family Physicians, Audiology Awareness Campaign). The recording level is also compatible with the definition of material impairment used by OSHA and MSHA in the development of standards for occupational noise exposure (64 FR 49548, 48 FR 9738).

The hearing loss recording requirements in § 1904.10 differ from the requirements of the OSHA noise standard (§ 1910.95) because under the noise standard the employer is required to take certain actions (employee notification, providing hearing protectors or refitting of hearing protectors, etc.) for *all* 10-db standard threshold shifts while the part 1904 rule only requires the recording of STSs that also exceed the total 25-db level. OSHA believes that this is an appropriate policy, because 10-db shifts in hearing at higher levels (above 25 dB) are more significant. Several commenters agreed that some shifts are more significant than others. ORC stated that ''(a) 10-db shift from audiometric zero is virtually imperceptible, while 10-db shifts at higher levels become more important'' (Ex. 3–49). The American Federation of Government Employees (Ex. 3–17) argued that ''(h)earing loss is not linear, but is exponential, and changes are incrementally more serious and irreversible'' and the American Federation of State, County and Municipal Employees remarked that ''(additional shifts are progressively more serious in nature'' (Ex. 3–21)).

When audiometric testing is done, test tones are presented at various sound levels, usually increasing or decreasing in 5-dB steps. The employee is asked to respond whenever a tone is heard, with the goal being finding the lowest level at which the employee can consistently hear. The standard measurement for measuring hearing level is decibels, a logarithmic scale. For the first increase in hearing level from 0 to 10 dB, the sound intensity increases 10 fold. The next 10 dB is a 100-fold increase. By the time a person's hearing level changes from 0 to 30 dB hearing level, he or she needs 1,000 times more sound intensity to just barely hear.

Although the part 1904 recordkeeping regulation and the § 1910.95 noise standard treat the STS cases differently, this has no effect on the noise standard's requirements and does not have any effect on the requirement for employers to comply with § 1910.95. When employers detect work-related STS cases, they are required to take all of the follow-up actions required by the noise standard.

Additionally, the STS measure uses existing measurements and calculations employers are already using to comply with the OSHA noise standard, resulting in less paperwork burden for employers covered by both rules. Employers are required to take one additional step to determine if the STS has also resulted in a total hearing level of 25 dB or more, and if so, to record it. The position taken in § 1904.10 provides a reasonable compromise between the commenters' highly polarized views on the proper recording level. The final rule's hearing loss recording provisions provide a reasonable ''middle ground'' solution to reconcile the differences between a highly sensitive measure of hearing loss (all 10-db shifts) and increasingly insensitive measures (15, 20, or 25-db shifts).

The approach used in this final rule is a newly developed alternative that was not considered in the January 2001 rulemaking because none of the commenters to the 1996 proposed rule suggested it. The approach was first suggested by Organization Resources Counselors in an unsolicited post-promulgation submission following publication of the January 2001 rule (Ex. 1–6). OSHA then solicited comment on the approach in the July 3, 2001 **Federal Register** notice requesting comment on the hearing loss recording issue (66 FR 35113—35115).

OSHA believes that the § 1904.10 requirements will improve the nation's statistics on occupational hearing loss and that more hearing loss cases will be entered on employers' OSHA 300 Logs. However, OSHA recognizes that the new requirements may not result in comprehensive statistics for occupational hearing loss. Employees may experience significant hearing loss in industries where audiometric testing is not required (construction, agriculture, oil and gas drilling and servicing, and shipbuilding industries), and is not provided voluntarily by the employer, and thus never be entered into the records. Likewise, an employee may experience gradual hearing loss while employed by several employers, but never work for the same employer long enough to allow a recordable STS to be captured. As to the effect on trend analysis, caution must be used when comparing § 1904.10 hearing loss data that span the effective date of this rule. The new hearing loss recording rule will result in the recording of additional cases of hearing loss, not as a result of a change in the number of workers who experience hearing loss, but simply because of the recordkeeping change.

OSHA finds that recording only 25–dB shifts from the employee's baseline audiogram is not an appropriate policy. If an employee had significant hearing

loss before being hired by the employer, additional hearing loss would not be recorded until well beyond the point of disability. This would not conform to the requirements of section 24 of the Act directing the Secretary to ''[c]ompile accurate statistics on work injuries and illnesses which shall include *all* disabling, serious, or significant injuries and illnesses * * *'' (emphasis added) (29 U.S.C. 673). The recording of 25-dB shifts in hearing acuity, measured from the employee's original baseline audiogram would clearly understate the true incidence of work-related hearing loss. Likewise, if the part 1904 regulation were to require only the recording of 15 or 20-dB shifts, or categorically exclude the first STS case the rule would exclude many legitimate and serious hearing loss cases that should rightfully be entered into the records and the Nation's injury and illness statistics. This approach would be especially deficient at capturing hearing loss in those employees who change employers several times during their working lives.

The Coalition to Protect Workers Hearing (Ex. 3–23) and the AFL–CIO (Ex. 3–24) specifically opposed the approach used in the final rule, which is often referred to as a ''sliding scale'' approach because it treats some STS cases as being more serious than others (Exs. 3–23, 3–24). These Commenters argued that a sliding scale approach was rejected in 1981 because it was too complex (Exs. 3–23, 3–24), that sliding scales are difficult to administer and do not provide uniform protection for workers (Ex. 3–24), and that ''(c)ategorizing employers on the basis of hearing impairment is discriminatory. * * * Women and African Americans, both of whom tend to have better hearing sensitivity, might be placed in noise-hazardous jobs since they could develop more hearing change without crossing the line'' (Exs. 3–23–1, 3–53).

OSHA does not believe that these concerns are serious impediments to the Section 1904.10 requirements. The two-part test, an STS combined with a total hearing level in excess of 25 dB from audiometric zero, is not overly complex, and is not nearly as complex as some of the sliding scale approaches that were rejected during the revision of the OSHA noise standard in 1981. In the years since 1981, computer technology has become much more commonplace and is incorporated into most, if not all, audiometric equipment. OSHA expects that most employers and contractors who administer hearing tests under the provisions of the noise standard will use computer software to make the needed calculations, so the requirements will not be difficult to administer. OSHA has received no evidence to show that the policies in the final rule will encourage discriminatory behavior by employers. The suggestion that women or African Americans may be selected for noise exposed jobs in order to avoid a potential recordable hearing loss case is highly speculative. OSHA has seen no evidence that such discrimination has occurred either to avoid the requirements of the OSHA noise standard or to avoid workers' compensation issues.

OSHA does not agree with the commenters who argued that because the function of the OSHA standards and regulations, including the part 1904 regulation, is to protect workers, worker protection would be compromised by any policy other than the recording of all STS cases. OSHA encourages employers and employees to use the OSHA injury and illness records to improve workplace safety and health conditions, and this is one of the functions of the Part 1904 records. However, this is not the only function of the records. They are also used to generate injury and illness statistics for the Nation and for individual workplaces. They are used by OSHA representatives to identify hazards during workplace inspections, and are collected by OSHA to target its intervention efforts to more hazardous worksites (See 66 FR 5916-5917). As stated in the 2001 rulemaking, ''[n]o new protections are being provided by the recordkeeping rule''. Further, the OSH Act does not require the recording of all injuries and illnesses and specifically excludes certain minor injury and illness cases. This exclusion, which is discussed in the preamble to the January 19, 2001 final rule, applies to both injuries and illnesses, including hearing loss (See 66 FR 5931-5932). It is thus entirely appropriate for the recordkeeping rule to exclude certain minor illness cases while capturing more serious cases.

The hearing loss recording requirements of Section 1904.10 will not deprive employers and employees of information about noise hazards or diminish workers' protection against the hazards of noise in the workplace. The occupational noise exposure standard requires that employees in general industry be tested for hearing loss when noise exposure exceeds an 8-hour time-weighted average of 85dB, and that employees be informed, in writing, if a 10–dB shift has occurred. The audiometric test records must be retained for the duration of the affected employee's employment. (See 29 CFR 1910.95(g), (m)). The noise standard also specifies the protective measures to be taken to prevent further hearing loss for employees who have experienced a 10–dB shift, including the use of hearing protectors and referral for audiological evaluation where appropriate. (*See* 29 CFR 1910.95(g)(8)). These requirements, which apply without regard to the recording criteria in the recordkeeping rule, will protect workers against the hazards of noise. The modified requirements of Section 1904.10 will therefore not deprive employers and workers of the means to detect and prevent hearing loss.

Finally, section 4(b)(4) of the OSH Act provides that ''[n]othing in this Act shall be construed to supercede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.'' 29 U.S.C. 653(b)(4). Accordingly, the OSHA recordkeeping rule will have no legal effect on state workers' compensation systems. There is no evidence that the states have modified their systems to conform to OSHA's previous hearing loss recording policies; in fact, the states are far from uniform in their treatment of occupational hearing loss (Ex. 3–24–14). Therefore, OSHA does not expect the 1904 regulation to have any effect on state workers' compensation in the future.

Audiometric Error

In its July 3, 2001 proposal, OSHA asked the public to comment on the variability of audiometric testing equipment and how testing variability should be taken into account, if at all, in the recordkeeping rule (66 FR 35115). Many commenters questioned the accuracy of audiograms, and some of them specifically questioned the accuracy of audiograms used to compute 10-dB shifts in hearing acuity (Exs. 3–5, 3–13, 3–14, 3–19, 3–20, 3–25, 3–26, 3–27, 3–29, 3–30, 3–35, 3–37, 3–45, 3–48, 3–49, 3–50, 3–54, 3–56, 3–58, 3–59, 3–63). These commenters argued that 10 dB is the lowest level of detection and is not reliable (Exs. 3–48, 3–63); at 10 dB the precision of the measurement becomes an issue (Ex. 3–49); 5 to 10-dB variability is common, which argues for 25 dB and against 10 dB (Ex. 3–29); 10 dB is not effective because of the testing environment, testing procedures, and error of audiometric equipment (Ex. 3–27); and that at a 10-dB shift, there is significant uncertainty in measurement, rendering

a typical audiometric reading unreliable (Exs. 3–37, 3–56). Verizon Communications, Inc., while supporting the recording of 10-dB shifts, summarized the potential recording problem as follows:

The test-retest variability inherent in properly calibrated audiometric equipment is ± 5 dB. * * * if a 10-dB recording threshold is adopted, the following scenario is possible:

Baseline audiogram—the threshold at 200 Hz is measured at 10 dB; however, the equipment is off by −5 dB, so the threshold is really 15 dB

Follow-up audiogram—the threshold at 200 Hz is measured at 20 dB; however, the equipment is off by +5 dB, so the threshold is still 15 dB

This employee would have a recordable 10-dB loss, yet, in reality, his/her hearing would be unchanged. This is the risk that is taken with a 10-dB threshold—too many false positives (Ex. 3–30).

The International Paper Company stated that ''[a]pplying the 10-dB STS criterion for recordkeeping purposes would have the effect of recording large numbers of workers whose hearing losses may simply be due to testing variability'' (Ex. 3–14). The Society for the Plastics Industry (Ex. 3–25) cited a number of articles in the scientific literature to argue that measurement error in field testing as approximately ± 10 dB and the measurement error under laboratory conditions is ± 5 dB. The Specialty Steel Industry of North America (SSINA) and the Steel Manufacturers Association (SMA), in a combined comment, used information from the National Institute for Occupational Safety and Health (NIOSH) to argue that typical audiometric testing variability is 10 dB, stating that ''(e)mployers will be required to record each occurrence of an STS at 10 dB, using a test that has a 10-dB measurement variability. This will generate an overwhelming number of false positives'' (Ex. 3–37).

In a single comment, the National Chicken Council and the National Turkey Federation argued that ''Lacking standardization in testing methods and in testing equipment, this change will mean that employers will likely be forced to record (or fail to record) STSs that are inaccurately measured'' (Ex. 3–19). The Hearing Conservation Team at the Naval Submarine Medical Research Laboratory (Ex. 3–56) reviewed the scientific literature on audiogram reliability and found that methodology used by various researchers varied widely, making study comparisons difficult. The Hearing Conservation Team recommended further research into the test-retest reliability of various threshold levels that could then be used to set an STS criterion that would minimize false positives.

Another group of commenters argued that the accuracy of audiometric testing equipment is not a major factor (Exs. 3–15, 3–22. 3–23–1, 3–24, 3–57, 3–58, 3–61, 5–2, 5–3). In a representative comment, the AFL–CIO remarked that ''The issue of audiometric test variability has been a settled matter since the hearing conservation amendment was promulgated nearly 20 years ago and is adequately addressed by the existing provisions contained in 1904.10'' (Ex. 3–24). The American Textile Manufacturers Institute commented that: ''Variability is a given in audiometric testing as it can never be an exact process as long as it relies on any given individual being tested to sense a signal and respond. However, variability can be minimized if there are tight quality controls on the test equipment, procedures, etc.'' (Ex. 3–15).

The Coalition to Protect Workers Hearing disagreed with OSHA's suggestion that the 10-dB recordability criterion does not allow for audiometric variability, stating that ''The evaluation of work-relatedness takes calibration shifts into account, and such audiometric variability occurs infrequently. When random measurement variability does occur, retesting reduces it'', adding that ''It is true that audiometric data are vulnerable to calibration differences between different audiometers. Calibration discrepancies may occur if the employer changes service providers (e.g., mobile audiometric testing, testing in an off-site clinic) or if the employer switches audiometers for in-house testing. Such change can easily affect data by 5 dB. However, calibration discrepancies can be minimized through careful procedural controls such as the use of bio-acoustic simulators and proper professional supervision of the audiometric monitoring program'' (Ex. 3–23–1).

The Dow Chemical Company, which has voluntarily been using 10-dB shifts for recording loss, stated that ''In Dow's experience, following a standardized testing protocol (using 29 CFR 1910.95), and including adjustment for age and the use of a retest in 30 days, has provided accurate, consistent results' (Ex. 5–2). The National Institute for Occupational Safety and Health (NIOSH) argued that the variability of testing should not be taken into account in the recordkeeping rule because audiometric variability issues have been addressed in the OSHA Noise Standard 29 CFR 1910.95. NIOSH stated that they believe that under the OSHA Noise Standard the expected variability due to error will be ±5 dB (Ex. 5–3).

OSHA agrees with NIOSH that the recordkeeping rule should not take any actions to address the issues of audiometric variability, and finds that there is no need to increase the recording loss threshold to 15 or 20 dB to account for variability. The OSHA noise standard includes provisions that standardize audiometric testing protocols. The requirements in § 1910.95 (g) Audiometric Testing Program, § 1910.95 (h) Audiometric Test Requirements, Mandatory Appendix C to § 1910.95 Audiometric Measuring Instruments, Mandatory Appendix D to § 1910.95 Audiometric Test Rooms, and Mandatory Appendix E to § 1910.95 Acoustic Calibration of Audiometers, and the incorporated provisions of American Standard Specification for Audiometers S3.6–1969 provide standardized methodologies for conducting hearing tests designed to assure, as far as possible, that audiograms are accurate. As discussed in the preamble to the January 2001 final rule (66 FR 6009), following these requirements will result in audiometric test results with a variability of ±5 dB. As the Medical Educational Development Institute argued in response to the 1996 proposal, ''(t)est/re-test reliability of 5 dB is well established in hearing testing. For example, the Council on Accrediting Occupational Hearing Conservationists maintain this range of reliability in their training guidelines and this is recognized in American National Standard Method for Manual Pure-Tone Threshold Audiometry, S3.21—1978 (R1992).'' At the ± 5-dB reliability level, errors of 10 dB will be infrequent. There is a low probability that the audiometer will be incorrect by −5 dB on one test and +5 dB on a subsequent test because many of the variables affecting reliability will remain the same from year to year. The employer is likely to use the same audiometer, in the same room, operated by the same technician from one test to the next. When these variables are not held constant, or a 10-dB shift occurs due to residual random variability, the allowance for retesting should largely eliminate spurious shifts due to audiometric measurement errors. Additionally, the use of an average shift at three frequencies reduces the influence of random audiometric variability; this is one of the reasons that a frequency averaged shift was adopted in the § 1910.95 STS definition.

It should be noted that it is impossible to eliminate audiometric errors in their entirety. Any recording level, no matter how it is set, will be subject to some

level of false positive and false negative errors. However, OSHA believes that the audiometric testing requirements of § 1910.95, if followed, will provide reasonably accurate audiometric data for the administration of the OSHA noise standard, and for the recording of occupational hearing loss. As the Dow Chemical Company (Ex. 5–2) commented: ''(f)ollowing a standardized testing protocol (using 29 CFR 1910.95), and including adjustments for age and the use of a retest in 30 days, has provided accurate, consistent results.'' OSHA believes that the provisions allowing the employer to age adjust audiograms, seek advice from a physician or other licensed health care professional for determining work-relationship, retest within 30 days, and remove cases later found not to be persistent provide reasonable checks against false positive results being recorded on the 300 Log.

Age Correction

The final rule carries forward the January 19, 2001 rule's conceptual framework allowing, but not requiring, the employer to age adjust an employee's annual audiogram when determining whether or not a 10-dB shift in hearing acuity has occurred. There were no comments objecting to the age-correction of audiometric results when evaluating Standard Threshold Shifts in hearing. However, the American Iron and Steel Institute (Ex. 3–54), the Society for the Plastics Industry (Ex. 3–25) and the American Forest & Paper Association (Ex. 3–59), in support of a recording criteria similar to that adopted in the final rule, recommended that, ''[b]ecause of the recognized contribution of aging to hearing loss, all hearing loss determinations would be age-adjusted in accordance with Appendix F to 29 CFR 1910.95''.

While the final rule allows the employer to age-correct the STS portion of the recording criteria, there is no allowance for age correction for determining a 25-dB hearing level. The AMA Guides specifically state that total hearing loss should not be age adjusted, and there is no recognized consensus method for age adjusting a single audiogram. The method used in Appendix F of § 1910.95 is designed to age correct STS, not absolute hearing ability. The 25-dB criteria is used to assure the existence of a serious illness, and reflects the employee's overall health condition, regardless of causation. Age correcting the STS will provide adequate safeguards against recording age corrected hearing loss. Therefore, it would be inappropriate and unnecessary to age correct the 25-dB hearing level.

Persistence

Although OSHA did not specifically ask for comment on the topic, several commenters raised the issue of how to verify that recorded hearing loss cases are persistent. The OSHA noise standard addresses the issue of temporary hearing losses by allowing the employer to retest the employee's hearing within 30 days (1910.95(g)(7)(ii)). The 2001 rule adopted the same 30 day retest option at § 1904.10(b)(4) by allowing the employer to delay recording if a retest was going to be performed in the next 30 days.

A number of commenters stated that OSHA should record only permanent shifts in hearing (Exs. 3–23–1, 3–25, 3–26, 3–37, 3–48, 3–50, 3–58, 3–61, 3–62). In a representative comment, Industrial Health Inc. remarked that ''[n]o shift, regardless of the number of dB, should be recorded unless it is found to be persistent in a second audiogram taken at a later time, which we believe should be no less than 60 days and preferably 6 months or more after the initial audiogram which revealed the shift'' (Ex. 3–62).

The National Association of Manufacturers and the Can Manufacturing Institute, in a combined comment, argued that 30 days does not allow enough time to resolve transient conditions such as colds or allergies, and the retest period should be extended to one year (Ex. 3–50). The Coalition to Protect Workers Hearing recommended that ''(a)t the discretion of the reviewing professional, within 15 months of the initial identification of the STS, any STSs which are not confirmed by subsequent retesting or otherwise found not to be work related, may be lined out on Form 300. Documentation justifying line outs must be provided and should be retained with the employees' records'(Ex. 3–23).

OSHA agrees with these commenters that the goal of the rule is to record only persistent hearing loss cases, and to help accomplish that goal, the Agency has carried forward the 30 day retest provision. However, OSHA has decided not to allow a longer retesting period. A longer retesting period would increase the likelihood that the employer would lose track of the case and therefore inadvertently fail to record the case. These errors would have a detrimental effect on the accuracy of the records and run counter to OSHA's goal of improving the quality of the injury and illness data. The Agency also believes that using different time periods for retesting in the part 1904 and § 1910.95 rules would result in increased confusion for employers.

The Agency has also rejected the suggestion that all hearing loss cases must be confirmed prior to recording them. Waiting for one year or longer to record an occupational hearing loss would move the recording to a year in which the original hearing loss was not initially discovered, would be administratively more complex for employers, and would have a detrimental effect on the hearing loss data. Many legitimate hearing loss cases could go unrecorded simply because the employee did not receive a subsequent audiogram due to job changes or some other circumstance that might occur before the next annual audiogram required by the noise standard.

In order to make it clear to employers that they may remove any cases that are found to be temporary, the final rule has adopted the removal option recommended by the Coalition to Protect Workers Hearing, with three modifications. First, the final rule does not include the 15 month time limit. OSHA does not believe that a time limit is needed because any future audiogram that shows an improvement in hearing and refutes the recorded hearing loss would indicate a temporary hearing loss that should be removed from the records. Second, the regulatory text does not specify that the removal must be at the discretion of the reviewing professional. The OSHA noise standard, at § 1910.95(g)(3), requires that:

> Audiometric tests shall be performed by a licensed or certified audiologist, otolaryngologist, or other physician, or by a technician who is certified by the Council of Accreditation in Occupational Hearing Conservation, or who has satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining and checking calibration and proper functioning of the audiometers being used. A technician who operates microprocessor audiometers does not need to be certified. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or physician.

Because the noise standard already requires audiograms to be conducted by, or under the supervision of, a qualified professional, subsequent audiograms that may refute the persistence of a recorded hearing loss will be reviewed by the appropriate professional. The § 1904.10 simply cross-references the need for the audiograms to be obtained pursuant to the requirements of § 1910.95, so there is no need for the § 1904.10 rule to repeat the review requirement. Third, the rule does not

require the employer to maintain documentation concerning the removal of cases. Section 1910.95(m)(2) of the noise standard requires the employer to keep records of all audiometric tests that are performed, and those records will be available, should they be needed for future reference. As a result, there is no need to add a duplicative paperwork burden in the § 1904.10 rule. Therefore, § 1904.10(b)(4) states that ''If subsequent audiometric testing indicates that an STS is not persistent, you may erase or line-out the recorded entry''. OSHA has added this additional regulatory language to minimize the recording of temporary hearing loss cases while capturing complete data on the incidence of hearing loss disorders.

Frequencies

Some commenters urged OSHA to measure hearing loss at frequencies other than 2000, 3000 and 4000 Hz (*See,* e.g., Exs. 3–25, 3–54, 3–57, 3–58, 3–59, 3–61). Alabama Power (Ex. 3–61) and the Southern Company (Ex. 3–58) recommended using 500, 1000, and 2000 because ''these are the frequencies where most communication occurs''. Another group of commenters recommended the use of 500, 1000, 2000 and 3000 Hz because these are the frequencies specified by the American Medical Association and the American Academy of Otolaryngology-Head and Neck Surgery, Inc. (Exs. 3–25, 3–54, 3–57, 3–59).

OSHA has decided to continue to use the frequencies used in the § 1910.95 OSHA noise standard (2000, 3000, and 4000 Hz). While ''most'' communication occurs at lower frequencies, these are clearly audible frequencies where some speech occurs, and where hearing loss can have a significant impact on workers' lives outside of verbal communication. Using these frequencies reduces the burden on employers that would be created by requiring separate calculations of audiometric results, and, as Industrial Health, Inc. stated ''(w)ith regard to the early effects of noise exposure, it seems reasonable to extend the definition across the standard shift frequencies 2000, 3000, and 4000 Hz'' (Ex. 3–62).

Baseline Reference and Revision of Baseline

In its July 3, 2001 **Federal Register** notice OSHA asked the public to comment on the appropriate benchmark against which to measure hearing loss, e.g., the employee's baseline audiogram, audiometric zero, or some other measure (66 FR 35115). One commenter, Eric Zaban with the State of Michigan, suggested using audiometric zero as the appropriate benchmark (Ex. 4–1). The vast majority of the commenters who addressed this issue supported using the employee's baseline audiogram (Exs. 3–15, 3–20, 3–21, 3–22, 3–23–1, 3–24, 3–25, 3–27, 3–29, 3–30, 3–37, 3–47, 3–49, 3–50, 3–53, 3–54, 3–57, 3–58, 3–59, 3–61, 3–62, 3–63, 4–2, 4–5, 5–2, 5–3, 5–5). Alabama Power remarked that:

> [T]he appropriate benchmark against which to measure hearing loss is the employee's original baseline. Using the employee's original baseline ensures that employers are not held responsible for any prior hearing loss the employee may have suffered. Comparing an employee's audiogram to audiometric zero would not take into account any previous hearing loss that may have occurred prior to employment (Ex. 3–61).

The AFL–CIO agreed, stating that ''Using the original baseline takes into account any hearing loss that a worker may have experienced while employed by a previous employer'' and ''Using the baseline ideogram (audiogram) will assist in preventing the recording of cases of non-occupational hearing loss' (Ex. 3–24).

The two-part test for recording that is being adopted in the final rule uses the baseline audiogram as the reference point for determining whether or not the employee has had a change in hearing while employed by his or her current employer, and then uses audiometric zero as the reference point for determining the overall hearing ability of the affected employee. OSHA agrees that the employee's baseline audiogram is a superior reference point for measuring a change of hearing, a Standard Threshold Shift. Using the baseline audiogram taken upon employment reduces the effect of any prior hearing loss the employee have experienced, whether it is non-occupational hearing loss or occupational hearing loss caused by previous employment. Therefore, the final rule uses the employee's original baseline audiogram as the reference for the STS component of an initial hearing loss cases, and uses the revised baseline audiogram from that initial case as the reference for future cases.

The 25-dB total hearing level component of an OSHA recordable hearing loss uses a reference of audiometric zero. This portion of the recording criteria is used to assure that the employee's total hearing level is beyond the normal range of hearing, so it does not exclude hearing loss due to non-work causes, prior employment, or any other cause. The measurement simply reflects the employee's current hearing ability as reflected in the most recent audiogram. This comparison to audiometric zero is a simple matter, because audiometers are designed to provide results that are referenced to audiometric zero. The hearing level at each frequency is oftentimes printed by the equipment, so there is rarely a need to perform manual calculations.

Work Relationship

The final rule published on January 19, 2001 included a presumption of work-relatedness when employees are exposed to loud noise at work, relying on the OSHA noise standards criteria of an 8-hour 85 dBA exposure level, or a total noise dose of 50 percent. The preamble discussion of the work-relatedness presumption was that:

> [I]n line with the overall concept of work relationship adopted in this final rule for all conditions, an injury or illness is considered work related if it occurs in the work environment. For workers who are exposed to the noise levels that require medical surveillance under § 1910.95 (an 8-hour time-weighted average of 85 dB(A) or greater, or a total noise dose of 50 percent), it is highly likely that workplace noise is the cause of or, at a minimum, has contributed to the observed STS. It is not necessary for the workplace to be the sole cause, or even the predominant cause, of the hearing loss in order for it to be work-related (66 FR 6012).

Several commenters discussed the difficulties of determining the work-relatedness of hearing losses, and many argued that the 8-hour 85 dBA presumption was invalid (Exs. 3–2, 3–3, 3–13, 3–20, 3–23–1, 3–25, 3–27, 3–29, 3–37, 3–43, 3–48, 3–50, 3–54, 3–63, 4–3). In a representative comment, the Coalition to Protect Workers Hearing (Ex. 3–23–1) remarked that:

> [W]ork relatedness should not be presumed solely on the basis of an exposure to time-weighted averages (TWAs) of 85 dBA or higher; instead it should be evaluated on a case-by-case basis. Presumption of work-relatedness based on equivalent 8-hour exposure alone is unsatisfactory because it presumes that the employer's hearing conservation program is completely ineffective and does not take into account other factors such as hearing protector fit and use compliance. Presumption of work-relatedness is a disincentive for employers to develop successful programs and to implement noise control because they receive no credit for their efforts. The audiologist or physician reviewing the audiometric record should make a determination regarding whether the OSHA STS is work-related and should do so when the 10-dB STS occurs.

Other commenters suggested that if an employer has an active and enforceable hearing conservation program in effect, then the recordkeeping rule should presume that a hearing loss case is non-work-related (Exs. 3–37, 3–50); that the rule needs to take non-work noise exposure into account (Exs. 3–29, 3–37, 3–50); and that the rule should only

consider a hearing loss to be work-related if work contributed more than 50% (Ex. 3–63). Several commenters made the same argument as the Coalition to Protect Workers Hearing, arguing that each case should be evaluated on its merits (Exs. 3–29, 3–43, 3–50, 3–63). The American Foundry Society argued that ''[w]ork-relatedness should be evaluated by a health care professional with experience in occupational health. Low level occupational noise exposure or documented regular use of hearing protection devices (HPDs) in noisy areas should mitigate against the presumption of work-relatedness' (Ex. 3–63).

OSHA agrees with these commenters that it is not appropriate to include a presumption of work-relatedness for hearing loss cases to employees who are working in noisy work environments. It is possible for a worker who is exposed at or above the 8-hour 85-dBA action levels of the noise standard to experience a non-work-related hearing loss, and it is also possible for a worker to experience a work-related hearing loss and not be exposed above those levels. Therefore, the final rule states that there are no special rules for determining work-relationship and restates the rule's overall approach to determining work-relatedness—that a case is work-related if one or more events or exposures in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss.

The final rule's approach to determining work-relatedness differs from the January 2001 rule for three reasons. First, although it is likely that occupational exposure to noise in excess of 85 dBA will be a causal factor in hearing loss in some cases, a presumption of work-relatedness is not justified in all cases. Further evaluation is needed to make this determination. Second, the policy in the final rule is consistent with the general principle in § 1904.5 that work-relatedness is to be determined on a case-by-case basis. Third, the approach used in the January 2001 rule is not supported by comments to the docket. None of the commenters supported the presumption, while many opposed it.

The final rule also continues the 2001 rule's policy allowing the employer to seek the guidance of a physician or other licensed health care professional when determining the work-relatedness of hearing loss cases. Paragraph (b)(6) of the rule states that if a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the employer is not required to consider the case work-related, and therefore is not required to record it.

When evaluating the work relatedness of a given hearing loss case, the employer should take several factors into account. The Coalition to Protect Workers Hearing recommended that employers consider prior occupational and non-occupational noise exposure, evaluation of calibration records and the audiometric environment, investigation of related activities and personal medical conditions, and age correction before presuming that hearing loss is work related (Ex. 3–23–1). One important factor to consider is the effectiveness of the hearing protection program. When employees are exposed to high levels of noise in the workplace, and do not wear appropriate hearing protection devices, a case of hearing loss is more likely to be work-related. If an employee's hearing protection devices are not appropriate for the noise conditions, if they do not fit properly, or if they are not used properly and consistently, they may not provide enough protection to prevent workplace noise from contributing to a hearing loss case.

Adding a Column to the 300 Log

Section 1904.10(a) of the January 2001 rule required that employers check a hearing loss column on the Log when recording a hearing loss case. OSHA is issuing a separate **Federal Register** document proposing to delay the effective date of the hearing loss column requirement until January 1, 2004, and asking for comment on issues related to the hearing loss column. The 1996 proposed recordkeeping rule did not contain a hearing loss column requirement, and did not ask for comment on whether a column should be added. In the 2001 final rule, OSHA explained that it was adding a hearing loss column to the 300 Log so that BLS could produce more reliable statistics on occupational hearing loss cases (66 FR 6005). OSHA's July 3, 2001 **Federal Register** notice sought comment on alternative criteria for recording occupational hearing loss, but did not mention the hearing loss column as an issue.

OSHA does not believe that the existing record provides an adequate basis to determine the need for the hearing loss column. OSHA believes that interested parties should be allowed to comment on the issue. Accordingly, OSHA is publishing a separate **Federal Register** document today, proposing to delay the effective date of the hearing loss requirement until January 1, 2004 while the Agency reconsiders the column requirement in light of public comment. To facilitate public comment, OSHA has separated the requirement from § 1904.10(a) and placed it in a separate paragraph at § 1904.10(b)(7), which asks ''How do I complete the 300 Log for a hearing loss case?'' and answers ''When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss illnesses.'' To further help assure that the public is informed about this additional rulemaking activity, OSHA is adding a regulatory note to § 1904.10(b)(7) explaining that OSHA is delaying the applicability of § 1904.10(b)(7) until further notice while the Agency reconsiders the hearing loss column.

Miscellaneous Hearing Loss Issues

OSHA received one miscellaneous comment that is worthy of discussion. The International Chemical Workers Union Council (Ex. 3–53) remarked that ''[i]t is difficult for workers and their representatives to gain access to audiometric exams or summaries of those exams''. Several of OSHA's rules provide access rights to audiometric data. Section 1910.95(g)(8) of the noise standard requires employers to inform employees, in writing, that they have experienced a standard threshold shift. OSHA's rule for access to employee exposure and medical records (§ 1910.1020) requires employers to provide access to medical records, exposure records, and analyses of records to employee's and their designated representatives. Finally, the part 1904 regulation requires employers to provide employee access to the OSHA injury and illness data.

Economic Analysis

Costs of the Revisions to the Hearing Loss Recording Provisions

OSHA has determined that the total cost of this action is $1,049,650 per year and, thus, that it is not an economically significant regulatory action within the meaning of Executive Order 12866. The methodology that OSHA has used for computing costs for the new rule is presented in the next two sections.

Changes in Coverage

Under the 2002 rule, employers were required to record all hearing loss cases that involved a work-related Standard Threshold Shift (STS) of an average of 25 dB or more at 2000, 3000 and 4000 hertz (Hz) in either ear, compared to the employee's original baseline audiogram. The new rule requires recording all

hearing loss cases that involve a work-related STS of an average of 10 dB or more if the accumulated loss of hearing is at least 25 dB above audiometric zero. (The use of the tables in Appendix F of the Noise Standard to adjust for aging remains unchanged.)

OSHA estimates that approximately 40,000 hearing loss cases would have to be recorded under the 2002 rule, as opposed to approximately 145,000 hearing loss cases under the new rule. Thus, the new rule increases the number of recordable hearing loss cases by approximately 105,000. (In the Final Economic Analysis of the 2001 revisions to the rule, OSHA estimated that there would be 275,000 additional hearing loss cases (66 FR 6121), but the new rule has a narrower definition of hearing loss cases than the 2001 rule.)

Estimating the Number of Recordable Hearing Loss Cases

To estimate the number of cases that would be recorded, OSHA used the same estimation methodology as in the January 19, 2001 final rule. First, OSHA estimated the number of employees that would receive audiometric tests. OSHA's noise standard § 1910.95 requires employers to provide baseline and annual audiograms (and take other actions) when employees are exposed to certain noise levels. OSHA believes that approximately 23% of workers in the manufacturing sector are covered by the OSHA noise standard. Therefore, the number of covered manufacturing workers is 4,255,000 (18,500,000 manufacturing workers × .23). OSHA estimates that an additional 10% of workers are covered in other general industry sectors (such as transportation and utilities) or receive audiograms in industries not required to perform audiometric testing under the OSHA noise standard (such as construction and agriculture). Therefore, the total number of covered workers is estimated to be approximately 4,680,500 (4,255,000 × 1.1).

OSHA then reviewed a National Institute for Occupational Safety and Health (NIOSH) database of audiograms to determine the proportion of audiograms meeting the recording criteria. 3.09% of audiograms met the final rule's criteria for recording hearing loss, and 0.83% met the 2002 recording criteria (25 dB). Applying this percentage to the number of employees receiving annual audiograms results in 144,627 (4,680,500 × 0.0309) estimated hearing loss cases under the final rule, and 38,848 (4,680,500 × .0083) estimated hearing loss cases recorded under the 2002 rule.

Therefore, OSHA estimates 105,779 (144,627 − 38,848) additional cases of occupational hearing loss will be captured by the final section 1904.10 regulation, and has rounded this figure to 105,000 for cost estimation purposes.

Annual Costs of Maintaining Records

The additional hearing loss cases will require additional entries on the OSHA Form 300 Log and Summary of Occupational Injuries and Illnesses and the OSHA Form 301 Injury and Illness Incident Report. Access of employees and their representatives to the additional Form 301s will also involve costs.

OSHA estimates that employers will incur for each additional hearing loss case a cost of 15 minutes for the Log entry.

As explained in the 2001 Final Economic Analysis, based on data collected during approximately 400 recordkeeping audit inspections, OSHA estimates that 82 percent of incidents will be recorded on forms other than Form 301, such as workers' compensation forms. The remaining 18% of additional hearing loss cases will take 22 minutes for the filling out the Form 301.

Assuming that an individual with the skill level of a Personnel Training and Labor Relations Specialist will do the recordkeeping required by this rule, an hourly wage of $30.02 is used to compute cost. (The average hourly wage for a Personnel Training and Labor Relations Specialist as reported in the Bureau of Labor Statistics Occupational Employment Statistics Survey for Year 2000 was $21.71; benefits are computed at 38.3 percent of the hourly wage.)

Thus, employers will incur, for each additional hearing loss case, data entry costs of 15 minutes for the Log entry plus, for 18% of the cases, 22 minutes for the Form 301. The total annual cost is estimated to be $996,064 [= (105,000 Cases) × (15 Minutes/Case) × ($30.02/Hour) + (18,900 Cases) × (22 Minutes/Case) × ($30.02/Hour)].

As in the Year 2001 Final Economic Analysis, OSHA assumes that (a) at one-tenth of covered establishments, one employee would request access to his or her own Form 301 (10,500 instances), and (b) at one percent of covered establishments, a union representative would request access to all Form 301s at the establishment. Using the same estimation method as the 2001 Economic Analysis, OSHA estimates union representative access will result in an additional 10,500 forms being provided by employers. OSHA assumes that, for each of the 21,000 forms being provided (10,500 + 10,500), employers would require five minutes to pull, copy (at $0.05), and replace the relevant Form 301.

The estimated total cost of providing access to additional hearing loss records would thus be $47,110 [= (21,000 Forms) × (5 Minutes × ($30.02/Hour) + $.05/Copy)]. Thus, according to the above analysis, the total annual cost of this regulatory action is $1,049,650.

Benefits

Hearing loss cases result in substantial disability and lead to safety accidents as well. OSHA believes that aligning the recording threshold for such cases with the STS criterion in the Agency's Noise Standard will simplify recording for many employers who are already familiar with this criterion and provide more opportunities for employers to intervene to prevent other hearing loss cases.

As explained in the 2001 Final Economic Analysis, possession of information about events and exposures will increase the ability of employers and employees to identify hazardous conditions and to take remedial action to prevent future illnesses. If this enhanced ability to identify (and thus address) hazards translates into a reduction even as small as 0.5 to 1 percent of the estimated number of additional recordable cases, it would mean the prevention of 525 to 1,050 illnesses per year [= (.005 to .01 × 105,000].

The revisions in the rule will also make the injury and illness records more useful to OSHA, as well as to employers and employees. Improvements in the records being kept by employers would enhance OSHA's capacity to focus compliance outreach efforts on the most significant hazards; identify types or patterns of illness whose investigation might lead to regulatory changes or other types of prevention efforts, such as enforcement strategies, information and training, or technology development; and set priorities among establishments for inspection purposes.

Employers and employees both stand to benefit from the more effective use of OSHA's resources. The enhanced ability of compliance officers to identify patterns of illness will enable OSHA to focus on more serious problems. Identification of such patterns will also increase the ability of employers to control these hazards and prevent other similar illnesses. To the extent that employers take advantage of this information, the burden of OSHA inspections should be reduced in the long run. Employees clearly also will

benefit from these reductions in illnesses.

Regulatory Flexibility Certification

The 2001 revisions of the recordkeeping rule, which were much more extensive, did not have a significant impact on a substantial number of small entities (66 FR 6121). In the Final Economic Analysis for those revisions, OSHA estimated that over the entire range of SICs affected, the average cost per small firm was only $31.63. The impacts of those revisions on sales and profits did not exceed 1 percent for small firms in any covered industry (66 FR 6108).

Even if all the additional hearing loss cases estimated to result from this year's revisions were distributed among the 541,988 small firms that keep the injury and illness records (as OSHA identified in its Year 2001 Final Economic Analysis) the average cost of the current revisions per small firm would be less than two dollars.

OSHA hereby certifies that the current revision to the hearing loss recording provisions, with an estimated annual cost of just over a million dollars, will not have a significant impact on a substantial number of small entities.

Unfunded Mandates

For the purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than $100 million in any year.

Federalism

This rule has been reviewed in accordance with Executive Order 13132 (52 FR 41685), regarding Federalism. Because this rulemaking action involves a ''regulation'' issued under section 8 of the OSH Act, and not a ''standard'' issued under section 6 of the Act, the rule does not preempt State law, see 29 U.S.C. 667(a). The effect of the rule on States is discussed in the State Plans section of this preamble.

Paperwork Reduction Act

OSHA will modify its previously approved information collection requirements prior to the January 1, 2003 effective date.

State Plans

The 26 States and territories with their own OSHA-approved occupational safety and health plans must adopt a comparable regulation within six months of the publication date of this final regulation. These states and territories are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, New Jersey, and New York have OSHA approved State Plans that apply to state and local government employees only.

A few commenters urged OSHA to make sure that the State Plan States have the same recording criteria as federal OSHA (see, e.g., Exs. 3–22, 3–30, 3–49, 3–55). During 2002, the State Plan States were allowed to maintain their policies for the recording of hearing loss to maintain their former requirements, while OSHA reconsidered what the appropriate recording criteria should be. In the **Federal Register** document announcing the one year delay and the interim policy for year 2002, OSHA stated that when it issues a final determination for the recording of occupational hearing loss for calendar years 2003 and beyond, the states would be required to have identical criteria (66 FR 52033). Now that OSHA has issued its final determination, the States are required to promulgate identical criteria.

Executive Order

This document has been deemed significant under Executive Order 12866 and has been reviewed by OMB.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657).

Signed at Washington, DC, this 25th day of June, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

For the reasons stated in the preamble, 29 CFR part 1904 is amended as follows:

PART 1904—[AMENDED]

1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

2. Revise § 1904.10 to read as follows:

§ 1904.10 Recording criteria for cases involving occupational hearing loss.

(a) Basic requirement. If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

(b) *Implementation.*

(1) *What is a Standard Threshold Shift?* A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears.

(2) *How do I evaluate the current audiogram to determine whether an employee has an STS and a 25–dB hearing level?*

(i) *STS.* If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(ii) *25–dB loss.* Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

(3) *May I adjust the current audiogram to reflect the effects of aging on hearing?*

Yes. When you are determining whether an STS has occurred, you may age adjust the employee's current audiogram results by using Tables F–1 or F–2, as appropriate, in Appendix F of 29 CFR 1910.95. You may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

(4) *Do I have to record the hearing loss if I am going to retest the employee's hearing?*

No, if you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the

OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss illness within seven (7) calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the § 1910.95 noise standard indicates that an STS is not persistent, you may erase or line-out the recorded entry.

(5) *Are there any special rules for determining whether a hearing loss case is work-related?*

No. You must use the rules in § 1904.5 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work related.

(6) *If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case?*

If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

(7) *How do I complete the 300 Log for a hearing loss case?*

When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.

Note to 1904.10(b)(7): The applicability of paragraph (b)(7) is delayed until further notice.

[FR Doc. 02–16392 Filed 6–28–02; 8:45 am]

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA21

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Brokers or Dealers in Securities Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Final rule.

SUMMARY: This document contains amendments to the regulations implementing the statute generally referred to as the Bank Secrecy Act (''BSA''). The amendments require brokers or dealers in securities (''broker-dealers'') to report suspicious transactions to the Department of the Treasury. The amendments constitute a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury.

DATES: *Effective Date*: July 31, 2002.

Applicability Date: December 30, 2002. *See* 31 CFR 103.19(h) of the final rule contained in this document.

FOR FURTHER INFORMATION CONTACT: Peter G. Djinis, Executive Assistant Director for Regulatory Policy, FinCEN, at (703) 905–3930; Judith R. Starr, Chief Counsel, Cynthia L. Clark, Deputy Chief Counsel, and Christine L. Schuetz, Attorney-Advisor, Office of Chief Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

The BSA, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311 *et seq.*) appear at 31 CFR part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g),[2] to require financial institutions to report suspicious transactions. As amended by the USA Patriot Act, subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2)(A) provides further that

> If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—
>
> (i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and
>
> (ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

Subsection (g)(3)(A) provides that neither a financial institution, nor any director, officer, employee, or agent of any financial institution

> that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, ''to the extent practicable and appropriate,'' to designate ''a single officer or agency of the United States to whom such reports shall be made.''[3] The designated agency is in turn responsible for referring any report of a suspicious transaction to ''any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including

[1] Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (the ''USA Patriot Act''), Public Law 107–56.

[2] 31 U.S.C. 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act (the ''Annunzio-Wylie Anti-Money Laundering Act''), Title XV of the Housing and Community Development Act of 1992, Public Law 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[3] This designation does not preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency or another agency ''pursuant to any other applicable provision of law.'' 31 U.S.C. 5318(g)(4)(C).

analysis, to protect against international terrorism.'' *Id.,* at subsection (g)(4)(B).

Section 356 of the USA Patriot Act required Treasury, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, to publish proposed regulations before January 1, 2002, requiring broker-dealers to report suspicious transactions under 31 U.S.C. 5318(g). In accordance with this requirement, Treasury published a Notice of Proposed Rulemaking relating to suspicious transaction reporting by broker-dealers on December 31, 2001. Section 356 requires final regulations to be issued by July 2, 2002.

II. Broker-Dealer Regulation and Money Laundering

The regulation of the securities industry in general and of broker-dealers in particular relies on both the Securities and Exchange Commission (the ''SEC'') and the registered securities associations and national securities exchanges (so-called self-regulatory organizations or ''SROs''). Broker-dealers have long reported securities law violations through existing relationships with law enforcement, the SEC, and the SROs. The SEC and the SROs have taken measures to address money laundering concerns at broker-dealers.[4] The SEC adopted rule 17a–8 in 1981 under the Securities and Exchange Act of 1934 (''Exchange Act''), which enables the SROs, subject to SEC oversight, to examine for BSA compliance. Accordingly, both the SEC and SROs will address broker-dealer compliance with this rule.

Certain broker-dealers have been subject to suspicious transaction reporting since 1996. In particular, broker-dealers that are affiliates or subsidiaries of banks or bank holding companies have been required to report suspicious transactions by virtue of the application to them of rules issued by the federal bank supervisory agencies. In April 1996, banks, thrifts, and other banking organizations became subject to a requirement to report suspicious transactions pursuant to final rules issued by FinCEN,[5] under the authority contained in 31 U.S.C. 5318(g). In collaboration with FinCEN, the federal bank supervisors (the Board of Governors of the Federal Reserve System (''Federal Reserve''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA'')) concurrently issued suspicious transaction reporting rules under their own authority. *See* 12 CFR 208.62 (Federal Reserve Board); 12 CFR 21.11 (OCC); 12 CFR 353.3 (FDIC); 12 CFR 563.180 (OTS); and 12 CFR 748.1 (NCUA). The bank supervisory agency rules apply to banks, non-depository institution affiliates and subsidiaries of banks and bank holding companies (including broker-dealers), and bank holding companies (including bank holding companies that are themselves broker-dealers).[6] The final rule contained in this document applies to all broker-dealers, without regard to whether they are affiliates or subsidiaries of banks or bank holding companies.[7]

Anti-Money Laundering Compliance Programs

The provisions of 31 U.S.C. 5318(h), added to the BSA in 1992 by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, authorize the Secretary of the Treasury ''[i]n order to guard against money laundering through financial institutions * * * [to] require financial institutions to carry out anti-money laundering programs.'' 31 U.S.C. 5318(h)(1). Those programs may include ''the development of internal policies, procedures, and controls''; ''the designation of a compliance officer''; ''an ongoing employee training program'; and ''an independent audit function to test programs.'' 31 U.S.C. 5318(h)(A–D). Section 352 of the USA Patriot Act amended section 5318(h) to require all entities defined as ''financial institutions'' under the BSA, including broker-dealers, to develop and implement anti-money laundering programs by April 24, 2002.

On April 23, 2002, FinCEN promulgated regulations under section 352 of the USA Patriot Act.[8] Among other things, the rules provide that broker-dealers will be deemed to be in compliance with section 352 of the USA Patriot Act if they establish and maintain anti-money laundering programs as required by the SEC or SROs. The SEC has recently published Orders approving rules proposed by the National Association of Securities Dealers, Inc. (''NASD''), the New York Stock Exchange, Inc. (''NYSE''), and the Philadelphia Stock Exchange, requiring member organizations to develop and implement anti-money laundering programs.[9] The rules were drafted to provide minimum standards for the mandatory anti-money laundering program requirement contained in section 352 of the USA Patriot Act. In addition, these securities self-regulatory organization rules will also require broker-dealers to have compliance programs for suspicious transaction reporting.[10]

[4] For example, in April 2001, the Director of the Office of Compliance Inspections and Examinations at the SEC announced that the Commission would undertake compliance sweeps of broker-dealers in the fall of 2001. *See* Money Laundering: It's on the SEC's Radar Screen, Remarks at the Conference on Anti-Money Laundering Compliance for Broker-Dealers Securities Industry Association (May 8, 2001) (transcript available at *www.sec.gov/news/speech/spch486.htm*). BSA compliance with non-suspicious activity reporting related provisions has been included in the SEC's examination and enforcement programs since the 1970s, and in the SROs' programs since 1982. The New York Stock Exchange and the National Association of Securities Dealers have both issued statements dating back to 1989 regarding the importance of suspicious activity reporting to avoid money laundering charges. *See* Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, Anti-Money Laundering Efforts in the Securities Industry, GAO–02–111, October 2001, at 22.

[5] *See* 31 CFR 103.18. The suspicious transaction reporting rules under the BSA for banking organizations previously appeared at 31 CFR 103.21 before that section was renumbered as 31 CFR 103.18. *See* 65 FR 13683, 13692 (March 14, 2000).

[6] For example, 12 CFR 225.4(f) subjects non-bank subsidiaries of bank holding companies to the suspicious transaction reporting requirements of Regulation H of the Board of Governors at 12 CFR 208.62. Broker-dealers to which the bank supervisory agency rules for suspicious transaction reporting currently apply represent approximately half of the business of the broker-dealer industry, although in terms of numbers, they are only a small percentage of the approximately 8,300 broker-dealers in the United States.

[7] Money transmitters, issuers, sellers, and redeemers of money orders, and issuers, sellers, and redeemers of traveler's checks are subject to a similar reporting requirement pursuant to a final rule published in the **Federal Register** on March 14, 2000. *See* 31 CFR 103.20. Under that rule, reporting is required for suspicious transactions involving or aggregating at least $2,000 in general or at least $5,000 in the case of issuers of money orders and traveler's checks to the extent the transactions to be reported are identified from a review of clearance records and similar documents. Finally, FinCEN has proposed a rule that would require casinos and card clubs to report suspicious transactions involving or aggregating at least $3,000. *See* 63 FR 27230 (May 18, 1998), and 67 FR 15138 (March 29, 2002).

[8] *See* 67 FR 21110—21127 (April 29, 2002).

[9] *See* 67 FR 20854 (April 26, 2002), and 67 FR 40366 (June 12, 2002).

[10] Existing securities law and self-regulatory organization rules will ensure that broker-dealers have suspicious activity reporting rule compliance programs in place. In particular, section 19(g) of the Exchange Act provides that ''[e]very self-regulatory organization shall comply with the provisions of this title, the rules and regulations thereunder, and its own rules, and * * * absent reasonable justification or excuse enforce compliance.'' Both the National Association of Securities Dealers and the New York Stock Exchange have promulgated compliance program rules. *See* NASD Rule 3010 and NYSE Rule 342, including Supplemental Material .30. Rule 17a-8 of the Exchange Act requires broker-dealers to comply with applicable

Continued

III. Notice of Proposed Rulemaking

On December 31, 2001, FinCEN published a notice of proposed rulemaking (the ''Notice''), 66 FR 67670, that would extend the requirement to report suspicious transactions to broker-dealers. The comment period for the Notice ended on March 1, 2002. FinCEN received 13 comment letters on the Notice. Of these, six were submitted by trade associations, two by financial holding companies, and one each by a mutual fund complex, bank, law firm, government agency, and compliance company.

IV. Summary of Comments and Revisions

A. Introduction

The format of the final rule is generally consistent with the Notice. The terms of the final rule, however, differ from the terms of the Notice in the following significant respects:

- The categories of reportable activity have been streamlined and reorganized to clarify that all violations of law, other than those specifically exempted by the rule, are within the scope of required reporting;
- An exception from reporting relating to robbery or burglary has been added to the rule;
- Language has been added to clarify that only one report is required to be filed with respect to a reportable transaction, to avoid double reporting on the same transaction by, for example, an introducing broker and a clearing broker.

B. Comments—General Issues

Comments on the Notice discussed several general matters including: (1) The appropriate degree of similarity between the rule and suspicious transaction reporting rules promulgated by the federal banking supervisory agencies under Title 12; (2) the exceptions from reporting for violations of securities laws and SRO rules; (3) the relationship of introducing and clearing brokers in the context of suspicious transaction reporting; (4) the application of the rule to entities that are dually registered as broker-dealers and futures commission merchants; (5) treatment of sellers of variable annuities under the rule; (6) application of the rule to registered broker-dealers located outside the United States; and (7) application of only one set of suspicious transaction reporting rules to broker-dealer affiliates and subsidiaries of bank holding companies.

1. Similarity of the Rule With Title 12 Rules

The Notice proposed requiring a broker-dealer to report two categories of transactions involving or aggregating at least $5,000. The first category consisted of known or suspected federal criminal violations when the broker-dealer is either an actual or potential victim of a criminal violation, or the broker-dealer is used to facilitate a criminal transaction. This category of transaction appears in the suspicious activity reporting rules currently applicable to depository institutions under Title 12 promulgated by the federal banking supervisory agencies, but does not appear in suspicious transaction reporting regulations promulgated by FinCEN under Title 31 for banks and money services businesses (and proposed for casinos). The second category consisted of transactions that (1) involve illegally derived funds (money laundering), (2) appear designed for the purpose of evading BSA requirements, or (3) are unusual, either because they do not seem to be designed to make economic sense, or they are unusual for the particular customer. This second category of reportable transactions appears in both the Title 12 and Title 31 suspicious transaction reporting rules.

Commenters raised several issues about the degree to which the rule proposed in the Notice should be harmonized with the Title 12 suspicious transaction reporting rules. Several commenters argued that for the first category of reportable transactions, the final rule should adopt the three-tiered reporting threshold that appears in the Title 12 rules. Under the Title 12 rules, where a broker-dealer is either an actual or potential victim of a criminal violation, or the broker-dealer is used to facilitate a criminal transaction, the reporting threshold is zero for transactions involving insider abuse, and $5,000 for other types of transactions (or $25,000 if a suspect cannot be identified).

The final rule does not adopt the three-tiered reporting threshold contained in the Title 12 rules. FinCEN's Title 31 SAR rule for banks does not contain a tiered reporting threshold. Rather, the reporting threshold in FinCEN's bank SAR rule is $5,000, regardless of the nature of the suspicious transaction required to be reported. Moreover, as the reporting of insider abuse largely has been carved out of this rule, FinCEN does not believe that it is necessary to adopt the Title 12 threshold for transactions involving insider abuse. The final rule also does not adopt a $25,000 reporting threshold for transactions in which a broker-dealer cannot identify a suspect. First, broker-dealers operate in such a way that in most cases, the identity of their customers will be known to them. Second, the type of activity likely to be reported by a broker-dealer under circumstances where the broker-dealer cannot identify the customer, such as identity theft or fraud, is the sort of activity that this rule is intended to capture, and its reporting should not be limited. Therefore, the reporting threshold for all categories of suspicious transactions required to be reported under the final rule is $5,000.

One commenter argued that, in including the first category of reporting in the Notice, FinCEN exceeded its authority under Section 5318(g) and the USA Patriot Act, contending that this category is not contained in the suspicious transaction reporting rules promulgated by FinCEN under Title 31 with respect to banks and money services businesses. As noted above, the USA Patriot Act imposes upon Treasury a deadline for publication of a final rule requiring broker-dealers to file suspicious transaction reports; the statutory authority under which Treasury implements suspicious transaction reporting rules is contained in 31 U.S.C. 5318(g)(2), which was enacted in 1992. That section authorizes the Secretary of the Treasury to require a financial institution to ''report any suspicious transaction relevant to a possible violation of law or regulation.'' Thus, it is within Treasury's authority to require the reporting of any suspected criminal activity occurring at a financial institution.

Although the first category of reporting does not appear in other Title 31 suspicious transaction reporting rules, it was included in the Notice to ensure that transactions involving legally-derived funds that the broker-dealer suspects are being used for a criminal purpose (for example, transactions that the broker-dealer suspects are designed to fund terrorist activity) would be reported under the rule. Such transactions should be reported under language that already exists in the Title 31 rules. Each rule requires the reporting of a transaction that ''has no business or apparent lawful purpose.'' FinCEN believes that this broad language should be interpreted to require the reporting of transactions that appear unlawful for virtually any reason. Nevertheless, the Notice added the language in its first reporting category to make explicit that

BSA rules. Accordingly, broker-dealers will be required under existing rules to develop compliance programs for the broker-dealer SAR rule proposed in this document.

transactions being carried out for the purpose of conducting illegal activities, whether or not funded from illegal activities, must be reported under the rule. The intent of including this category of reporting is to ensure reporting of situations in which a broker-dealer is being abused by a customer in furtherance of the customer's criminal activities. Because the comments showed some degree of confusion with the language in the first reporting category in the Notice, this category of reporting has been streamlined and re-organized, at paragraph (a)(2)(iv), to clarify that, subject to the explicit exceptions from reporting contained in paragraph (c) of the final rule (relating to robbery, burglary, lost, missing, counterfeit, or stolen securities, and violations of the federal securities law or rules of an SRO), all criminal violations are required to be reported under the final rule.[11]

The second category of reportable transactions in the Notice requires a broker-dealer to report transactions if the broker-dealer knows, suspects, or has reason to suspect that the transaction (or pattern of transactions of which the transaction is a part) falls within one of the three classes explained above. Some commenters argued that the language referring to the reporting of patterns of transactions should be deleted from the rule, urging that it would be unfair to require broker-dealers to report patterns of suspicious transactions, given that the Title 12 and Title 31 suspicious transaction reporting rules applicable to banks do not contain language relating to patterns of suspicious transactions.

The language in the rule requiring the reporting of patterns of transactions is not intended to impose an additional reporting burden on broker-dealers. Rather, it is intended to recognize the fact that a transaction may not always appear suspicious standing alone. In some cases, a broker-dealer may only be able to determine that a suspicious transaction report must be filed after reviewing its records, either for the purposes of monitoring for suspicious transactions, auditing its compliance systems, or during some other review. The language relating to patterns of transactions is intended to make explicit the requirement that FinCEN believes implicitly exists in the suspicious transaction reporting rules for banks: if a broker-dealer determines that a series of transactions that would not independently trigger the suspicion of the broker-dealer, but that taken together, form a suspicious pattern of activity, the broker-dealer must file a suspicious transaction report.[12] For this reason, the pattern of transactions language has been retained in the final rule.

2. Exceptions From Reporting

Several commenters raised issues relating to the exceptions from reporting contained in the Notice. Although generally supporting the exception from reporting relating to violations of federal securities laws or SRO rules by the broker-dealer or any of its associated persons, commenters argued that the exception should not contain a condition requiring a broker-dealer to report the violation to the SEC or an SRO. Commenters argued that existing SEC regulations and SRO rules do not require that all securities violations be reported to the SEC or an SRO, and that the requirement to report suspicious activity to Treasury should not encompass such violations. In addition, commenters suggested that the exception should be broadened to cover securities law violations by a customer of the broker-dealer.

Because the suspicious activity reporting regime established by the final rule implicates a broad array of law enforcement concerns, the exception from reporting has not been expanded. The SEC and SROs already have established a regulatory structure for reporting and maintaining data about securities law violations by broker-dealers. It is not FinCEN's intent in promulgating the final rule to duplicate these efforts. The exception continues to permit a broker-dealer to handle the reporting of a violation of securities laws or rules by the broker-dealer (or any of its officers, directors, employees, or other registered representatives) under existing industry procedures (whether formal or informal) rather than through a Suspicious Activity Report '' Brokers or Dealers in Securities (''SAR–BD''). If a broker-dealer does not in fact report under existing securities industry procedures a violation of securities law or rules by the broker-dealer or any of its associated persons that otherwise would be required to be reported under the terms of the final rule, even in situations in which the rules of the SEC or an SRO would not require a broker-dealer to report such a transaction, the broker-dealer must file a SAR–BD. The final rule continues to provide that the exception from reporting does not apply if the securities law or SRO rule violation is a violation of 17 CFR 240.17a–8 or 17 CFR 405.4 (the regulations that require broker-dealers and government securities broker-dealers, respectively, to comply with the BSA rules). In these situations, the broker-dealer is to report the violation on a SAR–BD.

In response to comments requesting clarification that the language in the exception alters neither the standard for reporting suspicious activity to Treasury, nor any reporting requirements of the SEC or an SRO, the exception to reporting no longer applies to ''possible'' violations of securities laws or rules. Instead, the exception applies to a ''violation otherwise required to be reported'' on a SAR–BD that is a violation of securities laws or rules. Thus, the exception applies to a transaction that a broker-dealer knows, suspects, or has reason to suspect involves a violation by a broker-dealer or any of its associated persons of securities laws or rules, or rules of an SRO, so long as the broker-dealer in fact reports the transaction under existing securities industry procedures. Finally, one commenter suggested that the rule should contain an exception for reporting in the case of a robbery or burglary that is reported by the broker-dealer to appropriate authorities, noting that the suspicious activity reporting rules applicable to banks contain such an exception. The final rule adopts this suggestion.

3. Introducing and Clearing Brokers

Securities transactions may be conducted by broker-dealers that clear their own transactions or by introducing brokers that rely on another firm to clear the transactions. Several commenters recommended that the final rule address the requirement to file a suspicious activity report when both an introducing and clearing broker are involved in a transaction. In particular, the commenters requested that the final rule provide that only one suspicious activity report is required to be filed in this situation. The final rule provides that the obligation to identify and report a suspicious transaction rests with each broker-dealer involved in the transaction, but that only one SAR–BD is required to be filed, provided that the report includes all the relevant facts concerning the transaction. It is

[11] Two commenters requested that the final rule harmonize penalty provisions relating to this category of reportable activity with the penalty provisions applicable to the reporting of such transactions under Title 12. However, the penalties applicable in instances of failure to comply with the requirement contained in this rule are mandated by statute, and cannot be modified by FinCEN. *See* 31 U.S.C. 5321 and 5322.

[12] Indeed, broker-dealers are experienced in reviewing patterns or series of transactions under the federal securities laws for the purpose of identifying securities law violations. *See, e.g.,* 15 U.S.C. 78i(a).

FinCEN's expectation that introducing and clearing broker-dealers wishing to take advantage of this provision with respect to a particular transaction will communicate with each other about the transaction for purposes of sharing information about the transaction, and determining which broker-dealer will file the SAR. In cases in which such communication is appropriate and results in the filing of a SAR, the broker-dealer that has actually filed that SAR may share with the broker-dealer with which the communication was had under paragraph (a)(3), a copy of the filed SAR. However, the limitations found in 31 U.S.C. 5318(g)(2) on further dissemination of the SAR–BD and disclosure of the fact of its filing apply equally to both broker-dealers. Moreover, in certain instances, communication between two broker-dealers about a suspicious transaction and the fact of filing of a SAR–BD would be inappropriate. For example, a broker-dealer that suspects that it is required to report another broker-dealer or one of its employees as the subject of a SAR would be prohibited from notifying the other broker-dealer that a SAR has been filed, because to do so would reveal, or risk revealing, to the subject of a SAR that a SAR has been filed.

The purpose of including this provision in the rule is to allow two broker-dealers that have participated in the same transaction to file only one SAR–BD. In addition, section 314(b) of the USA Patriot Act permits two or more financial institutions and any association of financial institutions upon notice to Treasury to ''share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities.'' On March 4, 2002, FinCEN promulgated an Interim rule and Notice of Proposed Rulemaking relating to information sharing under section 314(b).[13] Language in section 314(b) protects financial institutions disclosing information in accordance with the statutory provision or regulations promulgated thereunder, from liability for such disclosures or for failure to provide notice of such disclosures to the person who is the subject of the disclosure.

4. Futures Commission Merchants

Several commenters raised issues about the application of the Notice to the futures and options activities of dual registrants—persons registered both with the Commodity Futures Trading Commission (''CFTC'') as a futures commission merchant (''FCM'') and with the SEC as a broker-dealer. According to the commenters, the Notice creates an ambiguity concerning the extent to which dual registrants are subject to the proposed suspicious transaction reporting rule. The Notice applies to transactions by, at, or through a broker-dealer, and while the terms of the Notice defining ''transaction'' do not specifically address a contract of sale of a commodity for future delivery or commodity option, the language of that definition, the commenters argued, makes it unclear whether the futures and options activities of dual registrants are covered. The commenters, citing section 356(b) of the USA Patriot Act,[14] recommended that FinCEN proceed with a separate rulemaking specifically for FCMs if it wishes to subject the futures and options activities of dual registrants to suspicious transaction reporting. In response to the comments, FinCEN wishes to clarify that the final rule does not apply to dual registrants to the extent of their activities subject to the exclusive jurisdiction of the CFTC. (The final rule does apply, however, to activities of dual registrants involving securities futures products, and to any other products over which the SEC or another federal agency also has jurisdiction, because such products are not subject to the CFTC's exclusive jurisdiction.)

5. Persons Selling Variable Annuities

As explained in the Notice, persons required to register as broker-dealers solely to permit the sale of variable annuities of life insurance companies will be required to report suspicious transactions. (*See* 66 FR 67672.) In 1972, Treasury granted such persons an exemption from the provisions of 31 CFR part 103 (*See* 37 FR 248986, 248988, November 23, 1972). This exemption will be withdrawn in a separate document published in the **Federal Register**. As a result, a person registered with the SEC as a broker-dealer solely to offer and sell variable annuity contracts issued by life insurance companies will be subject to the suspicious activity reporting rules of 31 CFR 103.19 and all other BSA requirements to the extent they offer and sell such contracts.

6. Broker-Dealers Outside the United States

The Notice relies on the definition of broker-dealer in existing 31 CFR 103.11(f)—any ''broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.'' As a result, one commenter requested that the final rule clarify that the new suspicious transaction rule does not apply to broker-dealers registered with the SEC but located outside the United States. The final rule makes the requested clarification.

7. Broker-Dealer Affiliates or Subsidiaries of Banks and Bank Holding Companies

As explained above, broker-dealers that are affiliates or subsidiaries of banks or bank holding companies are already required to report suspicious transactions under the Title 12 rules promulgated by the banking supervisory agencies. In order to ensure that broker-dealers are only subject to one suspicious transaction reporting requirement, FinCEN has requested that the federal banking supervisory agencies amend their regulations to exempt broker-dealers from having to report suspicious transactions under Title 12 rules.

One commenter asked that the final rule amend 31 CFR 103.18, which requires banks to report suspicious transactions, to make that rule inapplicable to broker-dealer affiliates of banks. This is unnecessary. The part 103 rules do not look to the status of a parent company in a bank holding company group for the purpose of determining what rules a company owned by the parent must apply. For example, the part 103 rules do not treat non-bank subsidiaries of bank holding companies as falling within the definition of bank for purposes of the part 103 regulations. Thus, a broker-dealer affiliate or subsidiary of a bank or bank holding company is subject to the suspicious transaction reporting rules in 31 CFR 103.19, rather than the rules applicable to depository institutions in 31 CFR 103.18.

V. Section-by-Section Analysis

A. 103.11(ii)—Transaction

The final rule amends the definition of ''transaction'' in the BSA regulations explicitly to include the term ''security,'' itself defined in new paragraph 103.11(ww) as explained

[13] The Interim rule appears at 67 FR 9874 (March 4, 2002), and the Notice of Proposed Rulemaking appears at 67 FR 9879 (March 4, 2002).

[14] Section 356(b) provides that the Secretary, in consultation with the CFTC, may prescribe regulations requiring FCMs (and commodity trading advisors and commodity pool operators) registered under the Commodity Exchange Act to submit suspicious transaction reports under 31 U.S.C. 5381(g). Treasury is currently consulting with the CFTC about such regulations.

below. Some commenters argued that the definition of ''transaction'' should be changed to make it identical to the definition of ''transaction'' that appears in the suspicious transaction reporting rules promulgated by the federal banking supervisory agencies.[15] However, the definition of transaction contained in paragraph 103.11(ii) applies to all the requirements of, and entities subject to, the BSA regulations found in 31 CFR part 103, and FinCEN does not believe that it would be appropriate to make such a far-reaching change in order to reflect the definitional language in a different title that is administered by other agencies. As banks already must comply with the BSA obligations of 31 CFR part 103 pursuant to its definition of ''transaction,'' there will be no discrepancy in the treatment of regulated entities by retaining this definition.

B. 103.11(ww)—Security

The final rule adds a definition of ''security'' to 31 CFR part 103 that includes any instrument or interest that falls within the definition of ''security'' in section (3)(a)(10) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10). The addition of a definition of ''security'' to the BSA regulations, and the corresponding addition of this term to the definition of ''transaction'' contained in paragraph 103.11(ii), is necessary to ensure that the reporting requirement conforms to the definition of ''broker or dealer in securities'' contained in 31 CFR 103.11(f), so as to cover all activity that should be reported under the rule.

C. 103.19(a)—Reports by Broker-Dealers of Suspicious Transactions—General

Paragraph 103.19(a)(1) generally sets forth the requirement that broker-dealers located within the United States report suspicious transactions to the Department of the Treasury. The paragraph also permits, but does not require, a broker-dealer voluntarily to file a suspicious transaction report in situations in which mandatory reporting is not required. In light of the definition of ''broker or dealer in securities'' in 31 CFR 103.11(f), reporting would be required by any:

Broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

In response to a comment about the scope of this definition, FinCEN wishes to clarify that this definition covers brokers and dealers registered or required to be registered with the SEC, whether under section 15, 15B, or 15C(a)(1)(A) of the Securities and Exchange Act of 1934.[16]

Paragraph (a)(2) provides that a transaction requires reporting under the rule if it is conducted or attempted by, at, or through a broker-dealer, involves or aggregates at least $5,000 in funds or other assets (such as securities), and the broker-dealer knows, suspects, or has reason to suspect that the transaction falls within one of four categories of transactions. It should be noted that transactions require reporting under the final rule whether or not they involve currency.

1. Dollar Threshold for Reporting

The final rule continues to require reporting of suspicious transactions of at least $5,000. As the Notice explained, the rule is not intended to require broker-dealers mechanically to review every transaction that exceeds the reporting threshold. Rather, it is intended that broker-dealers, and indeed every type of financial institution to which the suspicious transaction reporting rules of 31 CFR part 103 apply, will evaluate customer activity and relationships for money laundering risks, and design a suspicious transaction monitoring program that is appropriate for the particular broker-dealer in light of such risks. In other words, it is expected that broker-dealers will follow a risk-based approach in monitoring for suspicious transactions, and will report all detected suspicious transactions that involve $5,000 or more in funds or other assets.

2. Reporting Standard

Paragraph (a)(2) requires reporting if a broker-dealer ''knows, suspects, or has reason to suspect'' that a transaction requires reporting under the rule. This reporting standard reflects a concept of due diligence in the reporting requirement. One commenter argued that the ''has reason to suspect'' language should be removed, and that the issue of due diligence should be addressed as a matter of assessing the adequacy of a broker-dealer's anti-money laundering compliance program. The final rule retains the ''has reason to suspect'' language. FinCEN believes that compliance with the rule cannot be adequately enforced without an objective standard. The reason-to-suspect standard means that, on the facts existing at the time, a reasonable broker-dealer in similar circumstances would have suspected the transaction was subject to SAR reporting. This is a flexible standard that adequately takes into account the differences in operating realities among various types of broker-dealers, and is the standard contained in the existing SAR rules for depository institutions and money services businesses. A regulator's review of the adequacy of a broker-dealer's anti-money laundering compliance program is not a substitute for, although it could be relevant to, an inquiry into the failure of a broker-dealer to report a particular suspicious transaction.

3. Scope of Reporting

Paragraph (a)(2) contains four categories of reportable transactions. The first category, described in paragraph (a)(2)(i), includes transactions involving funds derived from illegal activity or intended or conducted to hide or disguise funds or assets derived from illegal activity. The second category, described in paragraph (a)(2)(ii), involves transactions designed, whether through structuring or other means, to evade the requirements of the BSA. The third category, described in paragraph (a)(2)(iii), involves transactions that appear to serve no business or apparent lawful purpose or are not the sort of transactions in which the particular customer would be expected to engage, and for which the broker-dealer knows of no reasonable explanation after examining the available facts. The fourth category, described in paragraph (a)(2)(iv), involves the use of the broker-dealer to facilitate criminal activity. As explained above, the fourth category of reportable transactions is intended to cover transactions intended to further a criminal purpose, but apparently involving legally-derived funds.

One commenter argued that the requirement to report transactions that are unusual for the particular customer should be removed, because it is overly burdensome to require a broker-dealer to report transactions that could not definitively be linked to wrongdoing. However, FinCEN believes that it is appropriate to include transactions that vary so substantially from normal practice that they legitimately can and should raise suspicions of possible

[15] *See, e.g.,* 12 CFR 208.62(c)(4), defining ''transaction'' for purposes of reporting potential money laundering, violations of the BSA, or transactions with no business or apparent lawful purpose, as ''a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.''

[16] The preamble of the Notice provided specific citations to the definitions of ''broker,'' ''dealer,'' and ''security'' under the Securities and Exchange Act of 1934 for illustrative purposes only, and not to limit in any way the scope of the definition found at 31 CFR 103.11(f).

illegality. For a discussion of this category as a ''red flag,'' *see* NASD Notice to Members 02–21, NASD Provides Guidance to Member Firms Concerning Anti-Money Laundering Compliance Programs Required by Federal Law (April 2, 2002), available on the NASD Web site, http://*www.nasd.com.*

Several commenters requested that FinCEN clarify that the rule does not require the reporting of suspected violations of state or foreign law. The final rule does not exclude the reporting of all violations of state law (rather, as explained below, certain state law crimes, such as burglary, have been specifically excepted from the reporting requirement). The final rule also does not explicitly carve out the reporting of suspected violations of foreign law. Particularly with respect to fraud and money laundering, it would be difficult for a broker-dealer to determine whether the suspected illegal activity involved in the transaction related to violations of state or foreign law. Moreover, violation of state law, or even foreign law, can be relevant to federal crimes, especially in money laundering cases brought under 18 U.S.C. 1956, 1957, or 1960, in which violations of state or foreign law may serve as a predicate for a federal offense.

4. Allocation of Responsibility for Reporting

As noted above, paragraph (a)(3) provides that the obligation to identify and report a suspicious transaction rests with each broker-dealer involved in the transaction, but only one SAR–BD is required to be filed, provided that the report includes all the relevant facts concerning the transaction. Guidance issued by the NASD addresses the need for introducing and clearing firms to make information available to one another for purposes of suspicious activity reporting.[17] In addition, it should be noted that the final rule does not require a broker-dealer to alter its relationship with its customers in a way that is inconsistent with industry practice. For example, commenters expressed concern that certain entities covered by the rule (*e.g.,* clearing brokers), which may not have the same level of knowledge with respect to their customers as other entities covered by the rule would normally be expected to have, would be expected to re-structure their relationships with customers in order to comply with the rule. FinCEN recognizes that, based on the nature of the services they provide to their customers, certain types of broker-dealers will have more information available to them in making such determinations than other types of broker-dealers.[18] The rule is intended to adjust to the different operating realities found in different types of financial institutions.

D. 103.19(b)—Filing Procedures

Paragraph (b) continues to set forth the filing procedures to be followed by broker-dealers making reports of suspicious transactions. Within 30 days after a broker-dealer becomes aware of a suspicious transaction, the broker-dealer must report the transaction by completing a SAR–BD and filing it in a central location, to be determined by FinCEN. Some commenters requested that broker-dealers be permitted to use the suspicious transaction reporting form currently used by banks, because many broker-dealers are already familiar with the form, having used it to file SARs either on a voluntary basis, or as required under the federal banking supervisory rules. However, FinCEN believes that a reporting form tailored to the broker-dealer industry will promote better reporting and result in a more useful collection of information.

If a broker-dealer is unable to identify a suspect on the date the suspicious transaction is initially detected, the rule provides the broker-dealer with an additional 30 calendar days to identify the suspect before filing a SAR–BD, but the suspicious transaction must be reported within 60 calendar days after the date of initial detection of the suspicious transaction, whether or not the broker-dealer is able to identify a suspect.

One commenter suggested that it is overly burdensome to require a broker-dealer, in situations involving violations requiring immediate attention, to notify by telephone both an appropriate law enforcement authority and the SEC. To accommodate this concern, the final rule requires a broker-dealer to immediately notify by telephone an appropriate law enforcement authority only in situations that require immediate attention, such as terrorist financing or ongoing money laundering schemes. Broker-dealers may also, but are not required to, contact the SEC in such situations. In addition, the rule reminds broker-dealers of FinCEN's Financial Institutions Hotline (1–866–556–3974) for use by financial institutions wishing voluntarily to report to law enforcement suspicious transactions that may relate to terrorist activity. Broker-dealers reporting suspicious activity by calling the Financial Institutions Hotline must still file a timely SAR–BD to the extent required by the final rule.

E. 103.19(c)—Exceptions

Paragraph (c) contains exceptions from the reporting requirement. Paragraph (c)(1)(i) provides that a broker-dealer is not required to report under the final rule a robbery or burglary that the broker-dealer reports to an appropriate law enforcement authority, or lost, missing, counterfeit, or stolen securities that the broker-dealers reports in accordance with existing SEC rules. Paragraph (c)(1)(ii) permits the reporting of a violation of federal securities laws or rules of an SRO by a broker-dealer or any of its associated persons under existing industry procedures rather than through a SAR–BD. The exception does not apply, however, if the securities law or SRO rule violation is a violation of 17 CFR 240.17a–8 or 17 CFR 405.4. Such violations must be reported on a SAR–BD.

F. 103.19(d)—Retention of Records

Paragraph (d) continues to provide that broker-dealers must maintain copies of SAR–BDs they file and the original related documentation (or business record equivalent) for a period of five years from the date of filing. Supporting documentation is to be made available to FinCEN, appropriate law enforcement authorities or federal securities regulators, or an SRO registered with the SEC for purposes of examining the broker-dealer for compliance with this rule.

G. 103.19(e)—Confidentiality of Reports

Paragraph (e) continues to incorporate the terms of 31 U.S.C. 5318(g)(2) and (g)(3). Thus, this paragraph specifically prohibits persons filing reports in compliance with the final rule from disclosing, except to FinCEN, the SEC, or another appropriate law enforcement or regulatory agency, or an SRO registered with the SEC conducting an examination of the broker-dealer for compliance with the final rule, that a report has been filed or from providing any information that would disclose that a report has been prepared or filed. This paragraph does not prohibit an introducing broker and a clearing broker from discussing with each other, for purposes of paragraph (a)(3), suspicious activity involving a transaction with respect to which both broker-dealers have been involved, and the determination which broker-dealer will file the SAR in such a case. In addition,

[17] *See* NASD Notice to Members 02–21.

[18] Customer identification and verification requirements will be dealt with in forthcoming rules to be issued under section 326 of the USA Patriot Act.

as noted above, section 314(b) of the USA Patriot Act permits financial institutions, upon providing notice to Treasury, to share information with one another solely for the purpose of identifying and reporting to the federal government activities that may involve money laundering or terrorist activity.

H. 103.19(f)—Limitation of Liability

Paragraph (f) continues to restate the broad protection from liability for making reports of suspicious transactions (whether such reports are required by the final rule or made voluntarily), and for failure to disclose the fact of such reporting, contained in the statute as amended by the USA Patriot Act. The paragraph reflects amendments to the statutory safe harbor that were made under section 351 of the USA Patriot Act, including specific application of the safe harbor to voluntary reports of suspicious transactions, and availability of the safe harbor in the arbitration of securities industry disputes. The regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection; however, because FinCEN recognizes the importance of these statutory provisions in the overall effort to encourage meaningful reports of suspicious transactions and to protect the legitimate privacy expectations of those who may be named in such reports, they are repeated in the rule to remind compliance officers and others of their existence.

I. 103.19(g)—Examination and Enforcement

Paragraph (g) continues to provide that compliance with the rule will be examined by FinCEN or its delegees,[19] and that a broker-dealer must provide copies of a filed SAR–BD to an SRO registered with the SEC that is examining a broker-dealer for compliance with the rule.

J. 103.19(h)—Effective Date

Paragraph (h) continues to provide a 180-day period before which compliance with the final rule will become mandatory. Broker-dealers required to comply with suspicious transaction reporting rules promulgated by the federal banking supervisory agencies should continue complying with such requirements until reporting under the terms of this final rule is required. Two commenters requested that FinCEN create a mechanism for broker-dealers to request an extension of the effective date of the final rule. Given the 180-day period before compliance with the requirement is required under the rule, FinCEN does not believe such a procedure is necessary.

[19] *See* 31 CFR 103.56(b)(6) (delegating examination authority for broker-dealers to the SEC).

VI. Executive Order 12866

The Department of the Treasury has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VII. Regulatory Flexibility Act

FinCEN certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. All broker-dealers, regardless of their size, are currently subject to the BSA. Procedures currently in place at broker-dealers to comply with existing BSA rules should help broker-dealers identity suspicious transactions. Finally, certain small broker-dealers may have an established and limited customer base whose transactions are well-known to the broker dealer.

VIII. Paperwork Reduction Act

The collection of information contained in this final regulation has been approved by the Office of Management and Budget (''OMB'') in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1506–0019. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is in 31 CFR 103.19(d). This information is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.20. This information will be used by law enforcement agencies in the enforcement of criminal and regulatory laws. The collection of information is mandatory. The likely recordkeepers are businesses.

The estimated average recordkeeping burden associated with the collection of information in this final rule is four hours per recordkeeper. Although the estimated average recordkeeping burden contained in the Notice was three hours, the burden has been revised in response to a comment arguing that the estimate should better reflect the amount of time involved in analyzing whether complex transactions require reporting under the rule. This burden relates to the recordkeeping requirement contained in the final rule. The reporting burden of 31 CFR 103.19 will be reflected in the burden of the form, SAR–BD.

FinCEN anticipates that the final rule will result in an annual filing of a total of 2,000 SAR–BD forms. This result is an estimate extrapolated from the number of suspicious activity reports currently being filed by the broker-dealer industry either on a mandatory basis under the bank supervisory agency rules or voluntarily. One commenter suggested that this estimate is too low. FinCEN will monitor the filing of Suspicious Activity Report—BD under the final rule in order to determine whether this number should be revised.

Comments concerning the accuracy of this burden estimate should be directed to the Financial Crimes Enforcement Network, Department of the Treasury, Post Office Box 39, Vienna, VA 22183, and to the Office of Management and Budget, Attn: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks, banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR part 103 is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5332; title III, secs. 314, 352, Pub. L. 107–56, 115 Stat. 307.

2. In § 103.11, paragraph (ii)(1) is revised and new paragraph (ww) is added to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or security, purchase or redemption of any money order, payment or order for any money remittance or transfer, or any other payment, transfer, or delivery by,

through, or to a financial institution, by whatever means effected.

* * * * *

(ww) *Security.* Security means any instrument or interest described in section 3(a)(10) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10).

3. In Subpart B, add new § 103.19 to read as follows:

§ 103.19 Reports by brokers or dealers in securities of suspicious transactions.

(a) *General.* (1) Every broker or dealer in securities within the United States (for purposes of this section, a ''broker-dealer'') shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A broker-dealer may also file with FinCEN a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section. Filing a report of a suspicious transaction does not relieve a broker-dealer from the responsibility of complying with any other reporting requirements imposed by the Securities and Exchange Commission or a self-regulatory organization (''SRO'') (as defined in section 3(a)(26) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(26)).

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a broker-dealer, it involves or aggregates funds or other assets of at least $5,000, and the broker-dealer knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the broker-dealer knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the broker-dealer to facilitate criminal activity.

(3) The obligation to identify and properly and timely to report a suspicious transaction rests with each broker-dealer involved in the transaction, provided that no more than one report is required to be filed by the broker-dealers involved in a particular transaction (so long as the report filed contains all relevant facts).

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report—Brokers or Dealers in Securities (''SAR–BD''), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR–BD shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR–BD.

(3) *When to file.* A SAR–BD shall be filed no later than 30 calendar days after the date of the initial detection by the reporting broker-dealer of facts that may constitute a basis for filing a SAR–BD under this section. If no suspect is identified on the date of such initial detection, a broker-dealer may delay filing a SAR–BD for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as terrorist financing or ongoing money laundering schemes, the broker-dealer shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR–BD. Broker-dealers wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–BD if required by this section. The broker-dealer may also, but is not required to, contact the Securities and Exchange Commission to report in such situations.

(c) *Exceptions.* (1) A broker-dealer is not required to file a SAR–BD to report:

(i) A robbery or burglary committed or attempted of the broker-dealer that is reported to appropriate law enforcement authorities, or for lost, missing, counterfeit, or stolen securities with respect to which the broker-dealer files a report pursuant to the reporting requirements of 17 CFR 240.17f–1;

(ii) A violation otherwise required to be reported under this section of any of the federal securities laws or rules of an SRO by the broker-dealer or any of its officers, directors, employees, or other registered representatives, other than a violation of 17 CFR 240.17a–8 or 17 CFR 405.4, so long as such violation is appropriately reported to the SEC or an SRO.

(2) A broker-dealer may be required to demonstrate that it has relied on an exception in paragraph (c)(1) of this section, and must maintain records of its determinations to do so for the period specified in paragraph (d) of this section. To the extent that a Form RE–3, Form U–4, or Form U–5 concerning the transaction is filed consistent with the SRO rules, a copy of that form will be a sufficient record for purposes of this paragraph (c)(2).

(3) For the purposes of this paragraph (c) the term ''federal securities laws'' means the ''securities laws,'' as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47), and the rules and regulations promulgated by the Securities and Exchange Commission under such laws.

(d) *Retention of records.* A broker-dealer shall maintain a copy of any SAR–BD filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR–BD. Supporting documentation shall be identified as such and maintained by the broker-dealer, and shall be deemed to have been filed with the SAR–BD. A broker-dealer shall make all supporting documentation available to FinCEN, any other appropriate law enforcement agencies or federal or state securities regulators, and for purposes of paragraph (g) of this section, to an SRO registered with the Securities and Exchange Commission, upon request.

(e) *Confidentiality of reports.* No financial institution, and no director, officer, employee, or agent of any financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported, except to the extent permitted by paragraph (a)(3) of this section. Thus, any person subpoenaed or otherwise requested to disclose a SAR–BD or the information contained in a SAR–BD, except where such disclosure is requested by FinCEN, the Securities and Exchange Commission, or another appropriate law enforcement or regulatory agency, or for purposes of paragraph (g) of this section, an SRO registered with the Securities and Exchange Commission, shall decline to

produce the SAR–BD or to provide any information that would disclose that a SAR–BD has been prepared or filed, citing this paragraph (e) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto.

(f) *Limitation of liability.* A broker-dealer, and any director, officer, employee, or agent of such broker-dealer, that makes a report of any possible violation of law or regulation pursuant to this section or any other authority (or voluntarily) shall not be liable to any person under any law or regulation of the United States (or otherwise to the extent also provided in 31 U.S.C. 5318(g)(3), including in any arbitration proceeding) for any disclosure contained in, or for failure to disclose the fact of, such report.

(g) *Examination and enforcement.* Compliance with this section shall be examined by the Department of the Treasury, through FinCEN or its delegees, under the terms of the Bank Secrecy Act. Reports filed under this section shall be made available to an SRO registered with the Securities and Exchange Commission examining a broker-dealer for compliance with the requirements of this section. Failure to satisfy the requirements of this section may constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

(h) *Effective date.* This section applies to transactions occurring after December 30, 2002.

Dated: June 25, 2002.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 02–16416 Filed 6–28–02; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 02–001]

RIN 2115–AA97

Security Zone; Liquefied Natural Gas Tankers, Cook Inlet, AK

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard is establishing permanent security zones for Liquefied Natural Gas (LNG) tankers within the Western Alaska Marine Inspection Zone and Captain of the Port Zone. This rule establishes a 1000-yard radius security zone around the LNG tankers while they are moored at Phillips Petroleum LNG Pier and also while they are transiting inbound and outbound in the waters of Cook Inlet, AK between Phillips Petroleum LNG Pier and the Homer Pilot Station. This action is necessary to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community against terrorism, sabotage or other subversive acts and incidents of a similar nature during loading operations and inbound and outbound transits of the LNG tankers. These security zones temporarily close all navigable waters within a 1000-yard radius of the tankers.

DATES: Effective July 6, 2002, except for § 165.1709 (b)(1)(ii) which contains information collection requirements that have not been approved by OMB. We will publish a document in the **Federal Register** announcing the effective date of this paragraph. Comments and related material must reach the Docket Management Facility on or before September 30, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before September 30, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (COTP Western Alaska 02–001) and are available for inspection or copying at the Coast Guard Marine Safety Office at 510 L Street, Suite 100, Anchorage, AK 99501 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mark McManus, USCG Marine Safety Detachment Kenai, at (907) 283–3292 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 25, 2002, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zone, Liquefied Natural Gas Tankers, Cook Inlet, AK'' in the **Federal Register** (67 FR 20474). We received six letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Threats of terrorist attacks on the maritime infrastructure have heightened security concerns in United States ports. Due to the flammable nature of LNG tankers, it is important to develop this rulemaking and implement security measures without delay to prevent possible sabotage, subversive activity and terrorist attacks to the LNG tankers. The delay encountered, if normal rulemaking procedures were followed, would be contrary to the public interest. We must take immediate action to protect the LNG tankers, Port Nikiski, and persons and property in the maritime community from potential hazards. In addition, a commercial fisheries opening commences on July 8, 2002, in Cook Inlet and set netters fish in the waters underneath and surrounding the LNG pier. This rule must go into effect prior to this opening so that we may collect the necessary information from the fishermen to avoid disruption of their commercial business.

Background and Purpose

The Coast Guard is establishing permanent security zones to safeguard LNG tankers, Nikiski marine terminals, the community of Nikiski, and the maritime community from sabotage or subversive acts and incidents of a similar nature.

This rule establishes a 1000-yard radius security zone around LNG tankers while the vessels are moored at the Phillips Petroleum LNG Pier, Nikiski, AK. It also creates a 1000-yard radius moving security zone around the LNG tankers during their inbound and outbound transits in the navigable waters of the United States; specifically, starting and ending at the Homer Pilot Station in Cook Inlet, AK. The security zones are designed to permit the safe and timely mooring, loading and departure of the vessels and the safe transit through Cook Inlet by minimizing potential waterborne threats to this operation. The limited size of the zone is designed to minimize impact on other mariners transiting through the area while ensuring public safety by preventing interference with the safe and secure loading and transit of the tankers.

This rule also requires a collection of information from fishing vessel operators and owners that conduct fishing operations in the vicinity of the LNG pier. Fishing vessel operators and owners will be required to submit this information only one time, but are required to notify the Marine Safety Detachment Kenai, Alaska if any of the information changes.

Discussion of Comments and Changes

We received 6 letters containing 10 comments in response to our NPRM. The information in this section

discusses the comments we received, provides the Coast Guard's response, and explains any changes we are making to the regulation.

One comment supported the establishment of a permanent security zone around LNG vessels.

Four comments requested that it be known for the record that the set net fishermen using the area around the Phillips Petroleum LNG pier, and other Nikiski marine terminals, started fishing in these waters and had fishermen's leases with the State of Alaska, before the aforementioned facilities were built.

Four comments stated that they did not expect the security zone, as it stands now, to interfere with their commercial fishing business.

One comment said it was unclear as to whether the security zone in § 165.1709(b)(ii)(C) includes both security zones. The stated section has been moved to § 165.1709(b)(ii)(D) and includes the security zone around the Phillips Petroleum LNG Pier. We have added wording to the new section to clarify this point.

We made two changes to the regulation as proposed in the NPRM. Because these changes were not subject to comment, we are issuing an interim rule with request for comments on these two changes.

We changed § 165.1709(b)(3), concerning broadcasting a Notice to Mariners informing vessel operators of the LNG tankers' exact arrivals and departures. Due to security reasons, the LNG tankers exact arrivals and departures will not be broadcast. Instead, we will issue a Local Notice to Mariners with general information and a bimonthly Broadcast Notice to Mariners to remind vessel operators of the security zones for the LNG tankers.

The second change we made was to § 165.1709(b)(1)(ii)(C). We moved the original sentence to § 165.1709(b)(1)(ii)(D) and added § 165.1709(b)(1)(ii)(E). We then added a new sentence to § 165.1709(b)(1)(ii)(C) to clarify how often and when we need to collect information from fishing vessel operators and owners before allowing them to fish in the security zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12886, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the waters of Cook Inlet and dock at other Nikiski marine terminals.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Phillips Petroleum LNG Pier during the time this zone is activated; and the owners or operators of fishing vessels operating their nets in the vicinity of the Phillips Petroleum LNG Pier during the months of July through August.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Cook Inlet during the zones' activation. Additionally, vessels with cargo to load or unload from other Nikiski marine terminals in the vicinity of the zone will not be precluded from mooring at or getting underway from the terminals. The owners of fishing vessels that typically fish in the vicinity of the LNG pier during the summer months will not be prohibited from operating if they notify and provide information to the Coast Guard Marine Safety Detachment in Kenai before fishing in the security zone. The Coast Guard will collect information from them that is essential to keeping the pier secure from sabotage or subversive activities.

Collection of Information

This rule modifies an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. We did not receive any comments on Collection of Information.

The Captain of the Port, Western Alaska requires information on fishing vessel owners and operators, and their vessels, desiring to fish in the security zone around the Phillips Petroleum LNG Pier. This information is required to ensure port and vessel safety and security and to ensure uninterrupted fishing industry openings and to control vessel traffic, develop contingency plans, and enforce regulations.

You are not required to respond to a collection of information unless it displays a currently valid control number from OMB.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Consultation and Coordination With Indian Tribal Governments

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

Energy Effects

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

Environment

We considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a security zone. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.1709 to read as follows:

§ 165.1709 Security Zones: Liquefied Natural Gas Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, AK.

(a) *Location.* The following areas are established as security zones during the specified conditions:

(1) All navigable waters within a 1000-yard radius of the Liquefied Natural Gas (LNG) tankers during their inbound and outbound transits through Cook Inlet, Alaska between the Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W, and the Homer Pilot Station at 59°34′86″N and 151°25′74″W. On the inbound transit, this security zone remains in effect until the tanker is alongside the Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W.

(2) All navigable waters within a 1000-yard radius of the Liquefied Natural Gas tankers while they are moored at Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W.

(b) *Special Regulations.* (1) For the purpose of this section, the general regulations contained in 33 CFR 165.33 apply to all but the following vessels in the areas described in paragraph (a):

(i) Vessels scheduled to moor and offload or load cargo at other Nikiski marine terminals that have provided the Coast Guard with an Advance Notice of Arrival.

(ii) Commercial fishing vessels, including drift net and set net vessels, fishing from the waters within the zone, if

(A) The owner of the vessel has previously requested approval from the Captain of the Port representative, Marine Safety Detachment Kenai, Alaska, to fish in the security zone and

(B) Has provided the Captain of the Port representative, Marine Safety Detachment Kenai, Alaska current information about the vessel, including:

(*1*) The name and/or the official number, if documented, or state number, if numbered by a state issuing authority;

(*2*) A brief description of the vessel, including length, color, and type of vessel;

(*3*) The name, Social Security number, current address, and telephone number of the vessel's master, operator or person in charge; and

(*4*) Upon request, information on the vessel's crew.

(C) A vessel owner or operator is required to submit the information one time, but shall provide the Captain of the Port representative updated information when any part of it changes.

(D) The Captain of the Port must approve a vessel's request prior to being allowed into the security zone at the Phillips Petroleum LNG Pier.

(E) The vessel is operated in compliance with any specific orders issued to the vessel by the Captain of the Port or other regulations controlling the operation of vessels within the security zone that may be in effect.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(3) The Marine Safety Detachment Kenai, Alaska will notify the maritime community of these security zones by publishing a Local Notice to Mariners and via a bimonthly marine Broadcast Notice to Mariners.

Dated: June 12, 2002.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 02–16394 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–02–041]

RIN 2115–AA97

Security Zone; Georgetown Channel, Potomac River, Washington, DC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone. This action is necessary to provide for safety and security of an anticipated 400,000 visitors during the annual July 4th celebration on the National Mall in Washington, DC. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via the waterfront seawall, and safeguard spectators and participants.

DATES: This rule is effective from 6 a.m to 11 p.m. local time on July 4, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–02–041 and are available for inspection or copying at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791,

between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Charles A. Roskam II, Port Safety and Security, Coast Guard Activities Baltimore, telephone number (410) 576–2676.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This temporary security zone of short duration is necessary to provide for the security of the United States. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area of this nationally significant event via the waterfront seawall, and safeguard the United States and United States' interests during this event. To delay the effective date would be impracticable and contrary to the public interest.

Background and Purpose

On July 4, 2002, an anticipated 400,000 visitors will attend the annual July 4th celebration on the National Mall in Washington, DC. This security zone is necessary to prevent access to unauthorized persons who may attempt to enter the secure area of this nationally significant event via the waterfront seawall, and to provide for the security of the spectators and participants.

Discussion of Rule

This rule, for security reasons, limits access to the regulated area to those vessels authorized to enter and operate within the security zone. The Captain of the Port or his designated representative may authorize access to the security zone. In addition, the Coast Guard will make notifications via maritime advisories.

Regulatory Evaluation

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

This temporary rule will be in effect for a limited duration. The Captain of the Port or his designated representative may authorize access to the security zone. In addition, the Coast Guard will make notifications via maritime advisories.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to operate or anchor in the Georgetown Channel, Potomac River, from the George Mason Memorial Bridge upstream to the Arlington Memorial Bridge from 6 a.m. to 11 p.m. on July 4, 2002.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for less than twenty four hours. Although the security zone will apply to the entire width of the river, traffic will be allowed to pass through the zone with the permission of the Coast Guard Captain of the Port or his designated representative. Additionally, the Coast Guard will make notifications via marine advisories so that mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and preliminarily concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This is a security zone less than one week in duration. The environmental analysis and ''Categorical Exclusion Determination'' will be prepared and submitted after establishment of this temporary security zone. The Categorical Exclusion Determination will be made available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.TD05–02–041 to read as follows:

§ 165.TD05–02–041 Security zone; Georgetown Channel, Potomac River, Washington, DC.

(a) *Location.* The following area is a security zone: the waters of the Georgetown channel of the Potomac River, within an area 200 feet from the river's Washington, DC shore, from the George Mason Memorial Bridge upstream to the Arlington Memorial Bridge, including the waters of the Georgetown Channel Tidal Basin.

(b) *Captain of the Port.* Captain of the Port means the Commanding Officer of Coast Guard Activities Baltimore, Baltimore, MD, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels requiring entry into or passage within the security zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by radio on VHF–FM channel 16.

(3) The operator of any vessel within or in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his designated representative, and

(ii) Proceed as directed by the Captain of the Port or his designated representative.

(d) *Effective period.* This section is effective from 6 a.m. to 11 p.m. local time on July 4, 2002.

Dated: June 19, 2002.

E.Q. Kahler,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. 02–16524 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD062–3087a; FRL–7236–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Visible Emissions and Open Fire Amendments; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: This document corrects an error in the rule language of a final rule pertaining to EPA's approval of revisions to the Maryland State Implementation Plan (SIP). These revisions establish the exemption of certain intermittent visible emissions at Federal facilities, amend open burning distance limitations, and establish specific requirements for safety determinations at Federal facilities.

EFFECTIVE DATE: August 12, 2002.

FOR FURTHER INFORMATION CONTACT: Betty Harris, (215) 814–2168 or by e-mail at *harris.betty@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: On June 11, 2002 (67 FR 39856), EPA published a final rulemaking action announcing approval of the revisions Code of Maryland Administrative Regulations (COMAR) governing visible emissions and open burning. In this document, EPA inadvertently included a reference in section 52.1070(c)(173)(i)(B)(*1*) to a revised COMAR provision which is unrelated to the SIP revision action. This document corrects the erroneous language.

In rule document 02–14491 published in the **Federal Register** on June 11, 2002 (67 FR 39856), on page 39858 in the third column, paragraph 52.1070(c)(173)(i)(B)(*1*) is corrected to read ''COMAR 26.11.06.02A(1)—introductory text of paragraph (1) [revised], and 26.11.06.02A(1)(j) [added].''

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment

requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of August 12, 2002. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR 52.1070(c)(173)(i)(B)(*1*) for Maryland is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: June 14, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, EPA Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

2. Section 52.1070 is amended by revising paragraph (c)(173), added on June 11, 2002 (67 FR 39856) and effective on August 12, 2002, to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(173) Revisions to the Maryland State Implementation Plan submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated February 6, 1998 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, concerning exemption of certain intermittent visible emissions requirements at Federal facilities, establishment of specific requirements for safety determinations at Federal facilities, and amendment to open burning distance limitations under the ''open fire'' rule.

(B) The following additions and revisions to the Code of Maryland Administrative Regulations (COMAR), effective August 11, 1997:

(*1*) COMAR 26.11.06.02A(1)—introductory text of paragraph (1)[revised], and 26.11.06.02A(1)(j) [added].

(*2*) COMAR 26.11.07.01B(5) [added], 26.11.07.03B(1)(c) [revised], and 26.11.07.06 [added].

(ii) Additional Materials—Remainder of the February 6, 1998 submitted by the Maryland Department of the Environment pertaining to the amendments in paragraph (c)(173)(i) (B) of this section.

[FR Doc. 02–16035 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 243–0357a; FRL–7232–6]

Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the portions of the California State Implementation Plan (SIP) that are associated with the Bay Area Air Quality Management District (BAAQMD) and South Coast Air Quality Management District (SCAQMD). These revisions concern volatile organic compound emissions from solid waste disposal sites. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 30, 2002, without further notice, unless EPA receives adverse comments by July 31, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building,

1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109–7799.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4124.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
BAAQMD	8–34	Solid Waste Disposal Sites	10/06/99	12/11/00
SCAQMD	1150.1	Control of Gaseous Emissions from Municipal Solid Waste Landfills.	03/17/00	07/26/00

On February 8, 2001, and October 4, 2000, these rule submittals were found to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved a version of BAAQMD Rule 8–34 into the California SIP on March 22, 1995. The BAAQMD adopted revisions to the SIP-approved version of Rule 8–34 on July 17, 1996, but this version was not submitted for the SIP.

SCAQMD adopted Rule 1150.1, ''Control of Gaseous Emissions from Active Landfills,'' and Rule 1150.2, ''Control of Gaseous Emissions from Inactive Landfills,'' on April 5, 1985 and October 18, 1985, respectively. On May 6, 1997, EPA published a limited approval/limited disapproval of these rules (62 FR 24574). As a result, sanctions clocks were started on July 7, 1997. On April 10, 1998, SCAQMD amended Rule 1150.1 to correct the deficiencies identified in EPA's limited disapproval action. SCAQMD also rescinded Rule 1150.2 and incorporated the requirements of Rule 1150.2 into amended Rule 1150.1, which was retitled: ''Control of Gaseous Emissions from Municipal Solid Waste Landfills.'' On June 23, 1998 CARB submitted the amended Rule 1150.1, ''Control of Gaseous Emissions from Municipal Solid Waste Landfills,'' to replace both Rule 1150.1 and Rule 1150.2. On January 6, 1999, EPA published a proposed approval of amended Rule 1150.1 (64 FR 818). EPA also published an interim final determination that the SCAQMD had corrected the deficiencies for which the sanctions clocks began on July 7, 1997 (64 FR 754). The interim final determination did not stop the sanctions clocks but did defer the imposition of sanctions. EPA never finalized the proposed approval because SCAQMD had begun working on another revision to the rule. SCAQMD amended Rule 1150.1 on March 17, 2000, and CARB submitted this version of the rule on July 26, 2000.

C. What Is the Purpose of the Submitted Rule Revisions?

These rules control landfill gas emissions, which include volatile organic compounds. Each rule has an associated Technical Support Document (TSD) that contains more information about the rule and EPA's evaluation.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (*see* section 182(a)(2)(A)), and must not relax existing requirements (*see* sections 110(l) and 193). The BAAQMD and SCAQMD regulate ozone nonattainment areas (*see* 40 CFR part 81), so BAAQMD Rule 8–34 and SCAQMD Rule 1150.1 must fulfill RACT.

Although there is no Control Technique Guideline document for the source category regulated by these rules, the following guidance and policy documents were used for reference to help evaluate specific enforceability and RACT requirements:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. The New Source Performance Standards for Municipal Solid Waste Landfills, as found in 40 CFR part 60, Subpart WWW.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs contain more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule recommendations that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. This action will also stop the sanctions clocks that began on July 7, 1997, for SCAQMD Rules 1150.1 and 1150.2. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same

submitted rules. If we receive adverse comments by July 31, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 30, 2002. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final the provisions of this rule that are not the subject of an adverse comment.

III. Background Information

A. Why Were These Rules Submitted?

Volatile organic compounds (VOCs) help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 6, 2002.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(280)(i)(A)(*3*) and (c)(285)(i)(C)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(280) * * *

(i) * * *

(A) * * *

(*3*) Rule 1150.1, adopted on April 5, 1985 and amended on March 17, 2000.

* * * * *

(285) * * *

(i) * * *

(C) * * *

(*2*) Regulation 8, Rule 34, adopted on October 6, 1999.

* * * * *

[FR Doc. 02–16361 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0042; FRL–7238–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake County—Trading of Emission Budgets for PM_{10} Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of the State of Utah's revision to the Utah State Implementation Plan (SIP) that was submitted by the Governor on May 13, 2002. This SIP revision allows trading from the motor vehicle emissions budget for primary Particulate Matter of 10 microns or less in diameter (PM_{10}) to the motor vehicle emissions budget for Nitrogen Oxides (NO_X) which is a PM_{10} precursor. EPA's approval of this SIP revision allows Salt Lake County to increase their NO_X budget in the Salt Lake County PM_{10} SIP by decreasing their PM_{10} budget in the Salt Lake County PM_{10} SIP by an equivalent amount, and use these adjusted motor vehicle emissions budgets for NO_X and PM_{10} to demonstrate transportation conformity with the Salt Lake County PM_{10} SIP. Trading between emissions budgets for transportation conformity is allowable as long as a trading mechanism is approved into the SIP.

On May 1, 2002, EPA published a notice of proposed rulemaking (NPR) that used EPA's parallel processing procedure to propose approval of this SIP revision (67 FR 21607). EPA's NPR was in response to a letter of March 15, 2002, in which the Governor asked that EPA parallel process a proposed revision to the Salt Lake County PM_{10} SIP consisting of a new rule, R307–310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity.'' On May 13, 2002, the Governor submitted the final version of R307–310 for EPA's approval.

EPA's 30-day comment period concluded on May 31, 2002. During this comment period, EPA received one comment letter in response to the May 1, 2002, NPR.

In this final rule action, EPA summarizes all comments and EPA's responses, and approves the Governor's May 13, 2002, final SIP revision, involving Utah's new rule R307–310.

EFFECTIVE DATE: July 31, 2002.

ADDRESSES: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at: Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

In this final rulemaking action, we are addressing comments received regarding our NPR and we are approving R307–310 as a revision to the Utah SIP.

With the publication of our NPR on May 1, 2002, (67 FR 21607), we utilized our parallel processing procedure [1] that allows EPA to propose rulemaking on a SIP revision, and solicit public comment, at the same time the State is processing the SIP revision.

The Utah Air Quality Board (UAQB) proposed the SIP revision for a 30-day State public comment period that began on April 1, 2002, and ended on April 30, 2002. The State conducted a public hearing on April 22, 2002. Final action and approval was taken by the UAQB on May 13, 2002. Rule R307–310 became State-effective on May 13, 2002.

On May 13, 2002, the Governor submitted the final version of rule R307–310 to us for approval into the Utah SIP.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This public process must occur prior to the State submitting its final revisions to us.

At the March 13, 2002, UAQB meeting, the UAQB proposed for public comment the new rule R307–310. The Utah Air Quality Board (UAQB) proposed the SIP revision for a 30-day State public comment period that began on April 1, 2002, and ended on April 30, 2002. The State conducted a public hearing on April 22, 2002. Final action and approval was taken by the UAQB on May 13, 2002. Rule R307–310 became State-effective on May 13, 2002.

On May 13, 2002, the Governor submitted the final rule R307–310 to us for approval into the Utah SIP. In a letter dated June 6, 2002, from Robert E.

[1] For further information regarding parallel processing, please see Title 40 of the Code Of Federal Regulations, part 51, appendix V, section 2.3.1.

Roberts, EPA Regional Administrator for Region VIII, to Governor Leavitt of Utah, we determined that the Governor's May 13, 2002, SIP submittal met the completeness criteria in 40 CFR part 51, Appendix V, and therefore the submittal was considered administratively and technically complete.

III. Supplementary Information

The Governor's May 13, 2002, final submittal of rule R307–310 and technical justification did not change from the proposed version on which we based our May 1, 2002, NPR. Therefore, our review and discussion of Utah's rule R307–310 and accompanying technical justification will not be restated here. The reader is referred to our May 1, 2002, NPR (see 67 FR 21607) for any further information.

IV. Public Comments and EPA's Responses

In response to our May 1, 2002, NPR (67 FR 21607), we received a comment letter from the Utah Chapter of the Sierra Club. The following discussion summarizes and responds to those comments.

Comment 1: The Sierra Club states there is a need to reduce $PM_{2.5}$ in Salt Lake County. The Sierra Club states that based on Utah air monitoring data, the area exceeded the $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) seven times in 2001 and to date, twice in 2002. The Sierra Club asserts that reducing $PM_{2.5}$ and its precursors in Salt Lake County must be taken seriously in order to prevent a violation of the $PM_{2.5}$ NAAQS. Sierra Club further states the area is in danger of violating the current $PM_{2.5}$ NAAQS, which itself could be strengthened after the current review process.

Response to Comment 1: EPA is aware of the $PM_{2.5}$ NAAQS exceedances that have been recorded in Salt Lake County. However, we also note the current levels of emissions have not caused the area to violate the $PM_{2.5}$ NAAQS. In addition, many areas across the nation are like Salt Lake County in that data is still being gathered for future $PM_{2.5}$ NAAQS designations. To date, EPA has not designated areas attainment or nonattainment for the $PM_{2.5}$ NAAQS under section 107 of the Clean Air Act (CAA) and we have also not established an implementation policy for the $PM_{2.5}$ NAAQS. EPA is currently in the process of developing a $PM_{2.5}$ implementation policy. Finally, the PM standards, as correctly noted by Sierra Club, are currently undergoing review by EPA. A target for completion for this review is 2004. At this point in time, prior to the designation of areas for $PM_{2.5}$, no obligations to submit SIPs requiring emission reductions or controls for $PM_{2.5}$ apply to the State or the Salt Lake County area. Consequently, we are not in a position to disapprove this trading mechanism based on potential impacts on $PM_{2.5}$.

Comment 2: The Sierra Club states that the CAA section 176(c)(1)(B) specifies that conformity to an implementation plan means that such activities will not (I) ''cause or contribute to any new violation of any standard in any area''. Sierra Club asserts it is clear from this section that transportation plans must not cause or contribute to a violation of $PM_{2.5}$ NAAQS, as well as NAAQS for PM_{10}, ozone (eight hour as well as 1 hour), carbon monoxide and other pollutants for which there is a standard.

Response to Comment 2: We disagree with the conclusions that Sierra Club has expressed regarding the intentions of section 176 of the CAA. Section 176(c)(5) of the CAA as well as Title 40 of the Code of Federal Regulations (CFR) 93.102(b) specifically state that conformity only applies to nonattainment and maintenance areas, and only to the specific pollutant for which the area was designated nonattainment. Conformity does not apply with respect to either the new $PM_{2.5}$ or the new 8-hour ozone standard until one year after an area is designated as nonattainment for one of those standards, according to Clean Air Act Section 176(c)(6). As EPA has not yet designated any areas nonattainment for either the $PM_{2.5}$ NAAQS or the 8-hour ozone NAAQS, conformity determinations for the $PM_{2.5}$ and the 8-hour ozone standards are currently not required. Furthermore, section 176 of the CAA contains no requirement that we consider the $PM_{2.5}$ and the 8-hour ozone standards in deciding whether to approve this SIP revision.

Comment 3: Sierra Club stated the following: ''All NO_X that becomes PM_{10} is $PM_{2.5}$, whereas not all direct PM_{10} is $PM_{2.5}$. The proposed rule should, but does not, make this distinction. The proposed rule does not compare the portion of direct PM_{10} that is $PM_{2.5}$ with the portion of NO_X that becomes $PM_{2.5}$ when asserting that there is a benefit in moving part of the direct PM_{10} budget to the NO_X budget in the PM_{10} SIP. There is a difference in health effects between breathing $PM_{2.5}$ nitrates and breathing coarse PM_{10} road dust.''

Response to Comment 3: As we noted in our response to comment 1 above, EPA has not designated areas attainment or nonattainment for the $PM_{2.5}$ NAAQS under section 107 of the CAA and we have not established an implementation policy for the $PM_{2.5}$ NAAQS. If Salt Lake County is ultimately designated nonattainment for $PM_{2.5}$, the State will then need to submit a SIP revision to address $PM_{2.5}$ pursuant to applicable deadlines. At that time, the State may need to reevaluate the budget trading rule, R307–310, in relation to a $PM_{2.5}$ attainment demonstration. At this time, we are not in a position to require a rigorous analysis of impacts on $PM_{2.5}$ attainment.

However, we have reviewed the ambient air quality data for $PM_{2.5}$ for Salt Lake County that has been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. Based on the information in AIRS, we have determined that were we to do designations at this point in time, Salt Lake County would be attainment for $PM_{2.5}$. Further, using the maximum concentration monitor for Salt Lake County, the preliminary design value for $PM_{2.5}$ would be 55 micro grams per cubic meter (ug/m^3) and would correlate to only 85% of the $PM_{2.5}$ 24-hour standard of 65 ug/m^3. Therefore, we do not believe that our approval of R307–310, which does not involve trading of PM_{10} or NO_X emissions from any source category other than motor vehicles, will lead to a violation of the $PM_{2.5}$ NAAQS. We also note that motor vehicle NO_X emissions will decline significantly starting in 2004 based on new Federal tailpipe emission standards for vehicles and the local controls (Inspection and Maintenance along with On-Board Diagnostics) as are described further in our response to comment 5 below.

An additional point we would like to make is that not all NO_X forms particles. Of the NO_X that does form particles, initially it may be all PM fines, but over time particles may aggregate to form larger particles. We noted this aspect in our NPR at 67 FR 21609: ''After this initial conversion, only a fraction of the gaseous nitric acid will condense as ammonium nitrate PM_{10} depending on the equilibrium considerations. Finally, during the gas-to-particle conversion process, deposition will remove a significant amount of material.''

Comment 4: Sierra Club states: ''There is a discussion of general NO_X conversion rates to nitric acid and PM_{10} in columns 1 and 2 on p. 21609. Does this general formula relate to NO_X conversion rates during the type of inversions we have during the winter in Salt Lake County? Our high levels of ambient $PM_{2.5}$ occur during these inversions. There is also the statement that ''Another concern is that the rate of conversion to PM_{10} may be so long that the precursor may not entirely convert

to PM_{10} within the same nonattainment area.'' Is this statement true of what happens to NO_X conversion to PM_{10} in our inversions? To what extent is it possible for the conversion to occur outside the area of the inversion?''

Response to Comment 4: With respect to the questions regarding conversion rates, we have discussed this with the State. Based on the State's use of our air dispersion model, UAM–AERO, to perform preliminary modeling efforts, we believe that the general formula stated in our NPR would apply to the Salt Lake County area. The general statement in our NPR regarding length of time for conversion may also be applicable to the Salt Lake County area, but we can not specifically quantify the extent to which conversion would occur outside the area of an inversion in the Salt Lake area.

Comment 5: Sierra Club stated there was a lack of consideration of alternatives to reduce NO_X emissions; ''The proposed rule appears to be an example of the emphasis of many MPO's, state and some federal agencies on moving numbers around to show conformity of transportation plans with the SIPs, rather than expending effort on developing effective measures to reduce Vehicle Miles Traveled (VMT) and mobile source emissions. This is a major concern for us. To us, the excessive NO_X emissions show that we must seek alternatives that would reduce mobile NO_X.''

Response to Comment 5.: We are not required to consider alternatives to reduce NO_X emissions. Our obligation under the CAA is to evaluate submitted SIP revisions against the requirements of the CAA; if a submission meets the CAA's requirements, we are required to approve it, even if there might be other alternatives that would reduce emissions more. As we have noted in our NPR, the transportation conformity rule at 40 CFR 93.124(c) allows for trading between budgets if the SIP established a mechanism for doing so. We have evaluated Utah's trading rule and have concluded it will not cause violations of the NAAQS. This SIP revision meets the requirements of the CAA and we are approving it.

Furthermore, we believe NO_X emissions will continue to decrease in Salt Lake County over time. First, on February 10, 2000, EPA published a final rule in the **Federal Register** (*see* 65 FR 6698) that set specific Tier II on-road motor vehicle emission specifications for new-manufactured vehicles. Starting in 2004, new vehicles will have to meet more stringent tailpipe emission standards including a standard for NO_X. As these new vehicles enter the fleets of metropolitan areas, such as Salt Lake County, significant reductions in NO_X emissions will be realized. Additional NO_X reductions were realized beginning in 2001 from our National Low Emitting Vehicle (NLEV) agreement with automakers and our Heavy Duty Diesel (HDD) emission requirements (*see* 65 FR 59895). Second, Salt Lake County continues to operate a motor vehicle emissions inspection and maintenance (I/M) program which identifies vehicles that do not pass required emission specifications and must be repaired. This I/M program includes emission specifications for NO_X. In addition to the County's existing I/M program, the State has also required all four Wasatch Front Counties (Weber, Davis, Salt Lake, and Utah) to implement EPA's On-Board Diagnostics II (OBD II) program. OBD II uses information from the vehicle's on-board computer system to determine if there are faults in the emissions control systems, detect an engine malfunction or deterioration, and provide information that allows for early diagnosis of emission control equipment malfunction. The Governor submitted the State's OBD II rule to EPA for approval into the SIP. We have published a notice proposing to approve the State's OBD II rule (*see* 67 FR 9425, March 1, 2002) and are currently preparing a final rule for the approval of the OBD II program.

The WFRC's conformity determination for the Long Range Transportation Plan (LRTP), that was approved on January 11, 2002, by the Federal Highway Administration (FHWA), reflects the benefits of the above programs in the projected future year emissions from motor vehicles. WFRC's conformity determination shows that starting with 2012, there would be no need to trade from the PM_{10} emission budget to the NO_X emission budget to show conformity, as the projected 2012 NO_X emissions of 31.56 tons per day would be below the PM_{10} SIP's NO_X budget of 32.30 tons per day. Information from the WFRC's conformity determination, that was approved by the FHWA, is provided below:

Budgets for 2002 (derived from the PM_{10} SIP): NO_X = 38.84 tons per day (tpd), PM_{10} = 39.91 tons per day.

Budgets for 2003 and beyond (derived from the PM_{10} SIP): NO_X = 32.30 tpd, PM_{10} = 40.30 tpd.

Excerpts from the WFRC's LRTP Table 10 are as follows:

Year	Projected NO_X (tpd)	Projected Particulates (tpd)
2002	54.21	18.19
2003	52.99	18.36
2006	43.70	19.53
2012	31.56	22.37
2022	24.30	26.21
2030	26.83	29.71

Comment 6: Sierra Club stated they believe the rule should not have been exempted from review under Executive Order 13045 *Protection of Children from Environmental Health Risks and Safety Risks* (They reference Executive Order 13040). ''Complying with the Executive Order would mean that there would have to be an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. The Agency did not consider other alternatives. We wish to point out that children are especially susceptible to the dangers of PM2.5 pollution. Children in Salt Lake County were subjected to 24 days of PM2.5 pollution above the 40.5 ug/m3 level at which EPA requires health alerts to be issued to the susceptible population. Those 24 days were within a 62 day time period from December 18, 2001 through February 17, 2002.''

Response to Comment 6: We are not permitted to consider health and safety risks or require or engage in an alternatives analysis in acting on SIPs. Under the CAA, we must approve SIPs if they meet the requirements of the CAA. The State's SIP revision meets the CAA's requirements, and thus, we are required to approve it, even though there might be other alternatives the State could have adopted that would have resulted in less risk to children. Furthermore, the Executive Order applies only to rules that are considered economically significant under Executive Order 12866 which this rule is not. Consequently, Executive Order 13045 does not apply to this action.

Comment 7: Sierra Club stated: ''It is very important for EPA to be able to perform evaluation analyses of unintended effects of the proposed trading rule at any time deemed appropriate and to be able to issue a SIP call to remedy the adverse effects if the State does not pursue remedy.''

Response to Comment 7: We agree with the Sierra Club that, as this is the first use of the provisions of 40 CFR 93.124(c), the State and EPA must be alert to unintended adverse impacts. In addition, we wish to reiterate that if we determine there are adverse air quality effects associated with the implementation of the new rule, R307–310, or if we determine that the State

has failed to make the necessary SIP revisions to remedy identified adverse effects, EPA may exercise our authority to issue a SIP call consistent with the provisions of section 110(k)(5) of the Clean Air Act (CAA) as amended in 1990.

V. Final Action

In this action, we are approving the Governor's May 13, 2002, submittal of a revision to the Utah State Implementation Plan—namely, new rule R307–310—that would allow the trading of a portion of the PM_{10} motor vehicle emissions budget to the NO_X motor vehicle emissions budget in the Salt Lake County PM_{10} SIP. This trading mechanism will allow a portion of the PM_{10} motor vehicle emissions budget to be applied instead to the NO_X motor vehicle emissions budget on a 1:1 ratio, thus increasing the NO_X motor vehicle emissions budget and decreasing the PM10 motor vehicle emissions budget in the Salt Lake County PM10 SIP by an equivalent amount. These adjusted budgets would then be used for transportation conformity purposes. This final action will become effective on July 31, 2002.

Administrative Requirements

(a) Executive Order 12866

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

(b) Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it is not economically significant and EPA does not have the discretion to engage in a risk assessment or alternatives analysis in acting on SIP revisions.

(c) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(d) Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

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

(e) Executive Order 13211 (Energy Effects)

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

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Therefore, because the final rule does not create any new requirements, I certify that the final rule will not have a significant economic impact on a substantial number of small entities.

(g) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of

$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this final approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(h) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective July 31, 2002.

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(j) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

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

Dated: June 20, 2002.

Jack McGraw,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(51) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(51) On May 13, 2002, the Governor of Utah submitted a revision to Utah's SIP involving a new rule R307-310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity.'' R307–310 allows trading from the motor vehicle emissions budget for primary Particulate Matter of 10 microns or less in diameter (PM_{10}) in the Salt Lake County PM_{10} SIP to the motor vehicle emissions budget for Nitrogen Oxides (NO_X) in the Salt Lake County PM_{10} SIP. This trading mechanism allows Salt Lake County to increase their NO_X budget in the Salt Lake County PM_{10} SIP by decreasing their PM_{10} budget by an equivalent amount. These adjusted budgets in the Salt Lake County PM_{10} SIP would then be used for transportation conformity purposes.

(i) Incorporation by reference.

(A) Rule R307–310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity'', as adopted on May 13, 2002, by the Utah Air Quality Board, and State effective on May 13, 2002.

[FR Doc. 02–16458 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7239–7]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Idaho applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reached a final determination that these changes to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization. Thus, with respect to these revisions, EPA is granting final authorization to the State to operate its program subject to the limitations on its authority retained by EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984 (HSWA).

EFFECTIVE DATE: Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. on July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, WCM–122, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, Washington, 98101, phone (206) 553–0256.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA Section 3009, States are not allowed to impose any requirements which are less stringent

than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho initially received final authorization on March 26, 1990, effective April 9, 1990 (55 FR 11015), to implement the State's hazardous waste management program. EPA also granted authorization for changes to Idaho's program on April 6, 1992, effective June 5, 1992 (57 FR 11580), June 11, 1992, effective August 10, 1992 (57 FR 24757), April 12, 1995, effective June 11, 1995 (60 FR 18549), and October 21, 1998, effective January 19, 1999 (63 FR 56086).

On May 1, 2001, Idaho submitted a final program revision application to EPA in accordance with 40 CFR 271.21 seeking authorization of changes to the State program. On August 22, 2001, EPA published proposed and immediate final rules announcing its intent to grant Idaho final authorization for revisions to Idaho's hazardous waste program. The proposed rule can be found at 66 FR 44107, August 22, 2001. The immediate final rule appears at 66 FR 44071, August 22, 2001.

B. What Were the Comments to EPA's Proposed and Immediate Final Rule?

Along with its intent to immediately authorize revisions to the Idaho hazardous waste management program, EPA announced the availability of the authorization revision application and rulemaking for public comment. EPA received one adverse comment during the comment period in the form of a ''Petition to the United States Environmental Protection Agency to Commence Proceedings for Withdrawal of the Idaho Department of Environmental Quality (IDEQ) as the RCRA Authority for the State of Idaho'' (Petition) challenging the administration and enforcement of the hazardous waste program by the State of Idaho and seeking withdrawal of authorization. EPA withdrew its Immediate Final Rule on October 5, 2001, 66 FR 50833, in order to respond to the adverse comment. EPA's proposed rule, 66 FR 44107, was not withdrawn and was retained for later consideration. EPA has taken into consideration comments in the Petition relating to the Idaho hazardous waste management program in taking today's action. The significant issues raised by the Commentors for purposes of this revision authorization and EPA's responses follow below.

Today's action is not a determination on the merits of the Petition to withdraw federal authorization for environmental programs in Idaho. In response to the Petition, EPA initiated an informal investigation of the authorized hazardous waste program in Idaho. Based on the results of that investigation, on March 7, 2002, the Regional Administrator for Region 10 found no basis to commence withdrawal proceedings and denied the Petition. That response is included in the administrative record for this rulemaking. The Petition raised many issues not relevant to the revision authorization. EPA considered those issues fully in its response to the Petition.

This rulemaking considers and responds to the comments relevant to the revision authorization. Commentors raised issues in the following areas: (1) IDEQ's compliance with the permitting requirements for authorized hazardous waste programs; (2) IDEQ's enforcement of the authorized hazardous waste program; (3) IDEQ's compliance with the Memorandum of Agreement (MOA) for the authorized hazardous waste program; and (4) IDEQ's funding and staffing of the authorized program.

Comment area #1: EPA received comment relating to IDEQ's implementation of RCRA permitting. The comments generally asserted that the IDEQ was not issuing permits as required but was allowing facilities to operate under interim status without permits, and was for those permits issued, not issuing permits which conformed to the requirements of 40 CFR part 271. Commentors specifically focused on permitting issues involving the Idaho National Environmental and Engineering Laboratory (''INEEL'') facility, a mixed (radioactive and hazardous) waste facility in Idaho. Commentors claimed that IDEQ had not issued permits to units at INEEL and had allowed units to illegally operate without permits. Commentors also claimed that permits issued by IDEQ to the INEEL facility were incomplete and failed to provide for full public participation.

Response: To meet EPA approval standards for authorization, State programs must include requirements for permitting. See 40 CFR 271.1(c). States with authorized hazardous waste programs under 40 CFR part 271 must have legal authority to implement permitting provisions as set forth in 40 CFR 271.13 ''Requirements with respect to permits and permit applications.'' 40 CFR 270.13(a) provides: ''State law must require permits for owners and operators of all hazardous waste management facilities required to obtain a permit under 40 CFR part 270 and prohibit the operation of any hazardous waste management facility without such a permit, except that States may, if adequate legal authority exists, authorize owners and operators of any facility which would qualify for interim status under the Federal program to remain in operation until a final decision is made on the permit application, * * * .'' Idaho's legal authorities are reviewed with each revision to the authorized program and were reviewed prior to EPA's issuance of the August 22, 2001 immediate final rule. EPA's review of Idaho legal authorities did not disclose any lack of authority in Idaho law to require hazardous waste management facilities to obtain a permit or to operate as an interim status facility.

40 CFR 271.14, ''Requirements for permitting,'' mandates that: ''All State programs under this subpart must have legal authority to implement each of the following provisions and must be administered in conformance with each; except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements * * * .'' The regulation then specifies that 40 CFR 270.1(c)(1), 270.4, 270.5, 270.10 through 33; 270.40, 270.41, 270.43, 270.50, 270.60, 270.61, 270.64 are mandatory. Idaho incorporates the federal regulations by reference and as a consequence of that incorporation, each of these requisite provisions is included in Idaho's hazardous waste regulations. Idaho's authority to compel permitting is established. EPA next turns to Idaho's implementation of that authority.

Idaho's authorized hazardous waste program contains a small universe of facilities subject to the requirement to obtain a final RCRA permit and of this universe the INEEL facility represents the largest and most complex facility subject to RCRA permitting requirements in the State. EPA's database shows that all facilities subject to the hazardous waste permitting requirements of the authorized program in Idaho have been issued final RCRA permits with the exception of the INEEL facility, which has been partially permitted. The federal program allows a facility to receive a partial permit. 40 CFR 270.1(c)(4) provides: ''EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility.

The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.'' Idaho's hazardous waste program, which incorporated the federal regulation at 40 CFR 270.1(c)(4) by reference, has been authorized to allow partial permitting, replacing ''EPA may issue'' with ''IDEQ may issue.'' See IDAPA 16.01.05.012.

The Commentors maintain permitting less than all units at a facility results in an incomplete permit and is consequently non-compliant with the requirement to obtain a RCRA permit for the facility. The regulations clearly allow for the use of partial permitting and such use is in compliance with the RCRA permitting requirements. At a complex federal facility, such as INEEL with 137 hazardous waste management units, partial permitting is an appropriate and compliant approach to permitting the facility. Those units which have not yet been permitted are required to comply with the interim status standards until permitted, thus there is no regulatory gap in managing hazardous wastes at a facility where partial permits have been issued.

The Commentors also generally asserted that the IDEQ did not allow full public participation in permit decision making. Those requirements are found at 40 CFR part 124. Idaho incorporated 40 CFR part 124 subparts A and B by reference and is authorized for those regulations. Public participation requirements are applicable at the time of permitting and are applicable to partial permits. Commentors will have an opportunity to comment on units not addressed in a partial permit when those units are themselves permitted.

EPA does not agree that IDEQ failed to comply with the Expanded Public Participation Rule for certain permitting activities at the INEEL facility. The permitting activities occurred before the State of Idaho enacted the rule as part of its hazardous waste program. Idaho enacted the Expanded Public Participation Rule on July 2, 1997; the Idaho hazardous waste program was authorized for the rule on October 21, 1998. Prior to the 1997 enactment, the rule was not a requirement of the hazardous waste program in Idaho and the State could not require compliance with the federal rule. The rule is applicable to permit applications in Idaho currently and must be complied with. Information provided by Commentors on related matters shows that Commentors have availed themselves of the opportunity to comment on permits issued by the IDEQ as allowed under the Expanded Public Participation Rule.

Comment area #2: EPA received comment relating to the IDEQ's enforcement of the authorized hazardous waste program. The Commentors generally asserted that the IDEQ failed to act on violations of permits or program requirements, failed to seek adequate penalties, failed to inspect and monitor hazardous waste activities and failed to initiate closure for non-complaint facilities. The Commentors enforcement concerns focused on enforcement at the INEEL facility.

Response: IDEQ provided EPA with a statistical summary of enforcement actions taken by IDEQ since 1990 at INEEL. IDEQ issued INEEL Notices of Violation at least eight times and assessed cash penalties of $906,031.89 and Supplemental Environmental Projects valued at $342,606.00. EPA, in two separate program reviews, did not find IDEQ's enforcement of its hazardous waste program at INEEL to be problematic and has not found the State's enforcement of the authorized hazardous waste program at INEEL to be inadequate. The Commentors contention that IDEQ failed to close non-compliant facilities is inaccurate and is based on the Commentors' belief that a full permit for all units is required for a facility to be compliant with RCRA. As has been discussed, partial permitting of certain units, while allowing others to remain subject to the interim status standards, does not result in non-compliance for those units not addressed by the partial permit.

Comment area #3: The Commentors asserted that IDEQ was not in compliance with the MOA, a required element of the authorized hazardous waste program.

Response: States are required, for purposes of administering an authorized hazardous waste program, to execute an MOA with EPA. See 40 CFR 271.8. The MOA includes, among others, mandatory provisions to coordinate enforcement and inspection efforts between the state and EPA, including the sharing of information on facilities and permits. The Commentors did not point to any specific area of the MOA where IDEQ was out of compliance with the agreement but discussed concerns with IDEQ's permitting activities at the INEEL facility.

EPA has not found any failure on the part of IDEQ to comply with the currently authorized MOA. Nor, as discussed above, does EPA have cause to find that IDEQ failed to implement the authorized program at the INEEL facility. Although Commentors may disagree with the issuance of partial permits at INEEL, partial permitting is allowed under the federal regulations and is an authorized part of the Idaho hazardous waste program and is not inconsistent with the MOA.

EPA notes that IDEQ submitted a revised MOA as a part of the application package for this rulemaking. The revised MOA will become part of the authorized program as a result of this final rule.

Comment area #4: The Commentors expressed concern over IDEQ's funding and staffing levels and generally asserted that the IDEQ was underfunded and understaffed to carry out an authorized hazardous waste program.

Response: In response to this concern, EPA looked at OSWER Directive 9540.00–10 ''Capability Assessment Guidance,'' January 30, 1992 for ''Resources and Skills Mix'' used in assessing overall state capability. The guidance specifies that EPA look at the demonstrated ability of the State to bring sufficient and appropriate resources to the program, regardless of short-term staffing shortages, unpredictable legislative activities regarding appropriations for the state program, and regardless of competing demands for resources available for program priorities. OSWER Directive 9540.00–10. Unacceptable capability would be identified where, for example, a State was significantly understaffed, had a high turnover rate of staff resulting in poor work product and had not made an effort to correct the situation. EPA's review of IDEQ's program description and attachments, which were submitted as part of the authorization package for this revision to the authorized hazardous waste program, did not find the program to be understaffed or to be experiencing a high turnover rate of staff. Rather, the full time equivalent (FTE) personnel devoted to the IDEQ hazardous waste management program adequately meet the staffing component of skills and personnel necessary for an authorized hazardous waste program.

With respect to funding resources available, EPA reviewed funding guidance issued by the Office of Solid Waste (OSW) in 1996. This guidance was issued in the context of providing federal grant money to the states pursuant to Section 3011 of RCRA. The guidance established a minimum funding requirement of $466,666 for maintaining hazardous waste programs in small states , such as Idaho, and with small universes of hazardous waste activities. Idaho's authorization application package for this rulemaking included information indicating that Idaho's contribution to the minimum

funding requirement was $943,900, well above the minimum level set by EPA's own guidance.

C. What Decisions Have We Made in this Rule?

EPA has made a final determination that Idaho's application for authorization of the revisions to the Idaho authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, with respect to the revisions, we are granting Idaho final authorization to operate its hazardous waste program as described in the revision authorization application. Idaho's authorized program will be responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA, including the Hazardous and Solid Waste Amendments of 1984 (HSWA). Idaho's authorized program does not extend to Indian country. EPA retains jurisdiction and authority to implement and enforce RCRA in Indian country within the State boundaries.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA are implemented by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirement and prohibitions in Idaho, including issuing permits or portions of permits, until the State is granted authorization to do so.

D. What Will Be the Effect of Today's Action?

The effect of today's action is that a facility in Idaho subject to RCRA must comply with the authorized State program requirements and with any applicable Federally-issued requirement, such as, for example, the federal HSWA provisions for which the State is not authorized, and RCRA requirements that are not supplanted by authorized State-issued requirements, in order to comply with RCRA. Idaho has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

—Do inspections, and require monitoring, tests, analyses or reports;
—Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations, and suspend or revoke permits; and
—Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho's program is being authorized are already effective under State law.

E. What Rules Are We Authorizing With Today's Action?

EPA is granting final authorization for the revisions to Idaho's federally authorized program described in Idaho's final complete program revision application, submitted to EPA on May 1, 2001. We have made a final determination that Idaho's hazardous waste program revisions, as described in this rule, satisfy the requirements necessary for final authorization. Therefore, we grant Idaho final authorization for all delegable hazardous waste regulations promulgated as of July 1, 1998, as incorporated by reference in IDAPA 16.01.05.(002)-(016) and 16.01.05.997. [1] Any subsequent changes to the Federal program or to State law that occurred after July 1, 1998 are not part of Idaho's authorized RCRA program. EPA is not authorizing IDAPA 16.01.05.000; 16.01.05.001; 16.01.05.006(02); 16.01.05.016(02)(a),(b); 16.01.05.017–996; 16.01.05.998; and 16.01.05.999.

F. Who Handles Permits After This Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits or portions of permits issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits or portions of permits for HSWA requirements for which Idaho is not yet authorized.

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State's authorized rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart F for codification of Idaho's program at a later date.

H. How Does Today's Action Affect Indian Country (18 U.S.C. Section 1151) in Idaho?

EPA's decision to authorize the Idaho hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

I. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationships between the Federal government and the Indian Tribes, or on

[1] Sections of the Federal hazardous waste program are not delegable to the states. These sections are 40 CFR part 262 subparts E, F, & H; 40 CFR 268.5; 40 CFR 268.42(b); 40 CFR 268.44(a)-(g); and 40 CFR 268.6. Authority for implementing the provisions contained in these sections remains with EPA.

the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply Distribution or Use'' (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This action does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 271

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

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 20, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–16465 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 413

[CMS–1069–F2]

RIN –0938–AL40

Medicare Program; Prospective Payment System for Inpatient Rehabilitation Facilities; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the August 7, 2001 issue of the **Federal Register** (66 FR 41316), we published a final rule establishing a prospective payment system (PPS) for Medicare payment of inpatient hospital services provided by a rehabilitation hospital or rehabilitation unit of a hospital. The effective date was January 1, 2002. This correcting amendment corrects a limited number of technical and typographical errors identified in the August 7, 2001 final rule. It also corrects an example related to the Inpatient Rehabilitation Facility Patient Assessment Instrument contained within the final rule.

EFFECTIVE DATE: This correcting amendment is effective July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Kuhl, (410) 786–4597.

SUPPLEMENTARY INFORMATION:

Need for Corrections

In our August 7, 2001 final rule (66 FR 41316), referred to as the final rule throughout this correcting amendment, we provided an extensive discussion of the inpatient rehabilitation facility (IRF) patient assessment instrument and its implementation that employed various examples to illustrate essential points of the patient assessment process. A number of those examples contain technical errors. In addition, we are making technical corrections to the regulations text where the regulations text inadvertently fails to reflect the policies set forth in the preamble of the final rule.

Summary of Technical Corrections to the Preamble to the August 7, 2001 Final Rule

In section IV of the final rule, we describe the process of using the IRF patient assessment instrument to collect patient data that are the basis of payments made under the IRF prospective payment system. Beginning on page 41330 of the final rule, we describe the schedule for completing, encoding (computerizing), and transmitting data contained in the IRF patient assessment instrument. The rules associated with the assessment schedule are codified at §§ 412.610 and 412.614.

Interruption of the Stay During the Admission Assessment

After the patient is admitted, the IRF has a time period to observe the patient's functional status/clinical condition that is then recorded on the patient assessment instrument. This time period is referred to in the final rule as the admission assessment time period. Section 412.610(b) states that ''The first day that the Medicare Part A fee-for-service inpatient is furnished Medicare-covered services during his or her current inpatient rehabilitation facility hospital stay is counted as day one of the patient assessment schedule.'' Section 412.610(c)(1)(i) specifies the general rule that the admission assessment time period is a span of time that covers calendar days 1 through 3 of the patient's current Medicare Part A fee-for-service hospitalization. The patient's IRF admission day is the first day of the admission assessment time period. For example, Chart 1 on page 41330 illustrates the assessment schedule for an inpatient stay in an IRF; the admission assessment time period is the first 3 days of the patient's IRF hospitalization, with day 3 being the admission assessment reference date, day 4 being the admission assessment completion date, and day 10 being the encoded by date. Chart 2 on page 41331 illustrates the application of the general rule for a patient who is admitted on July 3, 2002. The admission assessment

time period would be July 3, 4, and 5, the admission assessment reference date July 5, the admission assessment completion date July 6, and the admission assessment encoded by date July 12, 2002.

The preamble also explains the admission assessment time period, admission assessment reference date, the admission assessment completion date, and the admission assessment encoded by date for the case in which the beneficiary has an interrupted stay during the admission assessment time period. As defined in § 412.602, an interrupted stay means a stay at an inpatient rehabilitation facility during which a Medicare inpatient is discharged from the inpatient rehabilitation facility and returns to the same inpatient rehabilitation facility within three consecutive calendar days. The duration of the interruption of the stay of three consecutive calendar days begins with the day of discharge from the inpatient rehabilitation facility and ends on midnight of the third day. However, the August 7, 2001, final rule contains some technical errors in illustrating the assessment process for a patient who has an interruption in a stay which occurs during the admission assessment time period.

On page 41331 of the preamble of the final rule, we describe the process of shifting the dates associated with the admission assessment schedule when an inpatient rehabilitation stay has been interrupted. In the example on page 41331, the patient's stay begins with an admission to the IRF on July 3, 2002. However, the stay is interrupted on July 4, 2002, and the patient returns to the IRF before midnight of July 6, 2002. The example on page 41331 incorrectly states that, due to this interruption in the hospital stay, the admission assessment time period would be shifted to July 6, 7, and 8. The example is incorrect because the three calendar days to observe the patient during the admission assessment time period must include July 3, because July 3 is the day of admission to the IRF. As stated previously, the day of admission to the IRF is the first day of the admission assessment time period. Because July 3 is day 1 of the admission assessment time period, then July 6, the date when the patient returns to the IRF after the interruption in the stay, is day 2 of the admission assessment time period. Accordingly, July 7 is day 3 of the admission assessment time period.

The admission assessment reference date, completion date, and encoded by date are based upon the admission assessment time period. Because the final rule example regarding the shifting of the admission assessment time period is incorrect, it follows that the admission assessment reference date of July 8, the admission assessment completion date of July 9, and the encoded by date of July 15, 2002 included in the example are also incorrect. The correct admission assessment time period, as a result of an interruption in the stay as described in the final rule example, is July 3, 6, and 7, with July 7 being the assessment reference date, July 8 the completion date, and July 14, 2002, the encoded by date.

If, for example, the patient was admitted to the IRF on July 3, but the stay is interrupted on July 5, 2002, and the patient returns to the IRF before midnight of July 7, 2002, the admission assessment time period dates would be July 3, 4, and 7. In this case, the admission assessment reference date would be July 7, the completion date would be July 8, and the encoded by date would be July 14, 2002.

Discharge Assessment

Section 412.610, ''Assessment schedule,'' specifies the general rules for the admission assessment and the discharge assessment. As stated previously, the admission assessment time period is a span of time that covers calendar days 1 through 3 of the patient's current Medicare Part A fee-for-service hospitalization. The first day of the patient's IRF stay is counted as day 1 of the patient assessment schedule, with day 3 of the hospitalization being the admission assessment reference date. Section 412.610 specifies the general rule that the discharge assessment reference date is the day the first of the following two events occurs: (1) The patient is discharged from the IRF; or (2) the patient stops being furnished Medicare Part A fee-for-service IRF services. The discharge assessment time period includes the discharge assessment reference date and the two calendar days prior to the discharge assessment reference date.

Applying the admission assessment general rule means that a patient admitted on October 1, 2002, and discharged on October 4, 2002, would have an admission assessment time period of October 1, 2, and 3 (the first three days of the current Medicare Part A IRF hospitalization), with October 3 being the admission assessment reference date. Applying the discharge assessment general rule means that October 4, 2002 (the day the patient is discharged from the IRF) is the discharge assessment reference date, with October 2 and 3 (the two calendar days prior to the discharge assessment reference date) being part of the discharge assessment time period.

In this situation, the admission assessment time period and the discharge assessment time period both include October 2 and 3. However, on page 41327, we incorrectly stated that ''In addition, for the discharge assessment, in no case will the discharge assessment time period include a calendar day(s) prior to the admission assessment reference calendar date or the admission assessment reference calendar date itself.'' That statement is incorrect because there will be situations, such as when a patient's IRF stay is only 4 days in length, when it would be impossible to apply the admission assessment and discharge assessment general rules and not include the admission assessment reference date itself, or another day of the admission assessment time period, as part of the discharge assessment time period. Consequently, a patient who has a very short IRF stay may have a discharge assessment time period that includes (that is, overlaps) a calendar day(s) prior to the admission assessment reference calendar date or the admission assessment reference calendar date itself.

In order to correct for this overly broad statement, previously quoted from page 41327, that makes application of both the admission assessment and discharge assessment general rules impossible when a short stay causes the time periods for the admission and discharge assessments to overlap, we are adding, after the word ''itself'', the phrase, '', unless a patient's IRF length of stay causes these assessment periods to overlap.''

Transmission of Assessment Data

Under § 412.610, patient data are collected on the same IRF patient assessment instrument two times. The first time is during the admission assessment time period, and the second time is during the discharge assessment time period. Under § 412.614(c), we require that both the admission and discharge assessment data be transmitted together only one time after the patient is discharged. Because the discharge date is the sole basis for determining when the transmission of the data must occur, an event, such as an interruption of a stay, that occurs before the actual day of discharge will not affect any of the discharge assessment schedule dates, including the date to transmit the data. However, on page 41331 of the preamble and in § 412.618(c) on page 41390, we incorrectly stated that if an interruption

of a stay occurred for (that is, during) the admission assessment time period, the patient assessment instrument transmitted by date would be shifted forward. We are correcting the statement on page 41331 by removing the phrase ''and patient assessment instrument transmitted by date'', because an interruption of the stay, which occurs before the discharge date, has no effect on the ''transmitted by date.'' A corresponding correction to the regulations text at § 412.618(c) will be addressed in the next section of this correcting amendment.

Definition of a Discharge

As stated on page 41331 and § 412.602 of the final rule, a discharge of a Medicare patient occurs when—(1) the patient is formally released; (2) the patient stops receiving Medicare-covered Part A inpatient rehabilitation services; or (3) the patient dies in the inpatient rehabilitation facility. However, in defining a discharge, we inadvertently failed to account for situations where a patient stops receiving Medicare-covered Part A inpatient rehabilitation services, but meets the condition, under § 424.13(b), for continued hospitalization. Specifically, under § 424.13(b), a physician may certify or recertify the need for continued hospitalization if the physician finds that the patient could receive proper treatment in a skilled nursing facility (SNF) but no bed is available in a participating SNF. To account for situations where a patient meets the requirement at § 424.13(b) in our definition of a discharge, on page 41331, we are correcting the condition ''(2) the day on which the patient ceases to receive Medicare-covered Part A inpatient rehabilitation services'' by adding ''unless the patient qualifies for continued hospitalization under § 424.13(b) of the regulations.'' A corresponding correction to the regulations text at § 412.602 will be addressed in the next section of this correcting amendment.

Example of Computing a Facility's Federal Prospective Payment

The example on page 41367 of the preamble reflects an incorrect amount ($20,033.81) for the Federal Prospective Payment amounts associated with CMG 0111 (without comorbidities). Inserting the correct amount from Table 2 of the final rule ($19,071.89), the corrected adjusted payment for Facility A will be $24,133.91 and the corrected adjusted payment for Facility B will be $24,990.08. In addition, the line after the subtotal is incorrectly labeled as ''DSH adjustment'' and should be labeled ''LIP adjustment'' to indicate an adjustment for low-income patients as referred to throughout the final rule.

We also found and corrected other typographical errors.

Correction of Errors in the Preamble of the August 7, 2001 Final Rule

1. On page 41327, third column; third full paragraph, in line 17 from the bottom of the page, after the word ''itself'' add the following text: '', unless a patient's IRF length of stay causes these assessment periods to overlap.''

2. On page 41331, in the first column, in the next to last line add the word ''and'' before the word ''patient''.

3. On page 41331 in the first column, in the last line, and continuing in the second column, first and second lines, remove the following text, ''and patient assessment instrument transmitted by date''.

4. On page 41331, in the second column, line 19, the date ''July 6'' is corrected to read ''July 3''.

5. On page 41331, second column, line 20, the date ''July 7'' is corrected to read ''July 6'' and the date ''July 8'' is corrected to read ''July 7''.

6. On page 41331, second column, line 27, the date ''July 8'' is corrected to read ''July 7''.

7. On page 41331, second column, lines 29 to 30, the date ''July 9'' is corrected to read ''July 8''.

8. On page 41331, second column, lines 32 to 33, the date ''July 15, 2002'' is corrected to read ''July 14, 2002''.

9. On page 41331, third column, line 7, after the phrase ''(2) the day on which the patient ceases to receive Medicare-covered Part A inpatient rehabilitation services'', add the phrase, ''unless the patient qualifies for continued hospitalization under § 424.13(b) of the regulations''.

10. On page 41350, third column, line two, remove the number ''191''.

11. On page 41367, replace the label ''DSH Adjustment'' with ''LIP Adjustment'' and replace the values in the table labeled ''Examples of Computing a Facility's Federal Prospective Payment'' with the following:

	Facility A	Facility B
Federal Prospective Payment Labor Share	$19,971.89 × .72395	$19,971.89 × .72395
Labor Portion of Federal Payment Wage Index	$14,458.65 × 0.987	$14,458.65 × 1.234
Wage Adjusted Amount Non-Labor Amount	$14,270.69 + 5,513.24	$17,841.97 + 5,513.24
Wage Adjusted Federal Payment Rural Adjustment	$19,783.93 × 1.1914	$23,355.21 × 1.0000
Subtotal LIP Adjustment	$23,570.57 × 1.0239	$23,355.21 × 1.070
Total Adjusted Federal Prospective Payment	$24,133.91	$24,990.08

12. On page 41367, first column, second paragraph from the bottom, the dollar amount of ''$24,208.73'' is corrected to read ''$24,133.91'' and the dollar amount of ''$25,067.56'' is corrected to read ''$24,990.08''.

Summary of Technical Corrections to the Regulations Text of the August 7, 2001 Final Rule

Definition of a Discharge

As stated in the previous section of this correcting amendment, we inadvertently failed to account for a patient that stops receiving Medicare-covered Part A inpatient rehabilitation services, but meets the condition, under § 424.13(b), for continued hospitalization in defining a discharge in § 412.602 of the final rule.

Specifically, under § 424.13(b), a physician may certify or recertify the need for continued hospitalization if the physician finds that the patient could receive proper treatment in a skilled nursing facility (SNF) but no bed is available in a participating SNF. To account for a patient who meets the requirement at § 424.13(b), we are correcting the second definition of a discharge on page 41388 under § 412.602 to read as follows: ''The patient stops receiving Medicare-covered Part A inpatient rehabilitation services, unless the patient qualifies for continued hospitalization under § 424.13(b) of this chapter''. This correction does not affect the criteria, under § 412.610(c)(2)(ii), to determine the discharge assessment reference date.

Criteria To Be Classified as an IRF

Our clearly stated intention in the preambles of both the November 3, 2000 proposed rule (65 FR 66304) and the final rule, was not to change the existing general criteria to be excluded from the acute care hospital prospective payment system (§ 412.22), or the specific criteria to be classified as an excluded rehabilitation hospital or rehabilitation unit (§§ 412.23, 412.25, 412.29, and 412.30) under subpart B of part 412 of the regulation. In § 412.604(b) on page 41388, we inadvertently failed to include reference to the general exclusion criteria under § 412.22 as a condition to be paid under the IRF PPS. In this document, we are correcting § 412.604(b) to state that subject to the special payment provisions of § 412.22(c), an inpatient rehabilitation facility must meet the general criteria of § 412.22 and the criteria to be classified as a rehabilitation hospital or rehabilitation unit set forth in §§ 412.23(b), 412.25, and 412.29 for exclusion from the inpatient hospital prospective payment systems specified in § 412.1(a)(1).

Assessment Process for Interrupted Stays

We are making several technical corrections to § 412.618(c), on pages 41390 to 41391, which describes the ''Revised assessment schedule'' when an interruption of a stay occurs. The corrections we are making to § 412.618(c) conform the policies regarding the assessment process for interrupted stays to those stated in the corrected preamble to the regulation text.

Section 412.618(c)(1) of the final rule states that, ''If the interruption in the stay occurs before the admission assessment, the assessment reference date, completion dates, encoding dates, and data transmission dates for the admission and discharge assessments are advanced by the same number of calendar days as the length of the patient's interruption in the stay.'' The phrase ''occurs before the admission assessment'' is incorrect because an interruption of a stay affects the admission assessment schedule only if the interruption occurs during, not before, the admission assessment time period. Specifically, an interruption of a stay that occurs ''during the admission assessment time period'' results in a shifting of the relevant assessment schedule dates. We are correcting the phrase ''occurs before the admission assessment'' to read ''occurs during the admission assessment time period'' to accurately reflect when an interruption in a stay affects the assessment schedule as indicated in our policy described in the corrected preamble. In addition, the phrase ''data transmission dates'' in § 412.618(c)(1) of the final rule is incorrect because, as discussed earlier in this correcting amendment, an interruption of a stay does not affect the date of transmitting the assessment data. Specifically, the date to transmit admission and discharge assessment data together is based solely on the day that the patient is discharged. Thus, an interruption of a stay will not impact the data transmission date. We are correcting § 412.618(c)(1) to remove the reference to the ''data transmission dates'' and, thus, conform the regulations text to the corrected preamble.

Section 412.618(c)(2) of the final rule states that, ''If the interruption of the stay occurs after the admission assessment and before the discharge assessment, the completion date, encoding date, and data transmission date for the admission assessment are advanced by the same number of calendar days as the length of the patient's interruption in the stay.'' Under § 412.610(c)(1), the admission assessment schedule can only be established after the admission assessment time period is known. If an interruption of a stay occurs after the admission assessment time period (and before the discharge assessment), the admission assessment schedule, which has already been established, cannot be revised, contrary to what was incorrectly indicated in § 412.618(c)(2) of the final rule. Since the situation specified in § 412.618(c)(2) would never result in a revised assessment schedule, we are correcting § 412.618 by eliminating § 412.618(c)(2).

In summary, to conform the regulations text to the policy in the corrected preamble, § 412.618(c)(2) is removed, and the regulations text in formerly designated paragraph (c)(1) becomes paragraph (c), ''Revised assessment schedule.'' The corrected text of § 412.618(c) reads, ''If the interruption in the stay occurs during the admission assessment time period, the assessment reference date, completion date, and encoding date for the admission assessment are advanced by the same number of calendar days as the length of the patient's interruption in the stay.''

Special Payment Provision for Interrupted Stays

On page 41356 of the preamble of the final rule, we responded to a request to clarify how services during an interrupted stay would be paid if a beneficiary is discharged from the IRF to an acute care hospital. In our response to this comment, we stated that, under § 412.624(g), there would be no separate diagnostic related group (DRG) payment to the acute care hospital when the beneficiary is ''discharged and returns to the same IRF on the same day''. However, § 412.624(g)(1) incorrectly states that this provision applies to a patient with an ''interruption of one day or less''. Therefore, in order to conform the regulations text to the policy as stated in the preamble, we are correcting § 412.624(g)(1) to apply to a patient who is discharged and returns to the same IRF on the same day. Additionally, in our response to this comment, we correctly stated the policy in the preamble that if a beneficiary receives inpatient acute care hospital services, the acute care hospital can receive a DRG payment if the beneficiary is ''discharged from the IRF and does not return to that IRF by the end of that same day''. However, § 412.624(g)(2) in the final rule incorrectly states that this provision applies to a patient with an ''interruption of more than one day''. To conform the regulation text to the correction to § 412.624(g)(1) above and to the policy as stated in the preamble, we are correcting § 412.624(g)(2) to apply to a patient who is discharged and does not return to the same IRF on the same day.

Waiver of Proposed Rulemaking

We ordinarily publish a correcting amendment of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a correcting amendment such as this can take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of

finding and its reasons in the correcting amendment issued.

We find for good cause that it is unnecessary to undertake notice and public comment procedures because this correcting amendment does not make any substantive policy changes. This document makes technical corrections and conforming changes to the August 7, 2001 final rule. Therefore, for good cause, we waive notice and public comment procedures under 5 U.S.C. 553(b)(B).

List of Subjects

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 412.602 [Amended]

2. In § 412.602, make the following corrections:

a. In the introductory text of the definition of ''Discharge,'' correct the phrase ''a inpatient'' to read ''an inpatient''.

b. In the definition of ''Discharge'', paragraph (2) is revised to read as follows:

§ 412.602 Definitions.

* * * * *

Discharge. * * *

(2) The patient stops receiving Medicare-covered Part A inpatient rehabilitation services, unless the patient qualifies for continued hospitalization under § 424.13(b) of this chapter; or

* * * * *

§ 412.604 [Amended]

3. In § 412.604, make the following corrections:

a. In paragraph (b), add the phrase ''general criteria set forth in § 412.22 and the'' before the word ''criteria''.

b. In paragraph (e)(1)(i), remove the closed parentheses after the word ''basis''.

c. In paragraph (e)(1)(iii), remove the ''s'' from ''practitioners''.

§ 412.610 [Amended]

4. In § 412.610, in paragraph (c)(2)(ii)(A), remove the abbreviation ''IRF'', and in its place, add the phrase ''inpatient rehabilitation facility''.

§ 412.618 [Amended]

5. In § 412.618, revise paragraph (c) to read as follows:

§ 412.618 Assessment process for interrupted stays.

* * * * *

(c) If the interruption in the stay occurs during the admission assessment time period, the assessment reference date, completion date, and encoding date for the admission assessment are advanced by the same number of calendar days as the length of the patient's interruption in the stay.

§ 412.624 [Amended]

6. In § 412.624, make the following corrections:

a. In paragraph (a)(1), remove the phrase ''under this subchapter'' and in its place, add the phrase ''of this subchapter''.

b. In paragraph (c)(4), remove the phrase ''is the product'' and in its place, add the phrase ''are the product''.

c. In paragraph (e)(4), in the first sentence, remove the ''s'' from the word ''exceeds''.

d. Revise paragraph (g)(1) and the introductory text of paragraph (g)(2) to read as set forth below:

§ 412.624 Methodology for calculating the Federal prospective payment rates.

* * * * *

(g) * * *

(1) *Patient is discharged and returns on the same day.* Payment for a patient who is discharged and returns to the same inpatient rehabilitation facility on the same day will be the adjusted Federal prospective payment under paragraph (e) of this section that is based on the patient assessment data specified in § 412.618(a)(1). Payment for a patient who is discharged and returns to the same inpatient rehabilitation facility on the same day will only be made to the inpatient rehabilitation facility.

(2) *Patient is discharged and does not return by the end of the same day.* Payment for a patient who is discharged and does not return on the same day but does return to the same inpatient rehabilitation facility by or on midnight of the third day, defined as an interrupted stay under § 412.602, will be—

* * * * *

§ 412.626 [Amended]

7. In § 412.626, make the following corrections:

(a) In paragraph (b)(1), remove the acronym ''IRF'' and in its place, add the phrase ''inpatient rehabilitation facility''.

(b) In paragraph (b)(2), in the last sentence, remove the word, ''or'', and in its place, add the phrase, ''timely or is otherwise''.

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT FOR SKILLED NURSING FACILITIES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i) and (n), 1861(v), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww).

§ 413.1 [Amended]

2. In § 413.1, in paragraph (d)(2)(iv), after the word ''is'', add the word ''made''.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: June 26, 2002.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. 02–16476 Filed 6–28–02; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7787]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain

management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646–3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq.; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

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.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 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.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region IX				
California:				
LaMesa, City of, San Diego County	060292	July 24, 1974, Emerg.; June 26, 1976, Reg. July 2, 2002.	7/2/02	7/2/02.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Lemon Grove, City of, San Diego County..	060723	November 14, 1997, Reg. July 2, 2002	.....do	Do.
San Diego, City of, San Diego County	060284	January 29, 1971, Emerg.; August 15, 1983, Reg. July 2, 2002.	.....do	Do.
San Diego County Unincorporated Areas.	060284	March, 5, 1971, Emerg.; June 15, 1984, Reg. July 2, 2002.	.....do	Do.
Region I				
New Hampshire: Nashua, City of, Hillsborough County.	330097	February 6, 1975, Emerg.; June 15, 1979, Reg. July 3, 2002.	7/3/02	7/3/02.
Region IV				
Florida: Mount Dora, City of, Lake County	120137	February 3, 1975, Emerg.; April 5, 1988, Reg. July 3, 2002.	.....do	Do.
Region I				
Vermont: Hardwick, Town/Village of, Caledonia County.	500027	August 9, 1973, Emerg.; June 15, 1984, Reg. July 17, 2002.	7/17/02	7/17/02.
Region VII				
Kansas: Winfield, City of, Cowley County	200071	May 30, 1974, Emerg.; March 16, 1981, Reg. July 17, 2002.	.....do	Do.
Missouri:				
El Dorado, City of, Cedar County	290072	July 3, 1975, Emerg.; April 15, 1986 Reg. July 17, 2002.	.....do	Do.
Everton, City of, Dade County	290589	August 13, 1976, Emerg.; August 1, 1986, Reg. July 17, 2002.	.....do	Do.
Marshfield, City of, Webster County	290685	June 13, 1975, Emerg.; September 10, 1984, Reg. July 17, 2002.	.....do	Do.
Rogersville, City of, Webster County	290658	January 16, 1976, Emerg.; March 30, 1981, Reg. July 17, 2002.	.....do	Do.
Region VIII				
Utah:				
Lehi, City of, Utah County	490209	October 18, 1974, Emerg.; September 14, 1979, Reg. July 17, 2002.	.....do	Do.
Sarasota Springs, City of, Utah County	490250	May 10, 1999, Reg. July 17, 2002	.....do	Do.
Utah County, Unincorporated Areas	495517	November 21, 1971, Emerg.; October 15, 1982, Reg. July 17, 2002.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 20, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance Administration, and Mitigation Administration.

[FR Doc. 02–16424 Filed 6–28–02; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 96–45; FCC 02–171]

Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Petitions for Reconsideration Filed by: Coalition of Rural Telephone Companies, Competitive Universal Service Coalition, Illinois Commerce Commission, and National Telephone Cooperative Association

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission address the requests to reconsider portions of the Commission's order modifying the Commission's rules for providing high-cost universal service support to rural telephone companies based on the proposals made by the Rural Task Force by amending its rules to provide that the amount of high-cost loop support available to rural carriers in 2002 should be adjusted to account for mid-2001 implementation of the rules adopted in the Rural Task Force Order.

DATES: Effective July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Sharon Webber, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of a Commission's Order on Reconsideration in CC Docket No. 96–45 released on June 13, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center,

Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. In this Order on Reconsideration, we address the requests to reconsider portions of the Commission's order modifying the Commission's rules for providing high-cost universal service support to rural telephone companies based on the proposals made by the Rural Task Force. Specifically, we amend our rules to provide that the amount of high-cost loop support available to rural carriers in 2002 should be adjusted to account for mid-2001 implementation of the rules adopted in the *RTF Order,* 66 FR 30080, June 5, 2001. In addition, we deny requests filed by the Coalition of Rural Telephone Companies, Competitive Universal Service Coalition, and Illinois Commerce Commission to reconsider certain elements of the *RTF Order.* We conclude that these petitioners have failed to present any new arguments that lead us to reconsider these issues.

II. Discussion

2. As discussed in greater detail below, we amend our rules to provide that the amount of high-cost loop support available to rural carriers in 2002 should be adjusted to account for mid-2001 implementation of the rules adopted in the *RTF Order.* In addition, we deny the requests of RTC, CUSC, and Illinois Commission to reconsider other elements of the *RTF Order.* As part of our continuing assessment of support to rural areas, we intend to initiate a proceeding in the future to examine further issues related to the application of the universal service mechanisms to competitive ETCs.

3. *NTCA Petition.* We agree with NTCA that the Commission's rules for calculating a rural incumbent carrier's loop cost expense adjustment should be amended to take into consideration mid-year 2001 implementation of the adopted plan. The Commission based its estimate of the increase in rural carrier universal service funding on data submitted by the Rural Task Force. This data assumed that the adopted plan would be implemented as of January 1, 2001. As NTCA notes, due to July 1, 2001 implementation of the Rural Task Force plan, application of § 36.603(a) would result in 2002 support for rural carriers being calculated by adding the totals for the first half of 2001, during which the plan was not in effect, and the second half of 2001, during which the plan was in effect. We agree with NTCA that mid-year 2001 implementation will result in less support for eligible rural carriers in 2002 than intended by the Commission in adopting the Rural Task Force plan. This result would be compounded over five years.

4. We therefore amend § 36.603(a) of our rules by taking the uncapped support for 2000 and increasing it for 2001 and 2002 by the rural growth factor. Specifically, for the period of January 1, 2002, to December 31, 2002, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for calendar year 2000, multiplied times one plus the rural growth factor for 2001, which then shall be multiplied times one plus the rural growth factor for 2002. We believe this result is consistent with the Commission's intent in adopting the recommendations of the Rural Task Force. We direct USAC to take the administrative steps necessary to implement this rule amendment beginning in the third quarter of 2002, including the provision of retroactive support to any carrier that may qualify for such additional support as of January 1, 2002. Specifically, in addition to any other payments for which carriers qualify in the third quarter 2002, we further direct USAC to provide the additional rural high-cost support retroactively in third quarter 2002 to those carriers that qualify for such additional support pursuant to this rule amendment during first quarter 2002. Similarly, in addition to any other payments for which carriers qualify in the fourth quarter 2002, USAC shall provide the additional rural high-cost support retroactively in fourth quarter 2002 for those carriers that qualify for such additional support during second quarter 2002.

5. We do not address NTCA's request at this time to amend our rules to provide ''safety valve'' support for the first year of investment in acquired exchanges. The Commission intends to address this request at a later date.

6. *RTC Petition.* We deny the request of RTC to reconsider the Commission's determination to use a wireless mobile customer's billing address as the basis for determining the customer's location for purposes of delivering high-cost universal service support. Because universal service support is portable, competitive ETCs receive the same per-line high-cost support as the incumbent local exchange carrier for the lines that it serves in the high-cost areas of the incumbent local exchange carrier. It is therefore necessary to establish a reasonable means to identify customer locations in order to determine the support amounts for the competitive carrier. We find no new arguments in RTC's petition that persuade us to reconsider the Commission's decision on this issue.

7. We affirm that the use of the customer's billing address as a surrogate for actual service location is reasonable and the most administratively viable solution to this problem at this time. For example, as the Commission noted in the *RTF Order,* this approach eliminates the need to require many wireless mobile carriers to create a new database for purposes of universal service funding. The Commission addressed concerns similar to those raised in RTC's petition in the *RTF Order,* including the potential for arbitrage opportunities of the universal service mechanism. In so doing, the Commission acknowledged that this approach is not a perfect solution. Consistent with the Commission's conclusion in the *RTF Order,* we believe that sufficient safeguards are in place to alleviate those concerns. The Commission has specifically committed to taking enforcement action as appropriate for any such abuses. Moreover, the Commission has indicated that it will continue to monitor the reasonableness of using a customer's billing address as the surrogate for a wireless mobile customer's location for universal service purposes and may revisit this approach in the future.

8. RTC contends that the Commission's universal service rules are generally incompatible for calculating universal service support for wireless carriers. RTC effectively asks the Commission to modify certain of the universal service rules as they apply to wireless carriers and to initiate new proceedings to establish a cost mechanism for wireless carriers. These requests exceed the scope of the *RTF Order.* Many of the rules for which RTC seeks modification were adopted prior to the *RTF Order* and this order is limited to those issues raised on reconsideration of the *RTF Order.* RTC's petition is therefore more appropriately characterized as a request for rulemaking. As part of our continuing assessment of support to rural areas, we intend to initiate a proceeding in the future to examine further issues related to the application of universal service mechanisms to competitive ETCs.

9. *CUSC Petition.* We deny the request of CUSC to reconsider the requirement adopted in the *RTF Order* that state commissions must 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.'' We therefore deny CUSC's request to permit all competitive ETCs to self-certify their compliance with section 254(e). Specifically, we disagree with CUSC's contention that self-certification should be extended from carriers that are not subject to state jurisdiction pursuant to section 214(e)(6) to all competitive ETCs due to the fact that competitive ETCs may not be subject to state rate regulation. The self-certification process established for carriers not subject to the jurisdiction of a state commission recognized that, in limited instances, there is no state regulatory authority to ensure compliance with section 254(e). This is not the case for the majority of competitive ETCs. The Commission has previously concluded that state commissions have the principal responsibility in designating carriers as ETCs, including those carriers not subject to state rate regulation under section 332(c). We believe that state commissions that conduct ETC designations should also certify that such carriers are in compliance with section 254(e). It would be contrary to the principle of competitive neutrality to require certain classes of carriers subject to state ETC jurisdiction to receive state certification while allowing others to self-certify. Nor do we agree with CUSC's alternative suggestion that all ETCs be allowed to self-certify compliance with section 254(e). As the Commission concluded in adopting this requirement, we believe that the state certification process provides the most reliable means of determining whether carriers are using support in a manner consistent with section 254(e).

10. We also deny the request of CUSC to reconsider the Commission's decisions regarding disaggregation and targeting of universal service support. We disagree with CUSC's suggestion that, whenever a rural incumbent carrier study area is disaggregated for purposes of targeting funding, the study area should automatically be disaggregated for purposes of ETC designation as well. In the case of an area served by a rural telephone company, section 214(e)(5) defines the competitive ETC's designated service area as the rural telephone company's study area unless and until the Commission and states establish a different definition of service area. We believe that granting CUSC's request in this proceeding would be inconsistent with the statute.

11. We also disagree with CUSC's assertion that the disaggregation rules adopted in the *RTF Order* violate the principle of competitive neutrality because they allow only rural incumbent carriers to select from a range of disaggregation options. Specifically, CUSC contends that competitive ETCs should have the same opportunity to initiate study area disaggregation as the rural carrier. We find that the disaggregation and targeting approach adopted in the *RTF Order* achieves a reasonable balance between rural carriers' need for flexibility and the goal of encouraging competitive entry. The Commission recognized in the *RTF Order* that some incumbent carriers may choose a disaggregation path based on anti-competitive reasons. For that reason, the Commission concluded that a state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent carrier, modification to the disaggregation and targeting of support under the selected path. We affirm the Commission's conclusion that state commissions have the capability to safeguard against anti-competitive manipulation of the disaggregation and targeting of support that could occur with such requests. Competitive ETCs and other interested parties will have an opportunity to participate in this process. We therefore find no basis to conclude that the disaggregation process is inconsistent with the principle of competitive neutrality.

12. We also decline to adopt CUSC's request that the Commission adopt specific rules governing how the amounts of support in each sub-zone under Path Three (self-certification) are to be calculated in order to ensure support amounts are cost justified. We reaffirm the Commission's prior decision to permit carriers flexibility in how they disaggregate support. We are not persuaded on the record before us that permitting carriers to self-certify to a disaggregation path creates too great an opportunity for the incumbent carrier to manipulate support in an anti-competitive manner. A self-certified disaggregation plan under Path 3 is subject to complaint by interested parties before the appropriate regulatory authority. Moreover, the state or appropriate regulatory authority may require on its own motion at any time the disaggregation of support in a different manner. We believe such regulatory oversight will sufficiently safeguard against the anti-competitive manipulation of the disaggregation and targeting of support.

13. Finally, at this time, we decline to adopt CUSC's request that USAC publish and make available on its website additional information relating to the geographic boundaries of wire centers and study areas and the amount of support available in each geographic location. In the *RTF Order,* the Commission required rural incumbent local exchange carriers to submit to USAC maps in which the boundaries of the designated disaggregation zones of support are clearly specified, which USAC will make available for public inspection. In addition, when submitting information in support of self-certification, an incumbent carrier must provide USAC with publicly available information that allows competitors to verify and reproduce the algorithm used to determine zone support levels. We also note that USAC makes publicly available in its quarterly funding report detailed information relating to the high-cost support received by carriers in each study area. We recognize that the availability of such information is important to competitors in assessing potential entry. We believe that sufficient information is available to competitors under our existing rules and policies and will continue to be available following requests for disaggregation of study areas by rural incumbent carriers. The Commission will, however, continue to monitor this situation and take appropriate steps as necessary.

14. *Illinois Commission Petition.* We deny the request of the Illinois Commission to reconsider the plan adopted in the *RTF Order* for providing high-cost universal service support to rural carriers for the next five years due to concerns relating to the sufficiency of the evidentiary record. Specifically, we disagree with the Illinois Commission that the funding increases adopted in the *RTF Order* are excessive and not based upon an adequate record.

15. Based upon the extensive record developed in this proceeding, the Commission used its expertise and informed judgment to formulate an interim plan for providing high-cost universal service support to rural carriers. That plan was based largely on the recommendations of the Rural Task Force. After exhaustive deliberations and considerable effort, including six white papers, the Rural Task Force submitted its Recommendation to the Joint Board on September 29, 2000. After reviewing the Rural Task Force's proposal, the Joint Board submitted its recommendations to the Commission on December 22, 2000. The Commission carefully reviewed these recommendations, including comments filed by the Illinois Commission and others, in adopting the interim plan for rural carriers. In balancing the competing interests presented in this

proceeding, the Commission considered both the adequacy of support to rural carriers and the burden on contributors. In concluding that the modified embedded mechanism for rural carriers strikes an appropriate balance, the Commission rejected the contention that no increase in the current high-cost support levels was warranted.

16. We affirm the Commission's conclusion that it was reasonable to modify the high-cost loop support levels for rural carriers established in 1997 to account for changes in costs and technology, and to ensure that rural carriers can maintain existing facilities until such time as a long-term plan is adopted. For example, the Commission's decision to increase high-cost loop support to rural carriers by ''rebasing'' the indexed fund cap and the corporate operations expense limitation as if the indexed cap had not been in effect for the calendar year 2000 was reasonable because more than seven years had passed since the Commission originally implemented the indexed cap on high-cost loop support. The Commission concluded that the indexed cap on the high-cost loop fund increasingly limited the amount of high-cost loop support for rural carriers. In addition, the Commission noted that, even with these changes any increase in the universal service contribution factor as a result of this plan would be modest. In the RTF Order, the Commission concluded that no commenter proffered any specific evidence that the adopted plan would provide support that is excessive. The Illinois Commission petition contains no such empirical evidence to support this contention. We therefore decline to now reconsider the Commission's conclusions.

17. We also decline to reconsider the state certification requirement to ensure that carriers are using support in a manner consistent with section 254(e). As discussed, we do not agree with the Illinois Commission that excessive funding is provided to rural carriers. We therefore are not persuaded by the argument that any such state certification requirement is unworkable due to excessive funding for universal service purposes. Given that states generally have primary authority over carriers' intrastate activities, we reiterate the Commission's determination that the state certification process provides the most reliable means of determining whether carriers are using support for its intended purpose in a manner consistent with section 254(e).

III. Procedural Matters

A. Paperwork Reduction Act

18. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose no new or modified reporting and/or recordkeeping requirements or burdens on the public.

B. Supplemental Final Regulatory Flexibility Analysis

19. In compliance with the Regulatory Flexibility Act (RFA), this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *RTF Order,* to the extent that changes to that Order adopted here on reconsideration require changes in the conclusions reached in the FRFA. As required by the RFA, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Further Notice of Proposed Rulemaking, which sought public comment on the proposals in the Further Notice.

1. Need for, and Objective of, the Order

20. Section 254 of the Communications Act of 1934, as amended by the 1996 Act, requires the Commission to promulgate rules to preserve and advance universal service support. In the *RTF Order,* the Commission adopted interim rules for determining high-cost universal service support for rural telephone companies based upon the modified embedded cost mechanism proposed by the Rural Task Force. The Commission based its estimate of the appropriate funding for rural carriers on data submitted by the Rural Task Force. This data assumed that the adopted plan would be implemented as of January 1, 2001. In this Order, we amend § 36.603(a) of our rules to reflect the fact that July 1, 2001 implementation of the rules, as adopted in the *RTF Order,* would result in less support being provided than intended by the Commission.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

21. No comments were submitted in response to the IRFA or FRFA. On reconsideration, however, NTCA noted that clarification of the § 36.603(a) of the Commission's rules was required to ensure that mid-year 2001 implementation did not result in less support being provided for rural incumbent carriers in 2002 than intended by the Commission in adopting the Rural Task Force plan.

3. Description and Estimate of the Number of Small Entities to Which This Order Will Apply

22. In the FRFA at paragraphs 218–229 of the *RTF Order*, we described and estimated the number of small entities that would be affected by the new universal service rules for rural carriers. The rule amendment adopted herein may apply to the same entities affected by the rules adopted in that order. We therefore incorporate by reference paragraphs 218–229 of the *RTF Order*.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. The rule amendment adopted in this Order contains no new reporting, recordkeeping, or other compliance requirements.

5. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. In the *RTF Order*, we described the steps taken to minimize the significant economic impact on small entities consistent with the stated objectives associated with the adopted plan for providing high-cost support to rural carriers. Because many of the same issues are presented in this Order, we incorporate by reference paragraphs 233–235 of the *RTF Order*. In this Order, we amend § 36.603(a) of our rules consistent with the intent of the Commission in adopting the Rural Task Force plan for providing high-cost universal service support to rural carriers for an interim period of five years. That plan was predicated on funding estimates for rural incumbent carriers based on January 1, 2001 implementation. The adopted rule, however, established July 1, 2001, as the implementation date. The rule amendment adopted herein rectifies this inconsistency, and thereby ensures that appropriate funding is provided to rural incumbent local exchange carriers and competitive ETCs, many of whom may qualify as small entities, over the next five years. As discussed, the alternative option of denying the request for reconsideration on this issue was considered and deemed to be inconsistent with Commission's intent in adopting the Rural Task Force's plan.

6. Report to Congress

25. The Commission will send a copy of this Order, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this

Order, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

IV. Ordering Clauses

26. It is ordered that, pursuant to the authority contained in sections 1–4, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C 151–154, 214, and 254, and § 1.429 of the Commission's rules, the above captioned petitions for reconsideration are denied, to the extent discussed herein.

27. The petition for reconsideration filed by National Telephone Cooperative Association on July 5, 2001 is granted in part, to the extent discussed herein.

28. Part 36 of the Commission's rules, 47 CFR part 36, is amended as set forth, effective July 31, 2002.

29. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 36 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 403 and 410, unless otherwise noted.

2. Section 36.603 is amended by revising paragraph (a) to read as follows:

§ 36.603 Calculation of rural incumbent local exchange carrier portion of nationwide loop cost expense adjustment.

(a) Effective July 1, 2001, the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment will be recomputed by the fund administrator as if the indexed cap calculated pursuant to § 36.601(c) and the corporate operations expense limitation calculated pursuant to § 36.621 had not been in effect for the calendar year 2000. For the period July 1, 2001, to December 31, 2001, the annualized amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the calendar year 2000, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604. For the period January 1, 2002, to December 31, 2002, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for calendar year 2000, multiplied times one plus the Rural Growth Factor for 2001, which then shall be multiplied times one plus the Rural Growth Factor for 2002. Beginning January 1, 2003, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

* * * * *

[FR Doc. 02–16444 Filed 6–28–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

[Docket No. NHTSA 02–12526; Notice 1]

Reorganization and Delegations of Authority

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document amends NHTSA's organizational structure, delegations of authority, and succession to Administrator. The amendments effectuate organizational changes that will enable NHTSA to achieve its mission more effectively and efficiently.

EFFECTIVE DATES: The amendments are effective July 1, 2002, except for the amendments set forth in amendatory instructions 5, 6, and 7, which are effective October 3, 2002.

FOR FURTHER INFORMATION CONTACT: You may contact John Womack at 202–366–9511.

SUPPLEMENTARY INFORMATION: This final rule amends the regulations on the organization, delegation of powers and duties within the National Highway Traffic Safety Administration (NHTSA), and amends the succession to the Administrator to conform to the new organizational structure. This final rule amends NHTSA's organizational structure to enable NHTSA to achieve its mission more effectively and efficiently.

These amendments relate solely to changes in the organizational structure and the placement of the delegations of authority for various functions within the agency. They have no substantive effect. Notice and the opportunity for comment are therefore not required under the Administrative Procedure Act, and the amendments are effective immediately upon publication in the **Federal Register**. In addition, these amendments are not subject to Executive Order 12866, the Department of Transportation's regulatory policies and procedures, or the provisions for Congressional review of final rules in Chapter 8 of Title 5, United States Code.

List of Subjects in 49 CFR Part 501

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, 49 CFR part 501 is amended as follows:

PART 501—[AMENDED]

1. The authority citation for part 501 continues to read as follows:

Authority: 49 U.S.C. 105 and 322; delegation of authority at 49 CFR 1.50.

Amendments Effective July 1, 2002

2. Section 501.3 is amended as follows:

a. Revise paragraph (a)(3);

b. Remove paragraphs (a)(4) and (a)(6);

c. Redesignate paragraphs (a)(5) and (a)(7) as new paragraphs (a)(4) and (a)(5), respectively;

d. Add new paragraph (a)(6); and

e. Revise paragraph (c).

The revisions and additions read as follows:

§ 501.3. Organization and general responsibilities.

* * * * *

(a) * * *

(3) *Executive Director.* As the principal advisor to the Administrator and Deputy Administrator, provides direction on internal management and mission support programs. Provides executive direction over the Senior Associate Administrators.

* * * * *

(6) *Director, Intergovernmental Affairs.* As the principal advisor to the Administrator and Deputy Administrator on all intergovernmental matters, including communications with Congress, communicates agency policy and coordinates with the Chief Counsel on legislative issues affecting the agency.

* * * * *

(c) *Senior Associate Administrators*—(1) *Senior Associate Administrator for Policy and Operations.* As the principal advisor to the Administrator and Deputy Administrator with regard to core administrative and support services, provides direction and internal management and mission support for such activities. Provides executive direction over the Associate Administrator for Advanced Research and Analysis, the Associate Administrator for Administration, the Associate Administrator for Planning, Evaluation and Budget, the Chief Information Officer and the Office of Communications and Consumer Information.

(2) *Senior Associate Administrator for Vehicle Safety.* As the principal advisor to the Administrator and Deputy Administrator with regard to rulemaking, enforcement and applied research, provides direction and internal management and mission support for such activities. Provides executive direction over the Associate Administrator for Rulemaking, the Associate Administrator for Enforcement, and the Associate Administrator for Applied Research.

(3) *Senior Associate Administrator for Traffic Injury Control.* As the principal advisor to the Administrator and Deputy Administrator with regard to programs to reduce traffic injury, provides direction and internal management and mission support for such activities. Provides executive direction over the Associate Administrator for Program Development and Delivery and the Associate Administrator for Injury Control Operations and Resources.

3. Section 501.4, Succession to Administrator, is revised to read as follows:

§ 501.4 Succession to Administrator.

The following officials, in the order indicated, shall act in accordance with the requirements of 5 U.S.C. 3346–3349 as Administrator of the National Highway Traffic Safety Administration, in the case of the absence or disability or in the case of a vacancy in the office of the Administrator, until a successor is appointed:

(a) Deputy Administrator;

(b) Executive Director;

(c) Chief Counsel;

(d) Senior Associate Administrator for Policy and Operations;

(e) Senior Associate Administrator for Vehicle Safety; and

(f) Senior Associate Administrator for Traffic Injury Control.

4. Section 501.8, Delegations, is amended by revising paragraphs (b), (e), (f), and (g), by removing paragraphs (h) through (k), and by redesignating paragraph (l) as new paragraph (h), to read as follows:

§ 501.8 Delegations.

* * * * *

(b) *Executive Director.* The Executive Director is delegated line authority for executive direction over the Senior Associate Administrators.

* * * * *

(e) *Senior Associate Administrator for Policy and Operations.* The Senior Associate Administrator for Policy and operations is delegated authority for executive direction of the Associate Administrator for Advanced Research and Analysis; the Associate Administrator for Administration; the Associate Administrator for Planning, Evaluation, and Budget; the Chief Information Officer; and the Director of Communications and Consumer Information. To carry out this direction, the Senior Associate Administrator for Policy and Operations is delegated authority, except for authority reserved to the Administrator, to direct the NHTSA planning and evaluation system in conjunction with Departmental requirement and planning goals; to coordinate the development of the Administrator's plans, policies, budget, and programs, and analyses of their expected impact, and their evaluation in terms of the degree of goal achievement; and to perform independent analyses of proposed Administration regulatory, grant, legislative, and program activities. Except for authority reserved to the Senior Associate Administrator for Vehicle Safety, the Senior Associate Administrator for Policy and Operations is delegated authority to develop and conduct research and development programs and projects necessary to support the purposes of Chapters 301, 323, 325, 327, 329, and 331 of title 49, United States Code, and Chapter 4 of title 23, United States Code, as amended, in coordination with the Senior Associate Administrator for Vehicle Safety and the Chief Counsel. The Senior Associate Administrator for Policy and Operations is also delegated authority to exercise procurement authority with respect to NHTSA requirements; administer and conduct NHTSA's personnel management activities; administer NHTSA financial management programs, including systems of funds control and accounts of all financial transactions; and conduct administrative management services in support of NHTSA missions and programs.

(f) *Senior Associate Administrator for Vehicle Safety.* The Senior Associate Administrator for Vehicle Safety is delegated authority for executive direction of the Associate Administrator for Rulemaking, the Associate Administrator for Enforcement and the Associate Administrator for Applied Research. The Senior Associate Administrator for Vehicle Safety exercises executive direction with respect to the setting of standards and regulations for motor vehicle safety, fuel economy, theft prevention, consumer information, and odometer fraud. To carry out this direction, the Senior Associate Administrator for Vehicle Safety is delegated authority, except for authority reserved to the Administrator or the Chief Counsel, to exercise the powers and perform the duties of the Administrator with respect to the setting of motor vehicle safety and theft prevention standards, average fuel economy standards, procedural regulations, and the development of consumer information and odometer fraud regulations authorized under Chapters 301, 323, 325, 327, 329, and 331 of title 49, United States Code. Except for authority reserved to the Senior Associate Administrator for Policy and Operations, the Senior Associate Administrator for Vehicle Safety is delegated authority to develop and conduct research and development programs and projects necessary to support the purposes of Chapters 301, 323, 325, 327, 329, and 331 of title 49, United States Code, and Chapter 4 of title 23, United States Code, as amended, in coordination with the appropriate Associate Administrators, and the Chief Counsel. The Senior Associate Administrator for Vehicle

Safety is also delegated authority to respond to a manufacturer's petition for exemption from 49 U.S.C. Chapter 301's notification and remedy requirements in connection with a defect or noncompliance concerning labeling errors; extend comment periods (both self-initiated and in response to a petition for extension of time) for noncontroversial rulemakings; make technical amendments or corrections to a final rule; extend the effective date of a noncontroversial final rule; administer the NHTSA enforcement program for all laws, standards, and regulations pertinent to vehicle safety, fuel economy, theft prevention, damageability, consumer information and odometer fraud, authorized under Chapters 301, 323, 325, 327, 329, and 331 of title 49, United States Code; issue regulations relating to the importation of motor vehicles under sections 30141 through 30147 of title 49, United States Code; and grant and deny petitions for import eligibility determinations submitted to NHTSA by motor vehicle manufacturers and registered importers under 49 U.S.C. 30141.

(g) *Senior Associate Administrator for Traffic Injury Control.* The Senior Associate Administrator for Traffic Injury Control is delegated authority for executive direction of the Associate Administrator for Program Development and Delivery and the Associate Administrator for Injury Control Operations and Resources. To carry out this direction, the Senior Associate Administrator for Traffic Injury Control is delegated authority, except for authority reserved to the Administrator, over programs with respect to: Chapter 4 of title 23, United States Code, as amended; the authority vested by section 210(2) of the Clean Air Act, as amended (42 U.S.C. 7544(2)); the authority vested by 49 U.S.C. 20134(a), with respect to the laws administered by the Administrator pertaining to highway, traffic, and motor vehicle safety; the Act of July 14, 1960, as amended (23 U.S.C. 313 note) and 49 U.S.C. Chapter 303; the authority vested by section 157(g) of title 23, United States Code; the authority vested by sections 153, 154, 157(except paragraph (g)), 161, 163, and 164 of title 23, United States Code, with the concurrence of the Federal Highway Administrator; and secton 209 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 401 note) as delegated by the Secretary in § 501.2(i). The Senior Associate Administrator for Traffic Injury Control is also delegated authority to exercise the powers and perform the duties of the Administrator with respect to State and community highway safety programs under 23 U.S.C. 402, including approval and disapproval of State highway safety plans and final vouchers, in accordance with the procedural requirements of the Administration; to approve the awarding of alcohol incentive grants to the States under 23 U.S.C. 408 and drunk driving prevention grants under 23 U.S.C. 410, for years subsequent to the initial awarding of such grants by the Administrator; as appropriate for activities benefiting states and communities; and to implement 23 U.S.C. 403.

* * * * *

Amendments Effective October 3, 2002

§ 501.3 [Amended]

5. Effective October 3, 2002, § 501.3 is amended by removing and reserving paragraph (a)(3).

6. Effective October 3, 2002, § 501.4 is revised to read as follows:

§ 501.4 Succession to Administrator.

The following officials, in the order indicated, shall act in accordance with the requirements of 5 U.S.C. 3346–3349 as Administrator of the National Highway Traffic Safety Administration, in the case of the absence or disability or in the case of a vacancy in the office of the Administrator, until a successor is appointed:

(a) Deputy Administrator;

(b) Chief Counsel;

(c) Senior Associate Administrator for Policy and Operations;

(d) Senior Associate Administrator for Vehicle Safety; and

(e) Senior Associate Administrator for Traffic Injury Control.

§ 501.8 [Amended]

7. Effective October 3, 2002, § 501.8 is amended by removing and reserving paragraph (b).

Issued on June 26, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–16523 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2002–12497]

RIN 2127–A174

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 2003 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination for model year (MY) 2003 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft MY 2003 lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Consumer Programs Division, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: The Anti Car Theft Act of 1992, Pub. L. 102–519, amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of ''passenger motor vehicle'' in 49 U.S.C. 33101(10) to include a ''multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the

tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of ''passenger motor vehicles (other than light duty trucks) in not to exceed one-half of the lines not designated under 49 U.S.C. 33104 as high-theft lines.'' Section 33103(a) further directed NHTSA to select only lines not designated under § 33104 of this title as high theft lines. NHTSA lists each of these selected lines in Appendix B to Part 541. Since § 33103 did not specify marking of replacement parts for below-median lines, the agency does not require marking of replacement parts for these lines. NHTSA published a final rule amending 49 CFR part 541 to include the definitions of MPV and LDT, and major component parts. *See* 59 FR 64164, [December 13, 1994.]

49 U.S.C. 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning in a given model year. It also identifies those lines that are exempted from the theft prevention standard for a given model year under § 33104. Additionally, this listing identifies those lines (except light-duty trucks) in Appendix B to Part 541 that have theft rates below the 1990/1991 median theft rate but are subject to the requirements of this standard under § 33103.

On August 3, 2001, the final listing of high-theft lines for the MY 2002 vehicle lines was published in the **Federal Register** (66 FR 40622). The final listing identified four vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 2002 model year.

For MY 2003, the agency identified five new vehicle lines that are likely to be high-theft lines, in accordance with the procedures published in 49 CFR part 542. The new lines are the Honda Pilot, the Nissan Infiniti M45, the Subaru Baja, the Toyota Lexus GX 470 and the Toyota Matrix. The agency was also informed by General Motors that its Saturn SC vehicle line has been renamed the Saturn ION vehicle line beginning with the 2003 model year. In addition to these five vehicle lines, the list of high-theft vehicle lines includes all lines previously designated as high-theft and listed for prior model years.

Subsequent to publishing the MY 2002 final rule, the agency was informed by DaimlerChrysler, Inc., (Daimler/Chrysler) that its Jeep Cherokee vehicle line was replaced by the Jeep Liberty vehicle line beginning with the 2002 model year. Accordingly, Appendix A has also been amended to reflect these changes.

The list of lines that have been exempted by the agency from the parts-marking requirements of part 541 includes high-theft lines newly exempted in full beginning with MY 2003. The five vehicle lines newly exempted in full are the BMW (confidential nameplate) vehicle line which replaces its Z3 vehicle line, the General Motors Pontiac Grand Prix, the Isuzu Axiom, the Nissan Infiniti G35 and the Mazda 6 vehicle line. The vehicle lines listed as being subject to the parts-marking standard have previously been designated as high-theft lines in accordance with the procedures set forth in 49 CFR part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high theft. The manufacturer submits these evaluations and conclusions to the agency, which makes an independent evaluation; and, on a preliminary basis, determines whether the new line should be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, the agency makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new lines on the high-theft list has been the subject of a final determination under either 49 U.S.C. 33103 or 33104.

The vehicle lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR part 543 and 49 U.S.C. 33106.

Similarly, the low-theft lines listed as being subject to the parts-marking standard have previously been designated in accordance with the procedures set forth in 49 U.S.C. 33103.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of 49 CFR part 541 for MY 2003. Further, this listing does not actually exempt lines from the requirements of 49 CFR part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of actions for MY 2003 that the agency has already taken, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are already subject to the requirements of 49 CFR part 541 for MY 2003. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In Part 541, Appendices A and A–I, are revised to read as follows:

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
Alfa Romeo	Milano 161
	164
BMW	Z3
	Z8
	6 Car Line
Consulier	Consulier GTP
Daewoo	Korando
	Musso (MPV)
	Nubira
Daimlerchrysler	Chrysler Cirrus
	Chrysler Fifth Avenue/Newport
	Chrysler Laser
	Chrysler LeBaron/Town & Country
	Chrysler LeBaron GTS
	Chrysler's TC
	Chrysler New Yorker Fifth Avenue
	Chrysler Sebring
	Chrysler Town & Country
	Dodge 600
	Dodge Aries
	Dodge Avenger
	Dodge Colt
	Dodge Daytona
	Dodge Diplomat
	Dodge Lancer
	Dodge Neon
	Dodge Shadow
	Dodge Stratus
	Dodge Stealth
	Eagle Summit
	Eagle Talon
	Jeep Cherokee (MPV)
	Jeep Grand Cherokee (MPV)
	Jeep Liberty (MPV) [1]
	Jeep Wrangler (MPV)
	Plymouth Caravelle
	Plymouth Colt
	Plymouth Laser
	Plymouth Gran Fury
	Plymouth Neon
	Plymouth Reliant
	Plymouth Sundance
	Plymouth Breeze
Ferrari	Mondial 8
	328

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
Ford	Ford Aspire
	Ford Escort
	Ford Probe
	Ford Thunderbird
	Lincoln Continental
	Lincoln Mark
	Lincoln Town Car
	Mercury Capri
	Mercury Cougar
	Merkur Scorpio
	Merkur XR4Ti
General Motors	Buick Electra
	Buick Reatta
	Buick Skylark
	Chevrolet Malibu
	Chevrolet Nova
	Chevrolet Blazer (MPV)
	Chevrolet Prizm
	Chevrolet S–10 Pickup
	Geo Storm
	Chevrolet Tracker (MPV)
	GMC Jimmy (MPV)
	GMC Sonoma Pickup
	Oldsmobile Achieva (MYs 1997–1998)
	Oldsmobile Bravada
	Oldsmobile Cutlass
	Oldsmobile Cutlass Supreme (MYs 1988–1997)
	Oldsmobile Intrigue
	Pontiac Fiero
	Saturn Sports Coupe [2]
	Saturn ION
Honda	Accord
	CRV (MPV)
	Odyssey (MPV)
	Passport
	Pilot (MPV) [3]
	Prelude
	S2000
	Acura Integra
	Acura MDX (MPV)
	Acura RSX
Hyundai	Accent
	Sonata
	Tiburon
Isuzu	Amigo
	Impulse
	Rodeo
	Rodeo Sport
	Stylus
	Trooper/Trooper II
	VehiCross (MPV)
Jaguar	XJ
Kia Motors	Optima
	Rio
	Sephia (1998–2002)
	Spectra
Lotus	Elan
Maserati	Biturbo
	Quattroporte 228
Mazda	626
	MX–3
	MX–5 Miata
	MX–6

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
Mercedes-Benz	190 D–190 E
	260E (1987–1989)
	300 SE (1988–1991)
	300 TD (1987)
	300 SDL (1987)
	300 SEL
	350 SDL (1990–1991)
	420 SEL (1987–1991)
	560 SEL (1987–1991)
	560 SEC (1987–1991)
	560 SL
Mitsubishi	Cordia
	Eclipse
	Lancer
	Mirage
	Montero
	(MPV)
	Montero Sport (MPV)
	Tredia
	3000GT
Nissan	240SX
	Sentra/200SX
	Xterra
	Infiniti M45 [3]
Peugeot	405
Porsche	924S
Subaru	XT
	SVX
	Baja [3]
	Forester
	Legacy
Suzuki	Aerio X90 (MPV)
	Sidekick (MYs 1997–1998)
	Vitara/Grand Vitara (MPV)
Toyota	Toyota 4-Runner (MPV)
	Toyota Avalon
	Toyota Camry
	Toyota Celica
	Toyota Corolla/Corolla Sport
	Toyota Echo
	Toyota Highlander (MPV)
	Toyota Matrix (MPV) [3]
	Toyota MR2
	Toyota MR2 Spyder
	Toyota Prius
	Toyota RAV4 (MPV)
	Toyota Sienna (MPV)
	Toyota Tercel
	Lexus GX470 (MPV) [3]
	Lexus IS300
	Lexus RX300 (MPV)
Volkswagen	Audi Quattro
	Volkswagen Scirocco

[1] Replaced the Jeep Cherokee in MY 2002.
[2] Renamed the Saturn ION beginning with MY 2003.
[3] Lines added for MY 2003.

APPENDIX A–I TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Subject lines
Austin Rover	Sterling
BMW	MINI
	X5
	(confidential nameplate) [1]
	3 Car Line
	5 Car Line
	7 Car Line
	8 Car Line

APPENDIX A–I TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
Daimlerchrysler	Chrysler Conquest
	Chrysler Imperial
Ford	Mustang
	Mercury Sable
	Mercury Grand Marquis
	Taurus
General Motors	Buick LeSabre
	Buick Park Avenue
	Buick Regal/Century
	Buick Riviera
	Cadillac Allante
	Cadillac Deville
	Cadillac Seville
	Chevrolet Cavalier
	Chevrolet Corvette
	Chevrolet Impala/Monte Carlo
	Chevrolet Lumina/Monte Carlo (MYs 1996–1999)
	Chevrolet Malibu
	Chevrolet Venture
	Oldsmobile Alero
	Oldsmobile Aurora
	Oldsmobile Toronado
	Pontiac Bonneville
	Pontiac Grand Am
	Pontiac Grand Prix [1]
	Pontiac Sunfire
Honda	Acura CL
	Acura Legend (MYs 1991–1996)
	Acura NSX
	Acura RL
	Acura SLX
	Acura TL
	Acura Vigor (MYs 1992–1995)
Isuzu	Axiom.[1]
	Impulse (MYs 1987–1991)
Jaguar	XK
Mazda [1]	6
	929
	RX–7
	Millenia
Mercedes-BENZ	124 Car Line (the models within this line are):
	260E
	300D
	300E
	300CE
	300TE
	400E
	500E
	129 Car Line (the models within this line are):
	300SL
	500SL
	600SL
	SL320
	SL500
	SL600
	202 Car Line (the models within this line are):
	C220
	C230
	C280
	C36
	C43
Mitsubishi	Galant
	Starion
	Diamante

APPENDIX A–I TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
Nissan	Nissan Altima
	Nissan Maxima
	Nissan Pathfinder
	Nissan 300ZX
	Infiniti G35 [1]
	Infiniti I30
	Infiniti J30
	Infiniti M30
	Infiniti QX4
	Infiniti Q45
Porsche	911
	928
	968
	986 Boxster
Saab	9–3
	900 (1994–1998)
	9000 (1989–1998)
Toyota	Toyota Supra
	Toyota Cressida
	Lexus ES
	Lexus GS
	Lexus LS
	Lexus SC
Volkswagen	Audi 5000S
	Audi 100/A6
	Audi 200/S4/S6
	Audi Allroad Quattro (MPV)
	Audi Cabriolet
	Volkswagen Cabrio
	Volkswagen Corrado
	Volkswagen Golf/GTI
	Volkswagen Jetta/Jetta III
	Volkswagen Passat

[1] Lines exempted in full beginning with MY 2003.

Issued on: June 26, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–16472 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 659

[FTA 2002–11449]

RIN 2132–AA69

Rail Fixed Guideway Systems; State Safety Oversight

ACTION: Withdrawal of direct final rule.

SUMMARY: The Federal Transit Administration (FTA) is withdrawing the direct final rule that revised the definition of ''accident'' as used in 49 CFR part 659 due to the receipt of adverse comments. FTA noted in the direct final rule published in the **Federal Register** on April 3, 2002 (67 FR 15725) that the rule would be withdrawn and would not take effect if an adverse comment was received on or before June 3, 2002. The Missouri Department of Economic Development, Division of Motor Carrier and Railroad Safety submitted an adverse comment dated May 30, 2002; therefore, the direct final rule will not become effective on July 2, 2002. FTA is reviewing 49 CFR part 659 and plans to publish a notice of proposed rulemaking in November 2002.

DATES: This withdrawal is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: For questions regarding this notice, contact Jerry Fisher or Roy Field, Office of Safety and Security, FTA, telephone 202–366–2233, fax 202–366–7951. For questions on viewing or submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: On April 3, 2002, FTA published a direct final rule (64 FR 15725) amending 49 CFR Part 659 by removing the term ''accident'' under this section and adding in its place the definition and term ''major incident'' to be effective July 2, 2002. This action was taken because FTA's review of the National Transit Database (NTD), as mandated by the Department of Transportation's FY 2000 Appropriations Act, resulted in revisions of the Safety and Security Module of the NTD ''Reporting Manual for 2002''. FTA solicited input from NTD stakeholders, which include rail transit agencies reporting to State Oversight Agencies as required by the State Safety Oversight regulations.

FTA believes that two accident/incident reporting definitions would cause confusion, generate inconsistent data, and create an additional burden for rail transit reporters. FTA stated in the preamble of the direct final rule it had solicited input from NTD stakeholders, including rail transit agencies reporting to State Oversight Agencies. However, as noted by the Missouri Department of Economic Development, Division of Motor Carrier and Railroad Safety, FTA did not solicit input from it, a state agency directly responsible for safety oversight of transit agencies within the state.

FTA initially believed the rulemaking would not be controversial. Based on the adverse comment we agree that input from additional stakeholders is warranted. At this time, FTA will not replace the term ''accident'' with the term ''major incident'' in 49 CFR 659.5, 659.39, 659.41. FTA plans to publish a notice of proposed rulemaking in November 2002.

List of Subjects in 49 CFR Part 659

Railroads.

Dated: June 26, 2002.

Jennifer L. Dorn,

Administrator, Federal Transit Administration.

[FR Doc. 02–16627 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–2158–09 ; I.D. 062502B]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions, which include both mandatory and voluntary measures, consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These restrictions apply to lobster trap and anchored gillnet fishermen in an area totaling approximately 3,500 square nautical miles (nm^2) (6,486 km^2) in the Great South Channel area, east of Cape Cod, Massachusetts, for 15 days. The purpose of this action is to provide immediate protection to an unexpectedly high aggregation of North Atlantic right whales (right whales).

DATES: Effective beginning at 0001 hours July 1, 2002, through 2400 hours July 15, 2002.

ADDRESSES: Copies of the proposed and final Dynamic Area Management rules, Environmental Assessment (EA), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–28–9145; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION: The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of four species of whales (right whales, fin, humpback, and minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's Dynamic Area Management (DAM) program (67 FR 1133). The DAM program provides specific authority for NMFS to temporarily restrict the use of lobster trap and anchored gillnet fishing gear in areas north of 40° N. lat. on an expedited basis to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap and anchored gillnet gear for a 15–day period, and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On June 18, 2002, NMFS Aerial Survey Team reported a sighting of 75 right whales, 45 in the proximity of 41° 21′ N lat. and 69° 17′ W long. and 30 in the proximity of 41° 21′ N latitude and 69° 01′ W longitude. These positions lie east of Cape Cod, Massachusetts, in an area called the Great South Channel.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above and additional data regarding current and historic right whale sightings. Through this action, NMFS restricts lobster trap and gillnet gear set in the waters bounded by:

41°48′ N, 69°44′W (NW Corner)
41°48′ N, 68°25′ W
40°54′ N, 68°25′W
40°54′ N, 69°06′ W (SW Corner)

The mandatory restrictions for the portion of the DAM zone east of the western boundary of the Outbound Boston Harbor shipping lanes are as follows: All anchored gillnet and lobster trap gear must be removed from these waters.

In addition, NMFS requests the voluntary removal of all lobster trap and anchored gillnet gear in the waters bounded by:

41°48′ N, 69°51′ W (NW Corner)
41°48′ N, 69°44′ W
40°54′ N, 69°06′ W
40°54′ N, 69°51′ W (SW Corner)

The voluntary restrictions for this portion of the DAM zone west of the western boundary of the Outbound Boston Harbor shipping lanes are as follows: voluntary removal of all lobster trap and gillnet gear from these waters. Furthermore, NMFS asks lobster trap and gillnet fishermen not to set any new gear in this entire area during the 15–day alert period. The restrictions will be in effect beginning at 0001 hours July 1, 2002, through 2400 hours July 15, 2002, unless terminated sooner or extended by

NMFS, through another notification in the **Federal Register**. The restrictions, both mandatory and voluntary, will be announced to state officials, fishermen, Atlantic Large Whale Take Reduction Team (ALWTRT) members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register.**

Classification

In accordance with section 118(f)(9) of the MMPA, the AA has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EA prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act (NEPA) is not required.

Providing prior notice and an opportunity for public comment on this action would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. To meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. The criteria were triggered with respect to this rule on June 18, 2002. If NMFS were to provide notice and an opportunity for public comment prior to the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Nevertheless, NMFS recognizes the need for fishermen to have time to remove their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective beginning at 0001 hours July 1, 2002, through 2400 hours July 15, 2002. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as possible.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rule implementing the DAM program. A copy of the federalism Summary Impact Statement for that final rule is available upon request (see **ADDRESSES**).

This rule has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.*and 50 CFR 229.32(g)(3)

Dated: June 26, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–16537 Filed 6–27–02; 10:47 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 020620154–2154–01; I.D. 052902A]

RIN 0648–AQ10

Fisheries of the Exclusive Economic Zone Off Alaska; Change of the Name of the Salmon Fisheries Management Plan

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

ACTION: Technical correction.

SUMMARY: NMFS is correcting the title of the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) off Alaska (FMP). This action is necessary to make the name of the FMP in Federal regulations consistent with the actual name of the FMP as approved by the Secretary of Commerce (Secretary). The intended effect of this action is regulatory consistency, and it will have no effect on any person fishing in the EEZ for any species.

DATES: Effective on July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: Salmon fisheries in the EEZ off Alaska are managed pursuant to the FMP prepared by the North Pacific Fishery Management Council (Council) and approved and implemented by the Secretary under authority of the Magnuson-Stevens Fishery Conservation and Management Act. The original title of the salmon FMP was the ''Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude.''

Over time, the international regime affecting salmon fisheries changed and the Council revisited its salmon management policies. In 1989, the Council adopted an amendment to the FMP (Amendment 3) which, among other things, changed the title of the FMP to, ''Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska.'' The Secretary approved Amendment 3 to the FMP in 1990, and published implementing rules on November 15, 1990 (55 FR 47773).

NMFS has discovered that regulations implementing Amendment 3 did not include the new title of the FMP. This change should have been included in

the 1990 regulatory changes implementing Amendment 3 but was not due to oversight. No public comment was received on these or any of the other changes made by Amendment 3. Subsequent consolidation of all Federal fishery regulations off Alaska pursuant to President Clinton's Regulatory Reform Initiative did not correct the error (62 FR 19686, April 23, 1997).

This action corrects this error by changing the title of the FMP as it appears in regulations codified at 50 CFR part 679 to be consistent with the FMP as amended and approved by the Secretary. This action will not have any substantive regulatory effect.

Classification

This action changes the title of the salmon FMP, a non-discretionary technical change with no substantive effects. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B), as such procedure would be unnecessary. Because prior notice and opportunity for comment is not required for this action by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*are not applicable.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: June 25, 2002.

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554. *et seq.*

2. In § 679.1, the heading of paragraph (i) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(i) *Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP).* * * *

* * * * *

[FR Doc. 02–16382 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 126
Monday, July 1, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. FV02–922–1 PR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots handled. The Committee locally administers the marketing order which regulates the handling of apricots grown in designated counties in Washington. Authorization to assess apricot handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by July 31, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Marketing Order No. 922, both as amended (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington apricot handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable apricots beginning on April 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA'S ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots handled.

The Washington apricot marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers and handlers of Washington apricots. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 15, 2002, and unanimously recommended 2002–03 expenditures of $11,685 and an assessment rate of $2.50 per ton of apricots. In comparison, last year's budgeted expenditures were $11,230. The recommended rate is $.50 higher than the rate currently in effect. The increase is necessary to offset an increase in salaries and operating expenses, and an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2002 apricot crop.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include $5,892 for salaries, $1,000 for travel, $816 for rent and maintenance, and $540 for office equipment and repair. Budgeted expenses for these items in 2001–2002 were $5,731, $1,000, $792, and $264, respectively.

Washington apricot shipments for 2002 are estimated at 3,650 tons which should provide $9,125 in assessment income. This income, along with approximately $2,540 from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $8,257) would be kept within the maximum permitted by the order. The order permits an operating reserve in an amount not to exceed approximately one fiscal period's operational expenses (§ 922.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2002–03 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 200 producers of apricots in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a three-year average fresh apricot production of 4,406 tons (Committee records), a three-year average of producer prices of $832 per ton reported by the National Agricultural Statistics Service, and 200 Washington apricot producers, the average annual producer revenue is approximately $18,329. In addition, based on Committee records and 2001 F.O.B. prices ranging from $14.50 to $22.50 per 24-pound container reported by USDA's Market News Service, all of the Washington apricot handlers ship under $5,000,000 worth of apricots. In view of the foregoing, it can be concluded that all of the Washington apricot producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots. The Committee unanimously recommended 2002–03 expenditures of $11,685 and an assessment rate of $2.50 per ton. The proposed assessment rate is $.50 higher than the rate currently in effect. The quantity of assessable apricots for the 2002–03 fiscal period is estimated at 3,650 tons. Income derived from handler assessments (approximately $9,125), along with funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include $5,892 for salaries, $1,000 for travel, $816 for rent and maintenance, and $540 for office equipment and repair. Budgeted expenses for these items in 2001–02 were $5,731, $1,000, $792, and $264, respectively.

The assessment rate increase is necessary to offset increases in salaries and operating expenses, and an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2002 apricot crop. As of March 31, 2002, the Committee's reserve was $8,257. At the rate of $2.00 per ton and an estimated 2002 apricot production of 3,650 tons, the projected reserve on March 31, 2003, would be $3,872. The Committee believed that this reserve would not be adequate should there be another reduced crop. At the rate of $2.50 per ton (assessment income of $9,125) and expenditures of $11,685, the Committee may draw up to $2,540 from its reserve. The projected reserve would be approximately $5,697 on March 31, 2003, which the Committee determined to be acceptable.

The Committee considered alternate levels of assessment but determined that increasing the assessment rate to $2.50 per ton would be adequate to maintain the reserve at an acceptable level. The Committee decided that an assessment rate between $2.00 per ton and $2.50 per ton would not maintain the reserve at an adequate level. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Executive Committees.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2002–03 fiscal period could range between $800 and $850 per ton of apricots. Therefore, the estimated assessment revenue for the 2002–03 as a percentage of total producer revenue could range between 0.31 and 0.29 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 15, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large production area commodity handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce

information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2002–03 fiscal period began on April 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is proposed to be amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On and after April 1, 2002, an assessment rate of $2.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: June 25, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–16478 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 99–012–1]

Standards for Permanent, Privately Owned Horse Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to the importation of horses to establish standards for the approval of permanent, privately owned quarantine facilities for horses. We are taking this action because recent demand for quarantine services for horses has exceeded the space available at existing facilities. We believe that allowing imported horses to be quarantined in permanent, privately owned horse quarantine facilities that meet these criteria would facilitate the importation of horses while continuing to protect against the introduction of communicable diseases of horses.

DATES: We will consider all comments that we receive by August 30, 2002.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 99–012–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–012–1.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Bischoff, Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products in order to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require that some of these animals be quarantined upon arrival in the United States as a condition of entry. APHIS operates animal quarantine facilities and authorizes the use of privately owned quarantine facilities for certain animal importations. The regulations in part 93 currently contain requirements for the approval of various privately owned quarantine facilities. The regulations at subpart C of part 93 (9 CFR 93.300 through 93.326, referred to below as the regulations) pertain to the importation of horses and include requirements for privately owned quarantine facilities for horses. These requirements are for the approval and establishment of temporary quarantine facilities for the purpose of quarantining imported horses for a specific event.

In addition to operating Federal animal quarantine facilities and authorizing the operation of temporary, privately owned quarantine facilities for horses, APHIS currently authorizes the operation of one permanent, privately owned animal import quarantine facility, located in Los Angeles County, CA.

The demand for import quarantine facilities for horses has risen in recent years as the amount of trade between the United States and other countries has risen. From 1992 to 1999, the number of horses imported annually into the United States increased substantially. In some cases, the demand for quarantine services for horses has exceeded the space available at existing facilities. In addition, in some locations, such as Hawaii and Puerto Rico, no facilities exist for quarantining imported horses. The demand for quarantine services for horses cannot always be filled by temporary, privately owned quarantine facilities because such facilities are established, approved, and operated by importers on a temporary basis to handle only horses imported for a unique importation, race, or show.

As a result of the increasing demand for quarantine space for imported horses and a request from the horse industry to establish standards for permanent, privately owned horse quarantine facilities, we are proposing to establish requirements in the regulations for the approval and operation of such facilities. We have considered the

possible need for permanent, privately owned quarantine facilities for horses in the past. On September 6, 1989, we published in the **Federal Register** (54 FR 36986–36996, Docket No. 85–061) a proposed rule that would have (1) allowed the operation of permanent, privately owned quarantine facilities for horses; (2) added new requirements for the approval of temporary, privately owned quarantine facilities for horses; and (3) required payment from each privately owned quarantine facility for services provided by APHIS at the facility. These changes would have been made in 9 CFR part 92; however, a 1990 final rule reorganized part 92, and the proposed provisions were no longer consistent with the new format of the part. Because of this inconsistency and for other reasons, we withdrew the proposed rule and reopened the issue for public discussion in a notice of withdrawal and an advance notice of proposed rulemaking published in the **Federal Register** on February 26, 1996 (61 FR 7079, Docket No. 95–084–1). Then, on May 6, 1996, we published a notice (61 FR 20189–20190, Docket No. 95–084–2) that we were reopening and extending the public comment period established by the advance notice of proposed rulemaking and holding a public meeting on May 17, 1996, regarding the issue of permanent, privately owned quarantine facilities for horses.

We received 10 comments during the 2 comment periods and at the public meeting just described. Some commenters supported the concept of permanent, privately owned quarantine facilities for horses, and some commenters were opposed. We have considered the comments and have decided to propose regulations that would allow the establishment of permanent, privately owned horse quarantine facilities that would operate under the strict oversight of an APHIS veterinarian. We believe that these facilities would provide an effective and efficient means of bringing horses into the United States without compromising our ability to protect against the introduction of communicable diseases of horses.

We intend to maintain the current requirements in the regulations for the approval of temporary, privately owned quarantine facilities for horses. We believe that these requirements are sufficient for facilities that are intended to quarantine horses imported only for a particular event. Temporary facilities are generally used to quarantine small numbers of animals in a single group and are in operation only a short period of time before all the animals are removed and the facility is closed.

We are proposing to add requirements to the regulations for the establishment and approval of permanent, privately owned quarantine facilities for horses. These requirements are designed to maintain the same biological security standards that are currently employed in other APHIS-approved permanent quarantine facilities.

We believe that the permanent, privately owned facilities must be designed, equipped, and monitored similarly to APHIS quarantine facilities in order to provide sufficient protection against the introduction of disease. Like an APHIS facility, a permanent, privately owned quarantine facility could be occupied on a continuing basis by a large number of horses in different lots.[1] Therefore, the risk of disease spread within and from permanent facilities would be different than the risk at temporary facilities. These differences dictate that security measures must be tighter, and disease detection and prevention measures must be different, at permanent facilities than at temporary ones. While the requirements for temporary facilities allow for variation in the physical plants, the proposed requirements for permanent facilities would ensure a greater degree of consistency in the physical plants of those facilities. Such consistency should help ensure a greater degree of biosecurity. The full text of the proposed regulations appears in the rule portion of this document. Our discussion of the proposed provisions follows.

Definitions

We are proposing to add to § 93.300 definitions for the terms *permanent, privately owned quarantine facility* and *temporary, privately owned quarantine facility* to make clear the differences between the two types of facilities. A *permanent, privately owned quarantine facility* would be one that offers quarantine services for horses to the general public on a continuing basis and that is owned by an entity other than the Federal Government. A *temporary, privately owned quarantine facility* would be one that offers quarantine services for a special event and that is owned by an entity other than the Federal Government. Throughout the rest of this document, use of the term ''permanent facility'' means a permanent, privately owned quarantine facility for horses, and use of the term ''temporary facility'' means a temporary, privately owned quarantine facility for horses.

We are proposing to revise the definition for *operator* contained in § 93.300. *Operator* is currently defined for the purposes of § 93.308 as ''any person operating an approved quarantine facility.'' The revised definition of *operator* would be ''a person other than the Federal government who owns or operates a temporary, privately owned quarantine facility or a permanent, privately owned quarantine facility.'' We are proposing this change because we want to emphasize that, although private entities would own these facilities, they would be subject to APHIS approval and oversight.

We would also add definitions for the terms *lot, lot-holding area, quarantine area,* and *nonquarantine area.* We would define a *lot* of horses as a group of horses that, while held on a conveyance or premises, have had opportunity for physical contact with other horses in the group or with their excrement or discharges at any time during their shipment to the United States. A *lot-holding area* would be an area in a facility in which a single lot of horses is held at one time. The *quarantine area* of a facility would be the area of a facility that comprises all of the lot-holding areas in the facility and any other areas that the horses have access to, including loading docks for receiving and releasing horses. The *quarantine area* would also include any areas in the facility that are used to conduct examinations of horses and take samples or areas where samples are processed and examined. The *nonquarantine* area of a facility would include the area in a permanent, privately owned quarantine facility that includes offices, storage areas, and other areas outside the quarantine area, and that is off limits to horses, samples taken from horses that have not yet been prepared or packaged for shipment to laboratories, and any other objects or substances that have been in the quarantine area during quarantine of horses.

Nonsubstantive Changes

The requirements for temporary facilities are currently located in § 93.308 (b) and (c). Although we are not proposing to make any substantive changes to these requirements, we are proposing to make some nonsubstantive changes to update the language. We are also proposing to combine paragraphs (b) and (c), so that all of the requirements pertaining to the establishment and operation of

[1] Under this proposed rule, APHIS would also approve permanent, private facilities that are equipped to handle only one lot of horses at a time.

temporary facilities are located in paragraph (b). We would place the proposed regulations pertaining to permanent facilities in the newly vacated § 93.308(c). Those regulations are described below. In addition, we are proposing to revise the heading for § 93.309 to indicate more clearly that the section pertains to payment information for use of all quarantine facilities, including privately owned temporary and permanent quarantine facilities, and quarantine facilities owned by APHIS. The section heading currently reads ''Horse quarantine facilities''; we believe a more helpful heading would be ''Horse quarantine facilities; payment information.'' Therefore, as proposed, § 93.308(a) would contain general information about quarantine requirements for imported horses; § 93.308(b) would contain requirements for temporary facilities; § 93.308(c) would contain requirements for permanent facilities; and § 93.309 would contain information about payment for services provided at all quarantine facilities.

Section 93.303 of the regulations pertains to ports designated for the importation of horses. Paragraph (e) of that section pertains to ports used by persons who quarantine horses at temporary facilities. The paragraph heading in § 93.303(e) currently reads ''Ports and quarantine facilities provided by the importer for horses.'' We are proposing to revise the paragraph heading because the owner of a permanent facility would not necessarily be the importer of the horses quarantined at the facility. The new paragraph heading for § 93.303(e) would read ''Ports for horses to be quarantined at privately owned quarantine facilities.''

Section 93.304 contains permit requirements for horses imported from certain regions. Paragraphs (a) and (a)(2) contain references to quarantine facilities provided by importers of horses. Since, in all cases, such facilities would be privately-owned facilities, we are proposing to revise those paragraphs to make it clear that they refer to privately-owned quarantine facilities. We are also proposing to clarify that under paragraph (a)(2), applications for permits to import horses from certain regions or horses intended for quarantine at privately-owned quarantine facilities may be denied for the various reasons described in that paragraph.

Proposed Requirements for Permanent Facilities

We are proposing to add to the regulations information about how to apply for approval of a permanent facility and information concerning denial and withdrawal of approval. Owners of any currently approved quarantine facilities, whether temporary or permanent, who wish to convert to, or be recognized as, a permanent facility would need to meet the proposed requirements for permanent facilities described below and apply for approval as a permanent facility. Such facilities would need to be approved to operate by APHIS by the effective date of the final rule for this action, if it is adopted, in order to continue quarantine operations.

Approval of Permanent Facilities

Application Process

The proposed regulations explain how to apply for approval of a permanent facility. Under the proposed regulations, interested persons would be required to write to the Administrator, c/o National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231. The application letter would be required to include:

- The full name and mailing address of the applicant.
- The location and street address of the facility for which approval is sought.
- Blueprints for the facility.
- A description of the financial resources available for construction, operation, and maintenance of the facility.
- The anticipated source or origin of horses to be quarantined as well as the expected size and frequency of shipments.
- A contingency plan for the possible disposal of all the horses capable of being housed in the facility.

If APHIS determines that a submitted application is complete and merits further consideration, we would require that the person applying for facility approval enter into a compliance agreement with APHIS wherein the applicant agrees to pay the cost of all APHIS services [2] associated with APHIS's evaluation of the application and facility. This compliance agreement applies only to fees accrued during the application process.[3]

Requests for approval would be required to be submitted to APHIS at least 120 days prior to the date of application for local building permits in order to ensure that APHIS has adequate time to evaluate the plans for the facility, assess potential environmental effects, and determine that adequate APHIS personnel are available to staff the facility.

Requests for approval of a proposed facility would be evaluated on a first-come, first-served basis.

Approval Requirements

The proposed regulations also list the basic criteria that a permanent facility must meet to be approved by APHIS. Under the regulations, a permanent facility would be required to meet all the requirements in § 93.308(c). The facility would also be required to meet any additional requirements that may be imposed by the Administrator to ensure that the quarantine is adequate to enable determination of the horses' health status, as well as to prevent the transmission of diseases into, within, and from the facility. These additional requirements would be specified in the compliance agreement required under § 93.308(c)(2). Also, under the proposed regulations, APHIS would need to find, based on an environmental analysis, that the operation of the facility would not have significant environmental effects.

We are proposing that, to be approved as a permanent facility, the Administrator must determine that sufficient APHIS personnel (including veterinarians and animal health technicians) are available to ensure the biological security of the facility. Therefore, if a facility met all of the other proposed requirements and APHIS personnel were available, then APHIS would approve the facility and assign personnel to it. Because the assignment of APHIS personnel would be handled on a ''first-come, first-served'' basis, the deployment of APHIS personnel at one permanent facility might result in another facility not being approved for lack of necessary APHIS personnel. The Administrator would have sole discretion in determining the number of APHIS personnel to be assigned to the facility.

The proposed regulations also include procedures for denying or withdrawing approval of permanent facilities if any provision of the regulations is not met. The regulations would also establish due process procedures regarding a denial or withdrawal of approval and an opportunity for a hearing when there is a dispute of material fact regarding the denial or withdrawal. In addition, approval would be withdrawn automatically by the Administrator when the owner notifies, in writing, the veterinarian in charge for the State in

[2] APHIS charges for evaluation services at hourly rates in 9 CFR 130.30.

[3] If the facility is approved by APHIS, faciity owners must enter into a new compliance agreement in accordance with § 93.308(c)(2) of the proposed regulations.

which the facility is located that the facility is no longer in operation.

Under the proposed regulations, the approval of a permanent facility may be denied or withdrawn if:

- Any requirement of this section or the compliance agreement is not complied with.
- The operator fails to pay for APHIS services rendered.
- The operator or a person responsibly connected with the business of the permanent facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal.
- The operator or a person responsibly connected with the business of the permanent facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals.
- The approved permanent facility has not been in use to quarantine horses for a period of at least 1 year.

The proposed regulations would provide that a person is responsibly connected with the business of the permanent facility if the person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity for the operation of the permanent facility.

Compliance Agreement

We are proposing to prohibit any facility from operating as a permanent facility unless the facility is operated in accordance with a compliance agreement executed by the owner and by the APHIS Administrator that must be renewed on an annual basis. The compliance agreement would provide that the facility is required to meet all applicable requirements of § 93.308 of the regulations and that the facility's quarantine operations are subject to the strict oversight of APHIS representatives. The compliance agreement would also state that the operator of the facility agrees to be responsible for all the costs associated with operating a permanent facility, including:

- All costs associated with its maintenance and operation;
- All costs associated with the hiring of employees and other personnel to attend to the horses as well as to maintain and operate the facility;
- All costs associated with the care of quarantined horses, such as feed, bedding, medicines, inspections, testing, laboratory procedures, and necropsy examinations; and
- All APHIS charges for the services of APHIS representatives in accordance with 9 CFR part 130.

The compliance agreement would also state that the operator agrees to bar from the facility any employee or other personnel at the facility who fail to comply with the proposed regulations in § 93.308 (c), other regulations of 9 CFR part 93, any terms of the compliance agreement, or related instructions from APHIS representatives.

Physical Plant Requirements

The proposed requirements for the physical plant of permanent facilities are designed to ensure that permanent facilities are capable of operating in accordance with the regulations to prevent the spread of diseases to horses in different lots within a permanent facility or outside a permanent facility.

Location

To minimize the risk of disease introduction from imported horses moving from the port of entry to the permanent facility, we are proposing to require that the facility be located in proximity to a port authorized under § 93.303(e) such that the Administrator is able to determine that the movement of horses from the port to the permanent facility poses no significant risk of transmitting communicable diseases of animals to the domestic animal population. While requiring that a permanent facility be within proximity of the port, we decided for several reasons not to require that the port and the facility be located within a certain distance of one another. Some ports will be in large metropolitan areas with the nearest concentration of livestock many miles away. Other ports may be in towns with rural areas and concentrations of livestock within a very short distance of the port. Considering the diversity of places in which persons may consider locating permanent facilities, it would be difficult to stipulate a maximum distance from the port of entry.

We are further proposing to require that the facility be located at least one-half mile from any premises holding livestock or horses. We believe that this distance would be sufficient to prevent the aerosol transmission of various infectious diseases of horses and other livestock.

The specific routes for the movement of horses from the port to the permanent facility would have to be approved by the Administrator. In evaluating the suitability of a particular site for a permanent facility, the Administrator would consider whether the movement of horses from the port of entry to the proposed facility would pose any significant risk for transmitting communicable livestock diseases.

Construction

We are proposing to require that the facility be of sound construction, in good repair, and properly designed to prevent the escape of horses from quarantine. The facility would be required to have the capacity to receive and house a shipment of horses as a lot on an ''all-in, all-out'' basis.

In order to ensure the integrity of quarantine operations, we are proposing to require that the facility be enclosed by a security fence that can reasonably be expected to prevent unauthorized persons, horses, and other animals from outside the facility from having contact with horses quarantined in the facility.

We would also require that all entryways into the nonquarantine area of the facility be equipped with a secure and lockable door. Further, while horses are in quarantine, all access to the quarantine area for horses would need to be from within the building, and each such entryway to the quarantine area would be required to be equipped with a series of solid self-closing double doors. Further, entryways to each lot-holding area would have to be equipped with a solid lockable door. Emergency exits would be permitted in the quarantine area but such exits would be required to be constructed so as to permit their opening only from the inside of the facility in order to ensure the security of the horses in quarantine and the integrity of quarantine operations.

We propose to require that the facility be constructed so that any windows or other openings in the quarantine area are double-screened with screening of sufficient gauge and mesh to prevent the entry or exit of insects and other vectors of diseases of horses. The screens would need to be easily removable for cleaning, but otherwise secure enough to ensure the biological security of the facility.

The facility would need to have adequate lighting throughout, including in stalls and hallways, for the purpose of examining horses and conducting necropsies.

The facility would need to have two separate loading docks: One that is part of the quarantine area and that is used for receiving and releasing horses, and one that is part of the nonquarantine area and that is used for general receiving and pickup.

We would also require that the facility be constructed so that the floor surfaces with which horses have contact are nonslip and wear-resistant. All floor surfaces with which the horses, their excrement, or discharges have contact would have to provide for adequate drainage, and drains would be required to be at least 8 inches in diameter. All floor and wall surfaces with which the horses, their excrement, or discharges have contact would have to be impervious to moisture and be able to withstand frequent cleaning and disinfection without deterioration. Other ceiling and wall surfaces with which the horses, their excrement, or discharges do not have contact would have to be able to withstand cleaning and disinfection between shipments of horses. The cleaning and disinfection of all of these surfaces would help ensure that disease agents would not be spread from one lot of horses to another. We would further require that surfaces with which the horses could have contact must not have any sharp edges that could cause injury to the horses.

The facility would need to be constructed so that different lots of horses held at the facility at the same time would be separated by physical barriers in such a manner that horses in one lot could not have physical contact with horses in another lot or with the excrement or discharges of horses in another lot. In addition, we would require that permanent facilities include stalls capable of isolating any horses exhibiting signs of illness. These provisions would help ensure that horses infected with or exposed to disease do not spread the disease or expose other horses in the facility to the disease.

To prevent dissemination of disease via persons at the facility, we are proposing to require that the facility contain showers for use before entering and after exiting the areas where the horses are maintained. Our requirements concerning showers would depend on the configuration of the quarantine area. In those facilities where it is possible to move from the nonquarantine area into any lot-holding area without passing through another lot-holding area, we would require that a shower be located at the entrance to the quarantine area. In those facilities where it is not possible to move to certain lot-holding area(s) except by passing through another lot-holding area, we would require that a shower be located at the entrance to each lot-holding area. A shower would also be needed at the entrance to the necropsy area (see description of necropsy area below). We would also require that a clothes-storage and clothes-changing area be provided at each end of each shower area, and that there be one or more receptacles near each shower so that clothing that has been worn into a lot-holding area or elsewhere in the quarantine area can be deposited in the receptacle(s) prior to entering the shower.

Because of the need for APHIS representatives assigned to a permanent facility to examine horses and draw samples for testing, we would require that permanent facilities contain adequate space for these purposes, and that the space include equipment to provide for the safe inspection of horses (i.e., restraining stocks). The facility would need to include adequate storage space for the necessary equipment and supplies, work space for preparing and packaging samples for mailing, and storage space for duplicate samples. Moreover, we would require that adequate storage space for supplies and equipment be provided for each lot of horses. A separate storage space for each lot of horses would help ensure that equipment used on a horse in one lot would not come into contact with horses from another lot or with equipment used on those other horses. Such contact could spread disease between lots of horses. We would further require that the facility include a secure, lockable office space with enough room to contain a desk, chair, and filing cabinet for APHIS use.

We would require that the facility contain a necropsy area and that a shower be located at the entrance to the necropsy area. The necropsy area would have to provide sufficient space and light to conduct an adequate necropsy of a horse and would have to be equipped with hot and cold running water, a drain, a cabinet for storing instruments, a refrigerator-freezer for storing laboratory specimens, and an autoclave to sterilize veterinary equipment. Providing for necropsies within the facility would reduce the risk of disease spread to horses outside the facility because no carcasses of potentially diseased horses would need to be transported outside the facility prior to performance of a necropsy. The necropsy area would be necessary to perform post mortem inspection of horses that die in the permanent facility and to collect samples for laboratory diagnosis. These actions would be needed to determine if the death of a horse was associated with a disease, or if the death was caused by other factors, such as colic or physical injury.

We are also proposing to require that the facility have sufficient storage space for equipment and supplies used in quarantine operations. Storage space would be required to include separate, secure storage for pesticides and for medical and other biological supplies, as well as a separate feed storage area, that is vermin-proof, for feed and bedding, if feed and bedding are to be stored at the facility. If the facility has multiple lot-holding areas, we would require that the facility also have separate storage space for supplies and equipment for each lot-holding area.

We are proposing that the facility have an area for washing and drying clothes, linens, and towels and an area for cleaning and disinfecting equipment used in the facility. The facility must also include a work area for the repair of equipment. These areas are essential to ensure the continuity of quarantine operations.

The facility would need to have permanent restrooms in both the quarantine and nonquarantine areas of the facility in order to eliminate the need for persons to leave or enter the quarantine area simply to use a restroom. Leaving the quarantine area would necessitate the person showering prior to entering the nonquarantine area, and then again upon reentering the quarantine area.

The facility would also need to have an area within the quarantine area for breaks and meals in order to eliminate the need for workers to leave the quarantine area for breaks.

We would also require that the facility be constructed with a heating, ventilating, and air conditioning (HVAC) system capable of controlling and maintaining the ambient temperature, air quality, moisture, and odor at levels that are not injurious or harmful to the health of horses in quarantine. We would prohibit air supplied to lot-holding areas from being recirculated or reused for other ventilation needs. Further, HVAC systems for lot-holding areas would be required to be separate from air handling systems for other operational and administrative areas of the facility in order to ensure that air from the quarantine areas is not diverted into nonquarantine areas of the facility. In addition, if the facility is approved to handle more than one lot of horses at a time, each lot-holding area would be required to have its own separate HVAC system that must be designed to prevent cross contamination between the separate lot-holding areas.

The facility, including the lot-holding areas, would have to be equipped with a fire alarm voice communication system so that personnel working in those areas can be readily warned of any potential emergency and vice versa.

The facility would also need to have a television monitoring system or other arrangement sufficient to provide a full view of the quarantine area or areas, excluding the clothes changing area.

The facility would also need to have a communication system between the nonquarantine and quarantine areas of the facility. Such a system would allow persons working in the quarantine area to communicate with persons working in the nonquarantine area and vice versa without moving from one area to the other, and therefore, without showering in or out.

Sanitation

To ensure that proper animal health and biological security measures are observed, we would require that permanent facilities have the equipment and supplies necessary to maintain the facility in clean and sanitary condition, including pest control equipment and supplies and cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment. Facilities would need to maintain separate equipment and supplies for each lot of horses.

We would require facilities to maintain a supply of potable water adequate to meet all watering and cleaning needs at the facility. We would also require that water faucets for hoses be located throughout the facility to ensure that personnel would not need to drag hoses across areas that have already been cleaned and disinfected. We would also require that an emergency supply of water for horses in quarantine be maintained at the facility.

Facilities would also need to maintain a stock of disinfectant authorized in § 71.10(a)(5) of the regulations, or otherwise approved by the Administrator, and that is sufficient to disinfect the entire facility.

We would also require permanent facilities to have the capability to dispose of wastes, including manure, urine, and used bedding, by means of burial, incineration, or public sewer. Facilities would need to handle other waste material in a manner that minimizes spoilage and the attraction of pests and would need to dispose of the waste material by incineration, public sewer, or other preapproved manner that prevents the spread of disease. Disposal of wastes would need to be carried out under the direct oversight of APHIS representatives.

We would further require permanent facilities to have the capability to dispose of horse carcasses in a manner approved by the Administrator and under conditions that minimize the risk of disease spread from carcasses. This requirement is necessary to ensure that facilities can destroy any disease agents that might be present in a horse carcass.

Further, we would require that incineration that is carried out at the facility be done in incinerators that are detached from other facility structures and that are capable of burning animal waste and refuse as required. We would require the incineration site to include an area sufficient for solid waste holding. Incineration could also take place at a local site away from the facility premises. Furthermore, we would require all incineration activities to be carried out under the direct oversight of APHIS representatives.

We would require the facility to have the capability to control surface drainage and effluent into, within, and from the facility in a manner that prevents the spread of disease into, within, or from the facility. If the facility is approved to handle more than one lot of horses at the same time, we would require that the facility have separate drainage systems for each lot-holding area in order to prevent cross contamination.

Security

We would require that the facility and premises be kept locked and secure at all times to ensure the integrity of quarantine operations. We would also require the facility and premises to have signs indicating that the facility is a quarantine area and no visitors are allowed.

The facility and premises would also need to be guarded at all times by one or more representatives of a bonded security company or, alternatively, would need to have an electronic security system that would indicate the entry of unauthorized persons into the facility. We would require that such an electronic security system be coordinated either through or with the local police so that the quarantine facility is monitored whenever APHIS representatives are not at the facility. We would also require that such an electronic security system be of the ''silent type'' triggered to ring at the monitoring site and not at the facility. The electronic security system would need to be approved by Underwriter's Laboratories. We would also require that the operator provide written instructions to the monitoring agency stating that the police and a representative of APHIS designated by APHIS must be notified by the monitoring agency if the alarm is triggered. The operator would be required to submit a copy of those instructions to the Administrator. The operator of the facility would be required to notify the designated APHIS representative whenever a breach of security occurs or is suspected of occurring. Further, in the event that disease is diagnosed in quarantined horses, the Administrator could require that the operator have the facility guarded by a bonded security company in a manner that the Administrator deems necessary to ensure the biological security of the facility.

We would require that the operator of the facility furnish a telephone number or numbers to APHIS at which the operator or his or her agent can be reached at all times while horses are in quarantine.

We would also provide that APHIS may place APHIS seals on any or all entrances and exits of the facility when determined necessary by APHIS and take all necessary steps to ensure that such seals are broken only in the presence of an APHIS representative. In the event that someone other than an APHIS representative breaks such seals, we would consider the act a breach in security and APHIS representatives would make an immediate accounting of all horses in the facility. If we determine that a breach in security has occurred, we may extend the quarantine period for horses as long as necessary to ensure that the horses are free of communicable diseases.

Operating Procedures

APHIS Oversight

The quarantine of horses at the facility would be subject to the strict oversight of APHIS representatives, who could include one or more veterinarians and other professional, technical, and support personnel employed by APHIS and authorized to perform the services required by the regulations and the compliance agreement. Unlike temporary facilities, which are inspected on a regular basis by an APHIS veterinarian, a permanent facility would have at least one APHIS representative overseeing the care of all horses in quarantine during normal working hours. Depending on the size of the facility and the number of horses present, additional APHIS veterinarians and animal health technicians could be necessary to ensure adequate oversight of the horses in quarantine. The deployment of APHIS representatives to oversee and provide other professional, technical, and support services at a quarantine facility would be determined solely by the Administrator.

If for any reason, the operator fails to properly care for, feed, or handle the quarantined horses as required under the regulations, or fails to maintain and

operate the facility as provided in this section, APHIS representatives would be authorized by the compliance agreement to furnish such neglected services or make arrangements for the sale or disposal of quarantined horses at the quarantine facility owner's expense.

Personnel

We propose to require the operator of the facility to provide adequate personnel to maintain the facility and care for the horses in quarantine, including attendants to care for and feed the horses, and other personnel to maintain, operate, and administer the facility.

We are also proposing to require that the operator provide APHIS with a list of employees and other personnel assigned to work at the facility. The list would need to include the names, current residential addresses, and identification numbers of employees and other personnel, and would need to be updated with any changes or additions in advance of such employee or other personnel working at the quarantine facility. These requirements are necessary to ensure that APHIS has knowledge of, and can identify, all persons working at the facility.

In conjunction with the above requirements, we would require the operator to provide APHIS with signed statements from each employee and other personnel hired by the operator and working at the facility in which the person agrees to comply with § 93.308(c) of the regulations, other applicable provisions of 9 CFR part 93, all terms of the compliance agreement, and any related instructions from APHIS representatives pertaining to quarantine operations, including contact with animals both inside and outside the facility.

Authorized Access

We are also proposing to grant access to the quarantine facility premises as well as inside the quarantine facility only to APHIS representatives and authorized employees and other personnel of the operator assigned to work at the facility. All other persons would be prohibited from the premises unless specifically granted access by the overseeing APHIS representative. Any visitors granted access would be required to be accompanied at all times by an APHIS representative while on the premises or in the quarantine area of the facility.

Sanitary Requirements

Under the proposed regulations, all facility employees and other personnel, as well as any other person granted access to the quarantine area, must:

- Shower when entering and leaving the quarantine area;
- Shower before entering a lot-holding area, if previously exposed from access to another lot-holding area;
- Shower when leaving the necropsy area if a necropsy is in the process of being performed or has just been completed, or if all or portions of the examined animal remain exposed;
- Wear clean protective work clothing and footwear upon entering the quarantine area;
- Wear disposable gloves when handling sick horses, and then wash hands after removing gloves;
- Change protective clothing, footwear, and gloves when they become soiled or contaminated;
- *Not* have contact with any horses in the facility other than the lot or lots of horses to which the person is assigned or is granted access; and
- *Not* have had contact with any horses outside the quarantine facility for at least 7 days after the last contact with the horses in quarantine, or for a period of time determined by the overseeing APHIS representative as necessary to prevent the transmission of communicable diseases of horses.

The above requirements are necessary to ensure the integrity of quarantine operations at facilities.

Further, the operator would be responsible for providing a sufficient supply of clothing and footwear to ensure that workers and others provided access to the quarantine area at the facility have clean, protective clothing and footwear at the start of the workday and when they move from one lot of horses to another lot of horses.

The operator or the operator's designated representative would also be responsible for the proper handling, washing, and disposal of soiled and contaminated clothing worn within the quarantine facility in a manner approved by the overseeing APHIS representative as adequate to preclude transmission of any animal disease agent from the facility. At the end of each workday, work clothing worn into each lot-holding area would need to be collected and kept in a bag until the clothing is washed. Used footwear would either be left in the clothes changing area or cleaned with hot water (148 °F minimum) and detergent and disinfected as directed by an APHIS representative.

We would require that all equipment (including tractors) be cleaned and disinfected prior to being used in a quarantine area of the facility with a disinfectant authorized in § 71.10(a)(5) of the regulations or otherwise approved by the Administrator. The equipment would have to remain dedicated to the facility for the entire quarantine period in order to preclude the spread of disease agents outside the facility. Any equipment used with quarantined horses (*e.g.,* halters, floats) would have to remain dedicated to that particular lot of quarantined horses for the duration of the quarantine period or be cleaned and disinfected before coming in contact with horses from another lot to ensure that no cross contamination occurs. Prior to its use on another lot of horses or its removal from the quarantine premises, any equipment would have to be cleaned and disinfected to the satisfaction of an APHIS representative.

The proposed regulations would also require that any vehicle, upon entering or leaving the quarantine area of the facility, be immediately cleaned and disinfected under the oversight of an APHIS representative with a disinfectant authorized in § 71.10(a)(5) of the regulations.

Further, we would require that the area of the facility in which a lot of horses has been held must be thoroughly cleaned and disinfected under the oversight of an APHIS representative upon release of the horses, with a disinfectant authorized in § 71.10(a)(5) before a new lot of horses is placed in that area of the facility. This requirement is necessary to ensure that horses entering quarantine are not exposed to disease agents present in the previous lot of horses.

Handling of the Horses in Quarantine

Under the proposed regulations, horses that are quarantined in private facilities would have to undergo the appropriate quarantine specified in § 93.308(a) and would be subject to any other applicable regulations in title 9 of the Code of Federal Regulations. For the purposes of quarantine operations, private facilities would operate no differently than Federal horse quarantine facilities.

Each lot of horses to be quarantined would be required to be placed in the facility on an ''all-in, all-out'' basis. Under this requirement, no horse could be taken out of the lot while it is in quarantine, except for diagnostic purposes, and no horse could be added to the lot while the lot is in quarantine.

The regulations would require that the facility provide sufficient feed and bedding that is free of vermin and that is not spoiled for the horses in quarantine. Feed and bedding would be required to originate from an area that

is not listed in 9 CFR 72.2 as an area quarantined for splenetic or tick fever.

We would prohibit the breeding of horses or the collection of germplasm from horses during the quarantine period unless necessary for a required import testing procedure. This prohibition is necessary because horses under quarantine will not have passed all entry tests or requirements and could be diseased and refused entry. Breeding and collection of germplasm should only take place after horses have fulfilled all entry requirements.

We propose to require that horses in quarantine be subjected to such tests and procedures as directed by the overseeing APHIS representative to determine whether they are free from communicable diseases of horses. We would allow horses in quarantine to be vaccinated only with vaccines that have been approved by APHIS and that are administered by an APHIS veterinarian or an accredited veterinarian under the direct oversight of an APHIS representative. APHIS will only approve use of vaccines that are licensed by APHIS in accordance with § 102.5 of this chapter.[4]

We would require that any death or suspected illness of horses in quarantine be reported immediately to the overseeing APHIS representative so that appropriate measures are taken to ensure the health of the other horses in quarantine. The affected horses would be required to be disposed of as the Administrator may direct or, depending on the nature of the disease, would be required to be cared for as directed by the overseeing APHIS representative.

The regulations would provide that quarantined horses requiring specialized medical attention or additional postmortem testing may be transported off the quarantine site, if authorized by the overseeing APHIS representative. In such situations, a second quarantine site would have to be established to house the horses at the facility of destination (e.g., veterinary college hospital) and the overseeing APHIS representative could extend the quarantine period until the results of any outstanding tests or postmortems are received.

Further, if we determine that a lot of horses is infected with or exposed to a communicable disease of horses, we would require that arrangements for the final disposition of the infected or exposed lot be accomplished within 10 work days following disease confirmation. We would require the horses to be disposed of under the direct oversight of APHIS representatives. We would require the operator to have a preapproved contingency plan for the possible disposal of all horses housed in the facility prior to issuance of an import permit. This requirement is essential to ensure that diseased horses can be disposed of without posing a risk of disseminating diseases outside the quarantine facility.

Records

It would be the facility operator's responsibility to maintain a current daily log to record the entry and exit of all persons entering and leaving the quarantine facility. We would require the operator or the operator's designated representative to hold the log, along with any logs kept by APHIS and deposited with the operator, for at least 2 years following the date of release of the horses from quarantine and to make such logs available to APHIS representatives upon request.

Environmental Requirements

We propose to provide that, if APHIS determines that a privately operated quarantine facility does not meet all applicable local, State, and Federal environmental regulations, APHIS reserves the right to deny or suspend approval of the facility until appropriate remedial measures have been applied. This requirement is necessary to ensure that APHIS-approved facilities meet all applicable waste disposal and other environmental quality standards.

Variances

The Administrator may grant variances to the proposed requirements relating to location, construction, and other design features of the physical facility as well as sanitation, security, operating procedures, recordkeeping, and other provisions of the regulations, but only if the Administrator determines that the variance causes no detrimental impact to the overall biological security of the quarantine operation. The operator of a permanent facility would have to submit a request for a variance to the Administrator in writing at least 30 days in advance of the arrival of horses to the facility. Any variance would also have to be expressly provided for in the compliance agreement.

In conjunction with these changes, we would also make editorial changes to § 93.310 of the regulations to update the regulations and make them easier to understand.

We believe that these proposed regulations would ensure that permanent facilities could operate without posing a risk of foreign disease introduction and allow U.S. horse importers another option for quarantining imported horses. We welcome public comment on the proposed regulations.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects.

This proposed rule would allow the establishment and operation, under strict APHIS oversight, of permanent, privately owned quarantine facilities for horses imported into the United States. Currently, APHIS allows the establishment of privately owned quarantine facilities for horses on a temporary basis. Such temporary facilities are used to quarantine horses imported for a particular event or purpose. APHIS has also authorized the operation of one permanent, privately owned and operated animal quarantine facility in Los Angeles County, CA.

In accordance with 21 U.S.C. 111, the Secretary is authorized to promulgate regulations and take such measures as he may deem proper to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals from a foreign country into the United States.

The horse industry in the United States accounts for approximately $25.3 billion of the U.S. gross national product. Of this amount, 98 percent comes from 22 States; in 7 of these States (California, Florida, Kentucky, New York, Pennsylvania, Texas, and Virginia), the horse industry grosses more than $500 million annually. In 2000, economic activities related to horses generated approximately $1.9 billion in tax revenues, most of which

[4] A list of approved vaccines is available from Natioanl Center for Import and Export, Veterinary Services, APHIS, 4700 River Road Unit, Riverdale, Maryland 20737–1231.

were generated in States where parimutuel betting was allowed.

Trade in live horses between the United States and other countries has increased considerably over the last several years. Even though the United States is a net exporter of live horses, imports of live horses have increased dramatically. Specifically, from 1992 to 1999, U.S. imports of live horses increased by 345 percent in terms of value (from $76.2 million to $339.2 million) and by 80 percent in number (from 16,962 horses to 30,396 horses).

The increased demand for importing horses in the United States has resulted in an increased demand for import quarantine services. The demand for these services exceeds what can be provided at current Federal facilities. As can be seen from the data above, horses play an important role in the international trade of the United States.

Effects on Small Entities

We have identified two types of entities that could be affected by implementation of this rule; an existing permanent, privately owned quarantine facility and horse importers or farmers.

Quarantine Facilities

According to Small Business Administration (SBA) criteria, the existing permanent, privately owned quarantine facility that operates in Los Angeles County, CA, is considered a small entity.

If this proposed rule is implemented, that quarantine facility may need to upgrade its facilities to be in compliance with the proposed requirements. If and when the facility is approved for operation under the proposed regulations, the cost of any needed renovations to the facility, as well as the costs associated with being in compliance with the proposed regulations, would likely be passed on to importers of horses who elect to use the facility to quarantine imported horses.

However, given the increased demand for quarantine services in the United States, the small number of Federal horse quarantine facilities currently in operation, and the fact that there are no other permanent, privately owned quarantine facilities operating at this time, it is not likely that this action would have a significant effect on the facility in the long run. Nevertheless, at this time, we are unable to determine the effect that implementation of this rule would have on the facility's business volume and revenue.

Importers of Horses and Horse Farms

According to SBA criteria, a farm that keeps horses for breeding and has annual revenues less than $500,000 is considered a small entity. According to the 1997 Census of Agriculture, more than 98 percent of these farms had an annual revenue of less than $500,000, placing them in the SBA's category of a small entity.

The establishment of permanent, privately owned quarantine facilities for horses would clearly benefit the horse industry if the volume and worth of live horse imports continues to increase. These facilities would save time and money for U.S. importers of horses and may also have positive economic effects for horse transporters and for horse owners who use imported horses. While it is not possible for us to predict the amount of the expected positive financial effects on horse importers, savings to U.S. importers could come from a reduction in time spent waiting for available space in Federal quarantine facilities.

The additional number of horses that might be imported into the United States as a result of this proposed rule is not known. However, because the proposed rule is expected to result in the opening of only one or two additional quarantine facilities in the next several years, the effect upon the price of an imported horse is likely to be small but positive (in terms of a lower price to the buyer).

This proposed rule contains information collection requirements, which have been submitted for approval to the Office of Management and Budget (*see* ''Paperwork Reduction Act'' below).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment has not been prepared for this proposed rule. Because the environmental impacts that could result from implementation of this proposal would vary according to the location and design of the facility being approved, APHIS has determined site-specific environmental assessments must be conducted for each permanent, privately owned horse quarantine facility prior to approval of the facility. APHIS will publish a notice in the **Federal Register** for each environmental assessment we conduct in this regard if this proposed rule is finalized, and we would invite public comment on each site-specific environmental assessment.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comment refers to Docket No. 99–012–1. Please send a copy of your comment to: (1) Docket No. 99–012–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

Because recent demand for quarantine services for horses has exceeded the space available at existing facilities, we are proposing to allow the establishment of permanent, privately owned horse quarantine facilities if they meet requirements proposed in this document. Accomplishing this will necessitate the use of several information collection activities, including an application for facility approval, a compliance agreement explaining the conditions under which the facility must be operated, and a certification that the facility meets all applicable environmental regulations.

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

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

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .78571 hours per response.

Respondents: Owners of approved permanent, privately owned horse quarantine facilities and applicants for approval.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 4.666.

Estimated annual number of responses: 14.

Estimated total annual burden on respondents: 11 hours.

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

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Subart C—[Amended]

2. In part 93, subpart C, footnotes 16, 17, 18, and 19 and their references would be redesignated as footnotes 18, 19, 20, and 21, respectively.

3. Section 93.300 would be amended by revising the definition for ''operator'' and by adding, in alphabetical order, new definitions to read as follows:

§ 93.300 Definitions.

* * * * *

Lot. A group of horses that, while held on a premises or conveyance, have had opportunity for physical contact with other horses in the group or with their excrement or discharges at any time during their shipment to the United States.

Lot-holding area. That area in a permanent, privately owned quarantine facility in which a single lot of horses is held at one time.

Nonquarantine area. That area in a permanent, privately owned quarantine facility that includes offices, storage areas, and other areas outside the quarantine area, and that is off limits to horses, samples taken from horses, and any other objects or substances that have been in the quarantine area during quarantine of horses.

Operator. A person other than the Federal Government who owns or operates a temporary, privately owned quarantine facility or a permanent, privately owned quarantine facility.

Quarantine area. That area in a permanent, privately owned quarantine facility that comprises all of the lot-holding areas in the facility and any other areas in the facility that horses have access to, including loading docks for receiving and releasing horses, and any areas used to conduct examinations of horses and take samples and any areas where samples are processed or examined.

Permanent, privately owned quarantine facility. A facility that offers quarantine services for horses to the general public on a continuing basis and that is owned by an entity other than the Federal Government (also permanent facility).

* * * * *

Temporary, privately owned quarantine facility. A facility that offers quarantine services for horses imported for a special event and that is owned by an entity other than the Federal Government (also temporary facility).

* * * * *

4. In § 93.303, paragraph (e), the paragraph heading would be revised to read as follows:

§ 93.303 Ports designated for the importation of horses.

* * * * *

(e) *Ports for horses to be quarantined at privately owned quarantine facilities.*

* * *

* * * * *

§ 93.304 [Amended]

5. In § 93.304, paragraph (a), the introductory text, the words ''quarantine facility provided by the importer'' would be removed, and the words ''privately-owned quarantine facility'' would be added in their place.

6. In § 93.304, paragraph (a)(2), the words ''regulations, horses intended for quarantine at a quarantine facility provided by the importer,'' would be removed, and the words ''regulations or horses intended for quarantine at a privately-owned quarantine facility'' would be added in their place.

7. In § 93.308, paragraphs (b) and (c) would be revised to read as follows:

§ 93.308 Quarantine requirements.

* * * * *

(b) *Temporary, privately owned quarantine facilities.* Horses presented for entry into the United States as provided in § 93.303(e) of this part may be quarantined in temporary, privately owned quarantine facilities that meet the requirements of paragraphs (b)(1) and (2) of this section and that have been approved by the Administrator for a specific importation.

(1) *Approval.* Requests for approval and plans for proposed temporary facilities must be submitted no less than 15 days before the proposed date of entry of horses into the facility to APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road, Unit 39, Riverdale, MD 20737–1231. Before facility approval can be granted, a veterinary medical officer of APHIS must inspect the facility to determine whether it complies with the standards set forth in this section: *Provided, however,* that approval of any temporary facility and use of such facility will be contingent upon a determination made by the Administrator that adequate personnel are available to provide required services at the facility. Approval of any facility may be refused and approval of any quarantine facility may be withdrawn at any time by the Administrator, upon his or her determination that any requirements of this section are not being met. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action by the Administrator and afforded an opportunity to present his or her views. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. The cost of the facility and all maintenance and operational costs of the facility will be borne by the operator.

(2) *Standards and handling procedures.* The facility must be maintained and operated in accordance with the following standards:

(i) *Inspection.* Inspection and quarantine services will be arranged by the operator or his or her agent with the APHIS veterinarian in charge for the State in which the approved facility is located [15] no less than 7 days before the

[15] The name and address of the veterinarian in charge in any State is available from APHIS,

proposed date of entry of the horses into the quarantine facility.

(ii) *Physical plant requirements.*

(A) The facility must be located and constructed to prevent horses from having physical contact with animals outside the facility.

(B) The facility must be constructed only with materials that can withstand repeated cleaning and disinfection. (All walls, floors, and ceilings must be constructed of solid material that is impervious to moisture.) Doors, windows, and other openings of the facility must be provided with double screens that will prevent insects from entering the facility.

(iii) *Sanitation and security.* (A) The operator must arrange for a supply of water adequate to clean and disinfect the facility.

(B) All feed and bedding must originate from an area not under quarantine because of splenetic or tick fever (see part 72 of this chapter) and must be stored within the facility.

(C) Upon the death or destruction of any horse, the operator must arrange for the disposal of the horse's carcass by incineration. Disposal of all other waste removed from the facility during the time the horses are in quarantine or from horses that are refused entry into the United States must be either by incineration or in a public sewer system that meets all applicable environmental quality control standards. Following completion of the quarantine period and the release of the horses into the United States, all waste may be removed from the quarantine facility without further restriction.

(D) The facility will be maintained and operated in accordance with any additional requirements the Administrator deems appropriate to prevent the dissemination of any communicable disease.

(E) The facility must comply with all applicable local, State, and Federal requirements for environmental quality.

(iv) *Personnel.* (A) Access to the facility will be granted only to persons working at the facility or to persons specifically granted such access by an APHIS representative.

(B) The operator must provide attendants for the care and feeding of horses while in the quarantine facility.

(C) Persons working in the quarantine facility may not come in contact with any horses outside the quarantine facility during the quarantine period for any horses in the facility.

(v) *Handling of horses in quarantine.* Horses offered for importation into the United States that are quarantined in an approved temporary facility must be handled in accordance with paragraph (a) of this section while in quarantine.

(c) *Permanent, privately owned quarantine facilities.* Horses presented for entry into the United States as provided in § 93.303(e) of this part may be quarantined in permanent, privately owned quarantine facilities approved by the Administrator as meeting the requirements of paragraphs (c)(1) through (7) of this section.

(1) *APHIS approval.*

(i) *Approval procedures.* Persons seeking APHIS approval of a permanent, privately-owned quarantine facility must write to the Administrator, c/o National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231. The application letter must include the full name and mailing address of the applicant; the location and street address of the facility for which approval is sought; blueprints of the facility; a description of the financial resources available for construction, operation, and maintenance of the facility; the anticipated source or origin of horses to be quarantined, as well as the expected size and frequency of shipments; and a contingency plan for the possible disposal of all the horses capable of being housed in the facility.

(A) If APHIS determines that an application is complete and merits further consideration, the person applying for facility approval must enter into a compliance agreement with APHIS wherein the applicant agrees to pay the cost of all APHIS services associated with APHIS's evaluation of the application and facility. APHIS charges for evaluation services at hourly rates listed in § 130.30 of this title. This compliance agreement applies only to fees accrued during the application process. If the facility is approved by APHIS, facility owners must enter into a new compliance agreement in accordance with paragraph (c)(2) of this section.

(B) Requests for approval must be submitted to APHIS at least 120 days prior to the date of application for local building permits. Requests for approval will be evaluated on a first-come, first-served basis.

(ii) *Criteria for approval.* Before a facility may operate as a permanent, privately owned quarantine facility for horses, it must be approved by APHIS. To be approved:

(A) APHIS must find, based on an environmental analysis, that the operation of the facility will not have significant environmental effects;

(B) The facility must meet all of the requirements of this section;

(C) The facility must meet any additional requirements that may be imposed by the Administrator in each specific case, as specified in the compliance agreement required under paragraph (c)(2) of this section, to ensure that the quarantine of horses in the facility will be adequate to enable determination of their health status, as well as to prevent the transmission of diseases into, within, and from the facility; and

(D) The Administrator must determine that sufficient personnel, including one or more APHIS veterinarians and other professional, technical, and support personnel, are available to serve as APHIS representatives at the facility and provide continuous oversight and other technical services to ensure the biological security of the facility, if approved. APHIS will assign personnel to facilities requesting approval in the order that the facilities are approved. The Administrator has sole discretion on the number of APHIS personnel to be assigned to the facility.

(iii) *Maintaining approval.* To maintain APHIS approval, the operator must continue to comply with all the requirements of paragraph (c) of this section and the terms of the compliance agreement executed in accordance with paragraph (c)(2) of this section.

(iv) *Withdrawal or denial of approval.* Approval for a proposed privately owned quarantine facility may be denied or approval for a facility already in operation may be withdrawn at any time by the Administrator, for any of the reasons provided in paragraph (c)(1)(iv)(C) of this section.

(A) Before facility approval is denied or withdrawn, APHIS will inform the operator of the proposed or existing quarantine facility and include the reasons for the proposed action. If there is a conflict as to any material fact, APHIS will afford the operator, upon request, the opportunity for a hearing with respect to the merits or validity of such action in accordance with the rules of practice that APHIS adopts for the proceeding.

(B) Withdrawal of approval of an existing facility will become effective prior to final determination in the proceeding when the Administrator determines that such action is necessary to protect animal health or the public health, interest, or safety. Such withdrawal will be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, APHIS will give written confirmation to the

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Veterinary Services, National Center for Import and Export, 4700 River Road, Unit 39, Riverdale, MD 20737–1231.

operator of the facility as promptly as circumstances allow. This withdrawal will continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator. In addition to withdrawal of approval for the reasons provided in paragraph (c)(1)(iv)(C) of this section, the Administrator will also automatically withdraw approval when the operator of any approved facility notifies the APHIS veterinarian in charge for the State in which the facility is located, in writing, that the facility is no longer in operation.[16]

(C) Except as provided in paragraph (c)(1)(iv)(E) of this section, the Administrator may deny or withdraw approval of a permanent privately owned quarantine facility if:

(*1*) Any requirement of this section or the compliance agreement is not complied with; or

(*2*) The operator fails to remit any charges for APHIS services rendered; or

(*3*) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal; or

(*4*) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals; or

(*5*) The approved quarantine facility has not been in use to quarantine horses for a period of at least 1 year.

(D) For the purposes of this section, a person is deemed to be responsibly connected with the business of the quarantine facility if such person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 percent or more of its voting stock, or is an employee in a managerial or executive capacity.

(2) *Compliance agreement.* (i) All permanent, privately owned quarantine facilities for horses must operate in accordance with a compliance agreement executed by the operator or his or her agent and the Administrator, and that must be renewed on an annual basis.

(ii) The compliance agreement must provide that:

(A) The facility must meet all applicable requirements of this section;

(B) The facility's quarantine operations are subject to the strict oversight of APHIS representatives;

(C) The operator agrees to be responsible for the cost of the facility; all costs associated with its maintenance and operation; all costs associated with the hiring of employees and other personnel to attend to the horses as well as to maintain and operate the facility; all costs associated with the care of quarantined horses, such as feed, bedding, medicines, inspections, testing, laboratory procedures, and necropsy examinations; and all APHIS charges for the services of APHIS representatives in accordance with this section and part 130 of this chapter; and

(D) The operator agrees to bar from the facility any employee or other personnel at the facility who fails to comply with paragraph (c) of this section or other provisions of this part, any terms of the compliance agreement, or related instructions from APHIS representatives;

(3) *Physical plant requirements.* The facility must meet the following requirements as determined by an APHIS inspection before horses may be admitted to it:

(i) *Location.* The quarantine facility must be located:

(A) In proximity to a port authorized under § 93.303(e) of this part of this part such that the movement of the imported horses along preapproved routes from the port to the quarantine facility poses no significant risk, as determined by the Administrator, of transmitting communicable diseases of horses.

(B) At least one-half mile from any premises holding livestock or horses.

(ii) *Construction.* The facility must be of sound construction, in good repair, and properly designed to prevent the escape of quarantined horses. It must have adequate capacity to receive and house a shipment of horses as a lot on an ''all-in, all-out'' basis and must include the following:

(A) *Perimeter fencing.* The facility must be surrounded by a security fence of sufficient height and design to prevent the entry of unauthorized people and animals from outside the facility and to prevent the escape of the horses in quarantine.

(B) *Entrances and exits.* All entryways into the nonquarantine area of the facility must be equipped with a secure and lockable door. While horses are in quarantine, all access to the quarantine area for horses must be from within the building, and each such entryway to the quarantine area must be equipped with a series of solid self-closing double doors. Entryways to each lot-holding area must be equipped with a solid lockable door. Emergency exits to the outside may exist in the quarantine area. Such emergency exits must be constructed so as to permit their opening from the inside of the facility only.

(C) *Windows and other openings.* The facility must be constructed so that any windows or other openings in the quarantine area are double-screened with screening of sufficient gauge and mesh to prevent the entry or exit of insects and other vectors of diseases of horses. The interior and exterior screens must be separated by at least 3 inches (7.62 cm). All screening of windows or other openings must be easily removable for cleaning, yet otherwise remain locked and secure at all times in a manner satisfactory to APHIS representatives in order to ensure the biological security of the facility.

(D) *Lighting.* The facility must have adequate lighting throughout, including in stalls and hallways, for the purpose of examining the horses and conducting necropsies.

(E) *Loading docks.* The facility must include separate docks for animal receiving and releasing and for general receiving and pickup.

(F) *Surfaces.* The facility must be constructed so that the floor surfaces with which horses have contact are nonslip and wear-resistant. All floor surfaces with which the horses, their excrement, or discharges have contact must provide for adequate drainage, and drains must be at least 8 inches in diameter. All floor and wall surfaces with which the horses, their excrement, or discharges have contact must be impervious to moisture and be able to withstand frequent cleaning and disinfection without deterioration. Other ceiling and wall surfaces with which the horses, their excrement, or discharges do not have contact must be able to withstand cleaning and disinfection between shipments of horses. All floor and wall surfaces must be free of sharp edges that could cause injury to horses.

(G) *Means of isolation.* Physical barriers must separate different lots of horses in the facility so that horses in one lot cannot have physical contact with horses in another lot or with their excrement or discharges. Stalls must be available that are capable of isolating any horses exhibiting signs of illness.

(H) *Showers.* In a facility where it is possible to move from the nonquarantine area into any lot-holding area without passing through another lot-holding area, the facility must have a shower at the entrance to the

[16] The name and address of the veterinarian in charge in any State is available from APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road, Unit 39, Riverdale, MD 20737–1231.

quarantine area. In a facility where it is not possible to move to any lot-holding area except by first passing through another lot-holding area, the facility must have a shower at the entrance to each lot-holding area. A shower must be located at the entrance to the necropsy area. A clothes-storage and clothes-changing area must be provided at each end of each shower area. There must also be one or more receptacles near each shower so that clothing that has been worn into a lot-holding area or elsewhere in the quarantine area can be deposited in the receptacle(s) prior to entering the shower.

(I) *APHIS space.* The facility must have adequate space for APHIS representatives to conduct examinations and testing of the horses in quarantine, prepare and package samples for mailing, and store the necessary equipment and supplies for each lot of horses and duplicate samples. The examination space must include equipment to provide for the safe inspection of horses (i.e., restraining stocks). The facility must also include a secure, lockable office for APHIS use with enough room for a desk, chair, and filing cabinet.

(J) *Necropsy area.* The facility must have an area that is of sufficient size to perform necropsies on horses and that is equipped with adequate lighting, hot and cold running water, a drain, a cabinet for storing instruments, a refrigerator-freezer for storing specimens, and an autoclave to sterilize veterinary equipment.

(K) *Storage.* The facility must have sufficient storage space for equipment and supplies used in quarantine operations. Storage space must include separate, secure storage for pesticides and for medical and other biological supplies, as well as a separate feed storage area that is vermin-proof for feed and bedding, if feed and bedding are stored at the facility. If the facility has multiple lot-holding areas, then separate storage space for supplies and equipment must be provided for each lot-holding area.

(L) *Additional space needs.* The facility must have an area for washing and drying clothes, linens, and towels and an area for cleaning and disinfecting equipment used in the facility. The facility must also include a work area for the repair of equipment.

(M) *Restrooms.* The facility must have permanent restrooms in both the quarantine and nonquarantine areas of the facility.

(N) *Breakroom.* The facility must have an area within the quarantine area for breaks and meals.

(O) *Ventilation and climate control.* The facility must be constructed with a heating, ventilating and air conditioning (HVAC) system capable of controlling and maintaining the ambient temperature, air quality, moisture, and odor at levels that are not injurious or harmful to the health of horses in quarantine. Air supplied to lot-holding areas must not be recirculated or reused for other ventilation needs. HVAC systems for lot-holding areas must be separate from air handling systems for other operational and administrative areas of the facility. In addition, if the facility is approved to handle more than one lot of horses at a time, each lot-holding area must have its own separate HVAC system that is designed to prevent cross-contamination between the separate lot-holding areas.

(P) *Fire protection.* The facility, including the lot holding areas, must have a fire alarm voice communication system.

(Q) *Monitoring system.* The facility must have a television monitoring system or other arrangement sufficient to provide a full view of the quarantine area or areas, excluding the clothes changing area.

(R) *Communication system.* The facility must have a communication system between the nonquarantine and quarantine areas of the facility.

(iii) *Sanitation.* To ensure that proper animal health and biological security measures are observed, the facility must have the following:

(A) Equipment and supplies necessary to maintain the facility in clean and sanitary condition, including pest control equipment and supplies and cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment.

(B) Separately maintained equipment and supplies for each lot of horses.

(C) A supply of potable water adequate to meet all watering and cleaning needs, with water faucets for hoses located throughout the facility. An emergency supply of water for horses in quarantine must also be maintained.

(D) A stock of disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator that is sufficient to disinfect the entire facility.

(E) The capability to dispose of wastes, including manure, urine, and used bedding, by means of burial, incineration, or public sewer. Other waste material must be handled in such a manner that minimizes spoilage and the attraction of pests and must be disposed of by incineration, public sewer, or other preapproved manner that prevents the spread of disease. Disposal of wastes must be carried out under the direct oversight of APHIS representatives.

(F) The capability to dispose of horse carcasses in a manner approved by the Administrator and under conditions that minimize the risk of disease spread from carcasses.

(G) For incineration to be carried out at the facility, incineration equipment that is detached from other facility structures and is capable of burning animal waste and refuse as required. The incineration site must also include an area sufficient for solid waste holding. Incineration may also take place at a local site away from the facility premises. All incineration activities must be carried out under the direct oversight of APHIS representatives.

(H) The capability to control surface drainage and effluent into, within, and from the facility in a manner that prevents the spread of disease into, within, or from the facility. If the facility is approved to handle more than one lot of horses at the same time, there must be separate drainage systems for each lot-holding area in order to prevent cross contamination.

(iv) *Security.* Facilities must provide the following security measures:

(A) The facility and premises must be kept locked and secure at all times while horses are in quarantine.

(B) The facility and premises must have signs indicating that the facility is a quarantine area and no visitors are allowed.

(C) The facility and premises must be guarded at all times by one or more representatives of a bonded security company or, alternatively, the facility must have an electronic security system that indicates the entry of unauthorized persons into the facility. Electronic security systems must be coordinated through or with the local police so that monitoring of the quarantine facility is maintained whenever APHIS representatives are not at the facility. The electronic security system must be of the ''silent type'' and must be triggered to ring at the monitoring site and not at the facility. The electronic security system must be approved by Underwriter's Laboratories. The operator must provide written instructions to the monitoring agency stating that the police and a representative of APHIS designated by APHIS must be notified by the monitoring agency if the alarm is triggered. The operator must also submit a copy of those instructions to the Administrator. The operator must notify the designated APHIS representative

whenever a breach of security occurs or is suspected of occurring. In the event that disease is diagnosed in quarantined horses, the Administrator may require that the operator have the facility guarded by a bonded security company in a manner that the Administrator deems necessary to ensure the biological security of the facility.

(D) The operator must furnish a telephone number or numbers to APHIS at which the operator or his or her agent can be reached at all times.

(E) APHIS is authorized to place APHIS seals on any or all entrances and exits of the facility when determined necessary by APHIS and to take all necessary steps to ensure that such seals are broken only in the presence of an APHIS representative. If someone other than an APHIS representative breaks such seals, APHIS will consider the act a breach in security and APHIS representatives will make an immediate accounting of all horses in the facility. If a breach in security occurs, APHIS may extend the quarantine period as long as necessary to determine that the horses are free of communicable diseases.

(4) *Operating procedures.* The following procedures must be observed at the facility at all times:

(i) *APHIS oversight.*

(A) The quarantine of horses at a privately owned quarantine facility is subject to the strict oversight of APHIS representatives authorized to perform the services required by this section.

(B) If, for any reason, the operator fails to properly care for, feed, or handle the quarantined horses as required in paragraph (c) of this section, or fails to maintain and operate the facility as provided in paragraph (c) of this section, APHIS representatives are authorized by the compliance agreement to furnish such neglected services or make arrangements for the sale or disposal of quarantined horses at the quarantine facility owner's expense.

(ii) *Personnel.*

(A) The operator must provide adequate personnel to maintain the facility and care for the horses in quarantine, including attendants to care for and feed horses, and other personnel as needed to maintain, operate, and administer the facility.

(B) The operator must provide APHIS with an updated list of all personnel who have access to the facility. The list must include the names, current residential addresses, and identification numbers of each person, and must be updated with any changes or additions in advance of such person having access to the quarantine facility.

(C) The operator must provide APHIS with signed statements from each person having access to the facility in which the person agrees to comply with paragraph (c) of this section and applicable provisions of this part, all terms of the compliance agreement, and any related instructions from APHIS representatives pertaining to quarantine operations, including contact with animals both inside and outside the facility.

(iii) *Authorized access.* Access to the facility premises as well as inside the quarantine area will be granted only to APHIS representatives, authorized employees, and other personnel of the operator assigned to work at the facility. All other persons are prohibited from the premises unless specifically granted access by an APHIS representative. Any visitors granted access must be accompanied at all times by an APHIS representative while on the premises or in the quarantine area of the facility.

(iv) *Sanitary requirements.*

(A) All persons granted access to the quarantine area must:

(*1*) Shower when entering and leaving the quarantine area.

(*2*) Shower before entering a lot-holding area if previously exposed from access to another lot-holding area.

(*3*) Shower when leaving the necropsy area if a necropsy is in the process of being performed or has just been completed, or if all or portions of the examined animal remain exposed.

(*4*) Wear clean protective work clothing and footwear upon entering the quarantine area.

(*5*) Wear disposable gloves when handling sick horses and then wash hands after removing gloves.

(*6*) Change protective clothing, footwear, and gloves when they become soiled or contaminated.

(*7*) Not have contact with any horses in the facility other than the lot or lots of horses to which the person is assigned or is granted access.

(*8*) Not have contact with any horses outside the quarantine facility for at least 7 days after the last contact with the horses in quarantine, or for a period of time determined by the overseeing APHIS representative as necessary to prevent the transmission of communicable diseases of horses.

(B) The operator is responsible for providing a sufficient supply of clothing and footwear to ensure that all persons provided access to the quarantine area at the facility have clean, protective clothing and footwear upon their initial entry and when they move from one lot of horses to another lot of horses.

(C) The operator is responsible for the proper handling, washing, and disposal of soiled and contaminated clothing worn within the quarantine facility in a manner approved by APHIS as adequate to preclude transmission of any animal disease agent from the facility. At the end of each workday, work clothing worn into each lot-holding area must be collected and kept in a bag until the clothing is washed. Used footwear must either be left in the clothes changing area or cleaned with hot water (148 °F minimum) and detergent and disinfected as directed by an APHIS representative.

(D) All equipment (including tractors) must be cleaned and disinfected prior to being used in the quarantine area of the facility with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator. The equipment must remain dedicated to the facility for the entire quarantine period. Any equipment used with quarantined horses (e.g., halters, floats) must remain dedicated to that particular lot of quarantined horses for the duration of the quarantine period or be cleaned and disinfected before coming in contact with horses from another lot. Prior to its use on another lot of horses or its removal from the quarantine premises, any equipment must be cleaned and disinfected to the satisfaction of an APHIS representative.

(E) Any vehicle, upon entering or leaving the quarantine area of the facility, must be immediately cleaned and disinfected under the oversight of an APHIS representative with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator.

(F) That area of the facility in which a lot of horses has been held or has had access to must be thoroughly cleaned and disinfected under the oversight of an APHIS representative upon release of the horses with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator before a new lot of horses is placed in that area of the facility.

(v) *Handling of the horses in quarantine.*

(A) All horses must be handled in accordance with paragraph (a) of this section.

(B) Each lot of horses to be quarantined must be placed in the facility on an ''all-in, all-out'' basis. No horse may be taken out of the lot while it is in quarantine, except for diagnostic purposes, and no horse may be added to the lot while the lot is in quarantine.

(C) The facility must provide sufficient feed and bedding for the horses in quarantine, and it must be free of vermin and not spoiled. Feed and bedding must originate from an area that

is not listed in 9 CFR 72.2 as an area quarantined for splenetic or tick fever.

(D) Breeding of horses or collection of germplasm from horses is prohibited during the quarantine period unless necessary for a required import testing procedure.

(E) Horses in quarantine will be subjected to such tests and procedures as directed by an APHIS representative to determine whether they are free from communicable diseases of horses. While in quarantine, horses may be vaccinated only with vaccines that have been approved by APHIS and that are administered by an APHIS veterinarian or an accredited veterinarian under the direct oversight of an APHIS representative. APHIS will approve a vaccine only if the vaccine is licensed by APHIS in accordance with § 102.5 of this chapter.[17]

(F) Any death or suspected illness of horses in quarantine must be reported immediately to APHIS. The affected horses must be disposed of as the Administrator may direct or, depending on the nature of the disease, must be cared for as directed by APHIS to prevent the spread of disease.

(G) Quarantined horses requiring specialized medical attention or additional postmortem testing may be transported off the quarantine site, if authorized by APHIS. A second quarantine site must be established to house the horses at the facility of destination (e.g., veterinary college hospital). In such cases, APHIS may extend the quarantine period until the results of any outstanding tests or postmortems are received.

(H) Should the lot of horses become infected with or exposed to a communicable disease of horses, arrangements for the final disposition of the infected or exposed lot must be accomplished within 4 work days following disease confirmation. Subsequent disposition of the horses must occur under the direct oversight of APHIS representatives. The operator must have a preapproved contingency plan for the possible disposal of all horses housed in the facility prior to issuance of the import permit.

(vi) *Records.*

(A) The facility operator must maintain a current daily log to record the entry and exit of all persons entering and leaving the quarantine facility.

(B) The operator must maintain the daily log, along with any logs kept by APHIS and deposited with the operator, for at least 2 years following the date of release of the horses from quarantine and must make such logs available to APHIS representatives upon request.

(5) *Environmental quality.* If APHIS determines that a privately operated quarantine facility does not meet applicable local, State, or Federal environmental regulations, APHIS may deny or suspend approval of the facility until appropriate remedial measures have been applied.

(6) *Variances.* The Administrator may grant variances to existing requirements relating to location, construction and other design features of the physical facility, as well as to sanitation, security, operating procedures, recordkeeping, and other provisions of paragraph (c) of this section, but only if the Administrator determines that the variance causes no detrimental impact to the overall biological security of the quarantine operations. The operator must submit a request for a variance to the Administrator in writing at least 30 days in advance of the arrival of horses to the facility. Any variance must also be expressly provided for in the compliance agreement.

8. In § 93.309, the section heading would be revised to read as follows:

§ 93.309 Horse quarantine facilities; payment information.

* * * * *

9. Section 93.310 would be revised to read as follows:

§ 93.310 Quarantine stations, visiting restricted; sales prohibited.

Visitors are not permitted in the quarantine enclosure during any time that horses are in quarantine unless an APHIS representative specifically grants access under such conditions and restrictions as may be imposed by APHIS. An importer (or his or her agent or accredited veterinarian) may be admitted to the lot-holding area(s) containing his or her quarantined horses at such intervals as may be deemed necessary, and under such conditions and restrictions as may be imposed, by an APHIS representative. On the last day of the quarantine period, owners, officers or registry societies, and others having official business or whose services may be necessary in the removal of the horses may be admitted upon written permission from an APHIS representative. No exhibition or sale shall be allowed within the quarantine grounds.

Done in Washington, DC, this 24th day of June, 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–16337 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–34–P

[17] A list of approved vaccines is available from National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM217; Notice No. 25–02–07–SC]

Special Conditions: Boeing Commercial Airplane Group, Boeing Model 747–400 Series Airplane; Forward Lower Lobe (Service/Cargo) Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 747–400 series airplane. This airplane, as modified by the Boeing Commercial Airplane Group, Wichita, Kansas, will have novel or unusual design features associated with the installation of a forward lower lobe compartment that will have two functions: that of a service compartment and that of a class C cargo compartment. 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.

DATES: Comments must be received on or before July 31, 2002.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM217, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM217. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW.,

Renton, Washington, 98055–4056; telephone (425) 227–2145; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On January 3, 2001, Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a Supplemental Type Certificate (STC) for the installation, in a Boeing Model 747–400 series airplane, of a forward lower lobe compartment that combines two functions: that of a service compartment and that of a class C cargo compartment. The Boeing Model 747–400 series airplane, currently approved under Type Certificate A20WE, is a large transport category airplane with upper and main passenger decks. The main deck is limited to 550 passengers or less and the upper deck is limited to 110 passengers or less, depending on the interior configuration. Cargo compartments are installed below the main deck. The airplane is driven by four high-bypass turbojet engines capable of a static thrust in excess of 43,000 pounds.

The 747–400 configuration proposed for certification is an interim, but certifiable, configuration. The final interior will be installed by another modifier at a later date. Boeing proposes to certificate the model with the forward half of the main deck open and the aft half of the main deck configured for passengers. However, the main deck and upper deck will be certificated with limitations specifying zero occupancy and zero cargo.

Boeing proposes to modify the configuration defined above by installing a stair from the main deck to the forward lower lobe cargo compartment and proposes to use the forward cargo compartment as a service area and as a class C cargo compartment. Further, an air-stair would be installed to allow walk-in access from the ground to the forward lower lobe (service/cargo) compartment. The forward lower lobe (service/cargo) compartment design would have provisions for flammability and smoke protection. Access would be limited to one trained crewmember and access would be allowed during flight but not during taxi, takeoff and landing, or during a fire.

To accommodate access into the forward lower lobe (service/cargo) compartment by a crewmember, Boeing proposes appropriate warning and emergency equipment will be installed as defined for a lower lobe service compartment in § 25.819. A flight attendant seat will be installed in the forward lower lobe (service/cargo) compartment for in-flight emergency use only. The seat will be located so that it meets all certification requirements for attendant seating. Speakers, warning lights, and buzzers will be installed in the forward lower lobe (service/cargo) compartment to warn the crewmember occupant of turbulent conditions, smoke detection, or the need to leave the area. A crew interphone will be provided for communications with the flight deck. In addition, emergency oxygen equipment will be provided as appropriate.

Boeing proposes the forward lower lobe (service/cargo) compartment will meet the class C requirements of § 25.857(c) and will include an approved built-in fire extinguisher or suppression system controllable from the cockpit. In the event of a fire, the forward lower lobe (service/cargo) compartment will be evacuated, and the pilot will initiate a Halon suppression system. A means will be provided to prevent inadvertent access to the compartment when the fire suppression system has been activated. The intention of the fire suppression system is to eliminate the necessity for sending someone into the compartment to fight a fire.

The existing regulations address a service area and a class C cargo compartment as independent compartments, but do not address one compartment that has two uses. The service compartment can be occupied and the Class C cargo compartment cannot. Further, fire fighting is dealt with differently in each compartment. The crew fights a fire in a service compartment and a flooding extinguisher system is used to fight a fire in a class C cargo compartment. The concept Boeing proposes may be acceptable if it can be assured that when the compartment is used for either function, a level of safety would be achieved that would be equivalent to compartment installations that are independent. Therefore, special conditions requiring warnings, limitations, and equipment installations are being proposed to achieve a level of safety that would allow a lower lobe compartment to be used as a service compartment or a class C cargo compartment when the aircraft is to be certificated in a similar configuration to that which Boeing proposes (*i.e.* forward lower lobe compartment with stair access, emergency escape routes, *etc.*).

Type Certification Basis

Under the provisions of § 21.101, the Boeing Commercial Airplane Group must show that the Model 747–400 series airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A20WE or the applicable regulations in effect on the date of application for the change. 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 Type Certificate A20WE for the Boeing Model 747–400 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–70, with certain exceptions listed in the type data sheet. The U.S. type certification basis for the Boeing Model 747–400 series airplane is established in accordance with 14 CFR 21.17 and 21.21 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. A20WE.

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 Boeing Model 747–400 series airplane because of a novel or unusual design feature, special conditions are

prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–400 series 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 § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design features, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Boeing Model 747–400 series airplane will incorporate the following novel or unusual design features: the forward lower lobe compartment will be used as a service area or a class C cargo compartment with certain combined features.

Discussion

The requirements listed in these proposed special conditions are developed to allow the use of the forward lower lobe as a service compartment and as a class C cargo compartment during flight conditions. To make this concept work, these proposed special conditions establish communication, warning, and personal safety requirements, because the existing requirements, §§ 25.819 versus 25.855, 25.857, and 25.858, are exclusive. As an example, to use the fire control system of a class C cargo compartment, the compartment must not be occupied, because the means of fire control is to flood the compartment with fire suppressant.

No provisions for satisfying regulatory requirements for occupancy of the forward lower lobe (service/cargo) compartment during taxi, takeoff, and landing are being proposed. Therefore, limitations for taxi, takeoff, and landing are being applied.

The approach to establishing requirements for a common compartment with two uses is to apply the existing requirements for a service compartment when used as a service compartment and for cargo compartments when used as a class C compartment, and to propose special conditions where the rules are inadequate to address the functionality of both.

Proposed Special Condition 1

Currently, § 25.819 addresses a service compartment, which can be occupied, but does not need to be evacuated under certain normal conditions or under certain unsafe conditions (e.g., in the case of fire, the occupant could function as a firefighter). The class C cargo compartment requirements address a stand-alone cargo compartment that is not occupied; fire detection is automatic and suppression relies on a total flood system. To maintain the advantages of both a service compartment and a class C cargo compartment, certain warnings need to be addressed.

Proposed Special Condition 1(a)

Special Condition 1(a) would require a visual means in the cockpit to advise the flightcrew when the forward lower lobe (service/cargo) compartment is occupied. The potential exists that the forward lower lobe (service/cargo) compartment may inadvertently be occupied when it is not supposed to be, such as during taxi, takeoff and landing, or during certain emergency events. This requirement is proposed to ensure the flightcrew is aware of that situation and can take appropriate action to evacuate the forward lower lobe before flooding the compartment with fire suppressant agent. The advisory should be clear as to its intent, either by light with placard or lighted advisory message or equivalent.

Proposed Special Condition 1(b)

Special Condition 1(b) would require an ''on/off'' visual advisory/warning stating ''Do Not Enter'' (or similar words) to be located outside and on or near the entrance door from the main deck to the forward lower lobe (service/cargo) compartment. The advisory/warning is to be controlled from the flight deck. This is to prevent someone entering the forward lower lobe (service/cargo) compartment when it is not supposed to be occupied. Those conditions exist during taxi, takeoff and landing, and if smoke or fire is detected. Opening the door during a fire would, among other things, degrade the effectiveness of the fire suppressant and allow smoke, flame, and/or suppressant into the cabin.

Proposed Special Condition 1(c)

Special Condition 1(c) would require a visible and audible advisory/warning means in the forward lower lobe (service/cargo) compartment to notify the occupant that the occupant must exit the forward lower lobe (service/cargo) compartment. To be effective, the visible and audible advisory/warning must be able to be seen and heard from any part of the compartment. The visible and audible advisory/warning is to be controlled from the flight deck. As the forward lower lobe (service/cargo) compartment may be occupied on the ground or in the air, a means must be provided to notify the occupant to exit the compartment prior to taxi, takeoff and landing, or during certain emergency conditions (other than fire, which is dealt with under Special Condition 1(e)). A visual advisory/warning is included in case the audible warning were to become masked or distorted by engine, equipment, or ground noises.

Proposed Special Condition 1(d)

Special condition 1(d) would require a means (visible and audible) to notify the occupant of the forward lower lobe (service/cargo) compartment of the need to put on supplemental oxygen equipment in the event of a decompression. As the occupant could be anywhere in the forward lower lobe (service/cargo) compartment, the means should be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment. Further, the warning should be distinct from other warnings in the forward lower lobe (service/cargo) compartment to prevent confusion and inappropriate action. An automatic decompression warning is proposed (*i.e.,* not requiring a separate crew action) to ensure that the forward lower lobe (service/cargo) compartment occupant does not delay putting on the oxygen equipment. This section of the special conditions is partially in lieu of the visual effect provided by the automatic presentation feature required by § 25.1447.

Proposed Special Condition 1(e)

Special Condition 1(e) would require a visible and audible means to warn the occupant of the forward lower lobe (service/cargo) compartment of the need to evacuate the forward lower lobe (service/cargo) compartment if a fire is detected. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and must be distinct from other warnings in the forward lower lobe (service/cargo) compartment in order to prevent confusion and to elicit correct action. The fire/smoke detection warning in the forward lower lobe (service/cargo) compartment must be automatic (i.e., not requiring or depending on a separate crew action), to

ensure that the occupant exits the forward lower lobe (service/cargo) compartment prior to the flight deck crew releasing the fire suppressant agent.

Proposed Special Condition 2

The lower lobe (service/cargo) compartment must be evacuated if a fire occurs. Further, a means must be provided to prevent access into the compartment during taxi, takeoff or landing, and in the event of a fire. Placards and limitations are proposed to assist in these situations.

Proposed Special Condition 2(a)

Special Condition 2(a) would require a placard to be located outside the forward lower lobe (service/cargo) compartment door to limit access to the forward lower lobe (service/cargo) compartment to one crewmember trained in evacuation means. The accommodations and emergency support equipment provided necessitate limiting access (*i.e.,* one seat, one oxygen bottle, one protective breathing device, one fire extinguisher, etc.).

Proposed Special Condition 2(b)

Special Condition 2(b) would require placards, located inside and outside the forward lower lobe (service/cargo) compartment door, stating that the compartment door must remain closed except when entering and leaving the compartment. The smoke/fire detection and suppression systems are certified with the door closed, and the door needs to remain closed to retain their certified characteristics and to be effective. In the event the single occupant falls asleep in the chair provided, the smoke alarm will still function and a warning will be provided to warn the occupant to exit the compartment.

Proposed Special Condition 2(c)

Special Condition 2(c) would require a limitation be placed in the airplane flight manual (AFM) and placards be posted inside and outside the forward lower lobe (service/cargo) compartment door, all stating that the forward lower lobe (service/cargo) compartment may not be occupied during taxi, takeoff, landing, or during a fire emergency. These placards are being specified because the compartment is not being certified as occupied during taxi, takeoff, and landing and because the cargo compartment must not be occupied during a fire so that the occupant is not exposed to the fire and suppressant. These placards are somewhat redundant to the advisory required under 1(b) and 1(c), but have the benefit of the information being available to the occupant in the event the flightcrew fails to activate the advisory/warnings of 1(b) and 1(c).

Proposed Special Condition 2(d)

Special Condition 2(d), with respect to the forward lower lobe (service/cargo) compartment, would require the AFM supplement include flight deck crew instructions for: allowing access; procedures for fire/smoke/detection/fire fighting; procedures for decompression; and limitations prohibiting occupancy during taxi, takeoff, and landing. Further, this special condition would require that the weight and balance manual include cargo loading restrictions requiring cargo to be loaded and restrained in a manner so that escape paths are maintained. These proposals are to insure the single flight crewmember can safely access the cargo compartment during flight and exit safely during failure conditions.

Proposed Special Condition 2(e)

Because access is being provided to the forward lower lobe (service/cargo) compartment, there is a concern that, during flight, passengers may retrieve hazardous materials and weapons stored in luggage. Ideally, access could be prevented by locking the forward lower lobe (service/cargo) compartment and that is being proposed as one solution (proposed Special Condition 2(e)(1)). However, this airplane is being designed for private use, will have limited access, and will have placards limiting access. Further, there is notification to the flightcrew if the forward lower lobe (service/cargo) compartment is occupied (proposed Special Condition 1(a)). Therefore, as an alternative to locking the lower lobe (service/cargo) compartment, in addition to limiting access under proposed Special Conditions 2(a) and 2(d), prohibiting the airplane from being operated for hire, or offered for common carriage, is proposed (proposed Special Condition 2(e)(2)).

Proposed Special Condition 3

Special Condition 3 would require equipment in addition to that required by § 25.819.

Proposed Special Condition 3(a)

Special Condition 3(a) would require availability at all times of portable oxygen equipment sufficient to supply a crewmember who is allowed to occupy (except during taxi, takeoff and landing, and a fire) the forward lower lobe (service/cargo) compartment. It was first proposed that the oxygen bottle be stored inside the cargo compartment near the seat, along with a portable extinguisher and a protective breathing device. Because the portable oxygen bottle would not be immediately available (a requirement of § 25.1447(c)(1)) in the event of rapid decompression, and it would not be advisable to provide drop-down masks in a cargo compartment or store a portable oxygen bottle in the compartment (even though the bottle would be afforded some protection), the FAA elected to propose that a portable oxygen bottle be mounted at the outside of the main deck entrance of the forward lower lobe (service/cargo) compartment, along with a placard that specifies that anyone entering the forward lower lobe (service/cargo) compartment during flight must carry portable oxygen equipment on their person for the entire time that they are in the compartment.

Proposed Special Condition 3(b)

Special Condition 3(b) would require at least one readily accessible hand-held fire extinguisher and one 15-minute protective breathing equipment device be located within the forward lower lobe (service/cargo) compartment adjacent to the seat. This proposal is to ensure the occupant has the means to exit the compartment if a fire occurs between the occupant and the exit.

Proposed Special Condition 3(c)

Special Condition 3(c) would require, in addition to the two evacuation route (including exit) requirements of § 25.819(a), a means to keep the evacuation routes clear. The cargo in the compartment should be restrained to ensure that the crewmember's paths to the exits are clear. Further, all entrances and exits from the forward lower lobe (service/cargo) compartment must be capable of being closed after exiting. In addition to the concern for cargo blocking the escape paths, there is the concern about hazardous quantities of smoke, flames, or fire suppressant agent entering any compartments occupied by passengers or crew and the concern about the loss of fire suppressant agent from the compartment during a fire. The forward lower lobe (service/cargo) compartment must be capable of being closed off because, after evacuation, it must comply with the requirements applicable to the class C cargo compartment, including §§ 25.855, 25.857, and 25.858.

Proposed Special Condition 3(d)

Special Condition 3(d) would require supplemental handheld lighting (with locator light) in the event the occupant is in the forward lower lobe (service/cargo) compartment and power to the

compartment or the emergency escape path lighting is off, or lost, or visibility is poor. At least two flashlights would be required. One flashlight would be located adjacent to the secondary emergency exit in the forward lower lobe (service/cargo) compartment at the foot of the stairs in the compartment. The other would be located adjacent to the seat in the forward lower lobe (service/cargo) compartment. Note that this proposal is in addition to the requirement for an automatic emergency lighting system required by § 25.819(a).

Proposed Special Condition 4

Special Condition 4 addresses training manuals and the training associated with the proposed special conditions above for:

(a) Use and actions associated with the warnings and placards of these proposed special conditions.

(b) Accessing and exiting the cargo forward lower lobe (service/cargo) compartment, including emergency exiting (includes those special conditions associated with Special Conditions 1(b), 1(c), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d), and 3(b)).

(c) Checking the oxygen bottle's pressure for adequacy prior to entering the cargo compartment (associated with Special Condition 3(a)).

(d) Carrying the oxygen bottle when entering the forward lower lobe (service/cargo) compartment (associated with Special Condition 3(a)).

(e) Maintaining an exit path aisle and access to the evacuation routes (associated with Special Condition 3(c)).

Proposed Special Condition 5

Special Conditions 25–71–NW–3, which included criteria applicable to the stairs between the main deck and upper deck, were incorporated in the Model 747 series airplane certification basis on August 27, 1976. These special conditions have been reviewed, and sections 3(a)(1), 3(a)(2) and 3(a)(7) are proposed as applicable to the stair between the forward lower lobe (service/cargo) compartment and the main deck. These special conditions are renumbered and repeated as 5(a), 5(b), and 5(c).

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–400 series airplane. Should Boeing Commercial Airplane Group apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate A20WE to incorporate the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Certification of the Boeing Model 747–400 series airplanes modified by Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, is currently scheduled for mid-June 2002. For this reason, and because a delay would significantly affect the applicant's installation of the system and certification of the airplane, the public comment period is being shortened to 30 days.

Conclusion

This action affects only certain novel or unusual design features on one Boeing Model 747–400 series airplane. 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 record keeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 747–400 airplanes modified by Boeing Commercial Airplane Group, Wichita Division Designated Alteration Station, with a forward lower lobe configured for use as a service compartment and a class C cargo compartment.

1. *Required Warnings* (in addition to fire/smoke detection and decompression aural warnings required in § 25.819(c)):

(a) There must be a visual means in the cockpit to advise the flightcrew when the forward lower lobe (service/cargo) compartment is occupied. The advisory light should be accompanied by a placard or message indicating someone is in the forward lower lobe (service/cargo) compartment.

(b) There must be an ''on/off'' visual advisory/warning stating ''Do Not Enter'' (or similar words) to be located outside and on or near the entrance door to the forward lower lobe (service/cargo) compartment. The advisory/warning is to be controlled from the flight deck.

(c) There must be a visible and audible advisory/warning means in the forward lower lobe (service/cargo) compartment to notify the occupant that the occupant must exit the forward lower lobe (service/cargo) compartment. The visible and audible warning must be seen and heard from any part of the forward lower lobe (service/cargo) compartment. The visible and audible advisory/warning is to be controlled from the flight deck.

(d) A means (visible and audible) must be provided to notify the occupant of the forward lower lobe (service/cargo) compartment of the need to put on supplemental oxygen equipment in the event of a decompression. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and be distinct from other warnings in the forward lower lobe (service/cargo) compartment. This decompression warning should be automatic (i.e., not requiring a separate crew action), to ensure that the forward lower lobe (service/cargo) compartment occupant does not delay putting on the oxygen equipment. This section of the special conditions is partially in lieu of the visual effect provided by the automatic presentation feature required by § 25.1447.

(e) A means (visible and audible) must be provided to warn the occupant of the forward lower lobe (service/cargo) compartment of the need to evacuate the forward lower lobe (service/cargo) compartment at fire detection. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and be distinct from other warnings in the forward lower lobe (service/cargo) compartment. The fire/smoke detection warning in the forward lower lobe (service/cargo) compartment must be automatic (i.e., not requiring a separate crew action), to ensure that the occupant exits the forward lower lobe (service/cargo) compartment prior to the flight deck crew releasing fire suppressant agent.

2. *Required Placards and Limitations* (beyond those required in Part 25):

(a) There must be a placard located outside the forward lower lobe (service/cargo) compartment door limiting access to the forward lower lobe (service/cargo) compartment to one crewmember trained in evacuation means.

(b) There must be placards located inside and outside the forward lower lobe (service/cargo) compartment door stating that the forward lower lobe (service/cargo) compartment door must remain closed except when entering and leaving the compartment.

(c) A limitation must be placed in the airplane flight manual (AFM) supplement and placards must be posted inside and outside the forward lower lobe (service/cargo) compartment door, all stating that the forward lower lobe (service/cargo) compartment may

not be occupied during taxi, takeoff, landing, or during a fire emergency.

(d) With respect to the forward lower lobe (service/cargo) compartment, the AFM supplement must include flight deck crew instructions for: allowing access; procedures for fire/smoke/detection/fire fighting; procedures for decompression; limitations prohibiting occupancy during taxi, takeoff, and landing. The weight and balance manual must include cargo loading restrictions to maintain escape paths.

(e) A limitation must be placed in the AFM Supplement stating: ''Carriage of hazardous material and/or weapons in the forward lower lobe (service/cargo) compartment is prohibited'' unless:

(1) Access to the compartment is locked during flight and the key to the lock remains with the flight deck crew only; or

(2) The airplane is not operated for hire, or offered for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR part 125, 14 CFR part 91, and subpart F, as applicable.

3. *Required Equipment* (in addition to that required by § 25.819):

(a) There must be portable oxygen equipment available at all times sufficient to supply a crewmember who is allowed to occupy the forward lower lobe (service/cargo) compartment (except during taxi, takeoff and landing, and a fire). The equipment is to be mounted at the outside of the main deck entrance to the forward lower lobe (service/cargo) compartment along with a placard specifying that anyone entering the forward lower lobe (service/cargo) compartment during flight must carry portable oxygen equipment on his/her person for the entire time that he/she is in the forward lower lobe (service/cargo) compartment.

(b) At least one readily accessible hand-held fire extinguisher and one 15-minute protective breathing equipment (PBE) device must be located within the forward lower lobe (service/cargo) compartment adjacent to the seat.

(c) In addition to the two evacuation route (including exit) requirements of § 25.819(a), a means must be provided to keep the evacuation routes clear; *i.e.*, cargo in the compartment should be restrained to ensure that the crewmember's paths to the exits are clear. All entrances and exits from the forward lower lobe (service/cargo) compartment must be capable of being closed after entering and exiting and, after closing, must prevent hazardous quantities of smoke, flames, or fire suppressant agent from entering any compartments occupied by passengers or crew and must prevent loss of fire suppressant agent during a fire.

(d) In addition to the emergency illumination required by § 25.829(a), there must be supplemental handheld lighting (with locator light) located within the forward lower lobe (service/cargo) compartment. At least two flashlights will be required. One flashlight must be located adjacent to the secondary emergency exit of the forward lower lobe (service/cargo) compartment. The other must be adjacent to the seat in the forward lower lobe (service/cargo) compartment.

4. *Training manuals and training must include:*

(a) Use and actions associated with warnings and placards specified herein.

(b) Accessing and exiting the cargo forward lower lobe (service/cargo) compartment, including emergency exiting.

(c) Checking the oxygen bottle's pressure for adequacy prior to entering the forward lower lobe (service/cargo) compartment.

(d) Carrying the oxygen bottle when entering the forward lower lobe (service/cargo) compartment.

(e) Maintaining exit path aisle and access for the evacuation routes.

5. *The stairway between the forward lower lobe (service/cargo) compartment and the main deck* (applicable portions excerpted from Special Conditions 25–71–NM–3 issued August 27, 1976) *must meet the following requirements:*

(a) The stairway must have essentially straight route segments with a landing at each significant change in segment direction.

(b) The stairs must have essentially rectangular treads.

(c) General illumination must be provided so that, when measured along the centerlines of each tread and landing, the illumination is not less than .05 foot-candle.

Issued in Renton, Washington, on June 17, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16500 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–24–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires inspection of the flap tracks of the wing trailing edge flaps for adequate cadmium plating and for corrosion of certain bolt holes of the fail-safe bar, and plating of such holes, if necessary. This new action would require post-modification inspections of certain bolt holes of the fail-safe bar of the flap tracks of the wing trailing edge flaps for discrepancies, and corrective actions, if necessary. This proposal is prompted by reports of corrosion and cracks found in certain bolt holes reworked according to the existing AD. The actions specified by the proposed AD are intended to find and fix discrepancies of the bolt holes, which could result in fracture of the flap track, separation of the flap, and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–24–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–24–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from

Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–24–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–24–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 24, 1991, the FAA issued AD 91–03–17, amendment 39–6884 (56 FR 4534, February 5, 1991), applicable to certain Boeing Model 747 series airplanes, to require inspection of the flap tracks of the trailing edge for adequate cadmium plating and to find corrosion of certain bolt holes of the fail-safe bar, and plating of such holes, if necessary. That action was prompted by reports of missing cadmium plating and corrosion in certain flap track fail-safe bar bolt holes. The requirements of that AD are intended to prevent fracture of the trailing edge flap track, separation of the flap supported by the track, and resultant reduction of the controllability of the airplane and/or damage to other structure from impact with the departing debris.

Actions Since Issuance of Previous Rule

Since the issuance of AD 91–03–17, there have been reports of additional corrosion and cracks found in certain forward bolt holes of the fail-safe bar of the flap tracks of the wing trailing edge flaps on certain Boeing Model 747 series airplanes. The corrosion and cracks were found AFTER the bolt holes were reworked or replated with cadmium, as required by that AD. Boeing Service Bulletins 747–57–2256, dated March 8, 1990, and Revision 1, dated November 15, 1990, were the sources of service information specified in that AD for accomplishment of those actions. Boeing Service Bulletin 747–57–2256, Revision 2, dated March 5, 1992, was approved by the FAA after that AD was issued and has since been revised. In light of these findings, the terminating actions (replating with cadmium and rework of the bolt holes), and the option to defer bolt rework if corrosion is found, as specified in that AD, are no longer valid and have not been included in this proposed AD. In addition, although the effectivity specified in the most recently revised service bulletin (below) has not changed from the applicability of the existing AD, the applicability section in this proposed AD has been changed to specify Revision 3 of the service bulletin instead of the original issue.

Explanation of Revised Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–57–2256, Revision 3, dated June 21, 2001, which describes procedures for post-modification inspections of certain bolt holes of the fail-safe bar of the flap tracks of the trailing edge for discrepancies (corrosion, cracks, damaged cadmium plating), and corrective actions (rework, repair, or replate with cadmium the affected bolt holes), if necessary. The service bulletin revises the procedures specified in the original issue, Revision 1, and Revision 2 of the service bulletin as follows: changes the post-modification inspection; adds separate post-modification and rework instructions in Part 2; changes the type of bolts in Figure 4, Table II, to ''K'' material-type bolts (corrosion-resistant); and eliminates the option to defer bolt hole rework if corrosion is found. The service bulletin specifies that no more work is necessary on airplanes that had cadmium plating installed during production and on which no corrosion was found after doing the initial inspection specified in the service bulletin. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 91–03–17 to continue to require inspection of the flap tracks of the trailing edge for adequate cadmium plating of certain bolt holes of the fail-safe bar, and plating of such holes, if necessary. This new action would require post-modification inspections of certain bolt holes of the fail-safe bar of the flap tracks of the trailing edge for discrepancies, and corrective action, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Difference Between Service Bulletin and Proposed AD

The service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions. This proposed AD requires the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

Cost Impact

There are approximately 553 airplanes of the affected design in the worldwide fleet. The FAA estimates that 169 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 91–03–17 take approximately 50 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to $3,000 per airplane.

The borescope inspection proposed in this AD action would take approximately 32 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $324,480, or $1,920 per airplane.

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

Should an operator be required to accomplish the eddy current inspection, it would take approximately 40 work hours per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection is estimated to be $2,400 per airplane.

Should an operator be required to accomplish the modification of the bolt holes, it would take approximately 256 work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification is estimated to be $15,360 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6884 (56 FR 4534, February 5, 1991), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2002–NM–24–AD. Supersedes AD 91–03–17, Amendment 39–6884.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747–57–2256, Revision 3, dated June 21, 2001, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of certain bolt holes of the fail-safe bar of the flap tracks of the wing trailing edge flaps, which could result in separation of the flap and consequent loss of control of the airplane, accomplish the following:

Restatement of Certain Requirements of AD 91–03–17

Inspections

(a) Prior to the accumulation of 30,000 total flight hours, or 8 years time-in-service on current production flap tracks, whichever is first; or within 2,000 flight cycles after March 11, 1991 (the effective date of AD 91–03–17, amendment 39–6884); whichever is later: Perform a borescope inspection of the forward four bolt holes on each side of the affected trailing edge flap tracks for corrosion and adequate cadmium plating, in accordance with the procedures specified in Boeing Service Bulletin 747–57–2256, dated March 8, 1990; Revision 1, dated November 15, 1990; Revision 2, dated March 5, 1992; or Revision 3, dated June 21, 2001. If the cadmium plating is adequate, as specified in the service bulletin, and no corrosion or cracks are found, no further action is required for this paragraph. If the cadmium plating is not adequate, or if corrosion exists in any bolt hole, prior to further flight, conduct an eddy current inspection of the bolt hole for cracks, in accordance with the service bulletin. After the effective date of this AD only Revision 3 of the service bulletin may be used.

Corrective Actions

(b) If the cadmium plating is not adequate and no corrosion or cracks are found during the inspection required by paragraph (a) of this AD: Within 1,000 flight cycles after accomplishment of the inspection required by paragraph (a) of this AD, cadmium plate the affected bolt holes in accordance with Boeing Service Bulletin 747–57–2256, dated March 8, 1990; Revision 1, dated November 15, 1990; Revision 2, dated March 5, 1992; or Revision 3, dated June 21, 2001; and conduct the inspections of the affected track as specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD, in accordance with the service bulletin. Restoration of the cadmium plating terminates the inspections required by this paragraph.

Inspections

(1) Within 50 flight cycles after accomplishment of the inspection required by paragraph (a) of this AD: Perform a close visual inspection of each side of the track, at the lower chord, for cracks emanating from the forward four fail-safe bar bolt holes, and repeat the inspection thereafter at intervals not to exceed 50 flight cycles.

(2) Within 250 flight cycles after accomplishment of the inspection required by paragraph (a) of this AD: Perform an eddy current inspection for cracks of the bolt holes, and repeat the inspection thereafter at intervals not to exceed 250 flight cycles.

(3) Prior to each flight on which a fifth engine is to be carried, perform a close visual inspection of each side of the track, at the lower chord, for cracks emanating from the forward four fail-safe bar bolt holes.

New Requirements of This AD

Cadmium Plating Applied During Production

(c) For airplanes on which cadmium plating of the forward four bolt holes was applied during production: No further action is required by this AD. If operator records indicate that during the inspection required by paragraph (a) of this AD cadmium plating was applied during production (not during rework or replating), no further action is required by this AD. (Indications of rework include oversized fasteners and/or fasteners with repair sleeves, and/or flap track dash numbers that have been changed per the service bulletin.)

Compliance Time for Borescope Inspection

(d) For airplanes on which cadmium plating of the forward four bolt holes was NOT applied during production: Do the action required by paragraph (e) of this AD at the later of the times given in paragraphs (d)(1) and (d)(2) of this AD.

(1) Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever is first; or

(2) Within 6 years after doing the initial bolt hole rework per AD 91–03–17.

Borescope Inspection

(e) Do a borescope inspection of the forward four bolt holes on each side of the fail-safe bar of the flap tracks of the trailing edge flaps for discrepancies (corrosion, cracks, damaged cadmium plating), per Part 2 of the Work Instructions of Boeing Service Bulletin 747–57–2256, Revision 3, dated June 21, 2001. Then, do the actions specified in paragraph (e)(1), (e)(2), or (e)(3) of this AD, as applicable, and repeat the borescope inspection every 8 years or 8,000 flight cycles, whichever is first. Accomplishment of the actions specified in this paragraph terminates the requirements of paragraph (a) of this AD.

Corrective Actions

(1) If the cadmium plating is damaged, but no corrosion or cracking is found: Before further flight, do the eddy current inspection specified in and per Part 2.F. of the Work Instructions of the service bulletin. If no cracking is found, before further flight, cadmium plate the affected bolt holes per Part 2.F. of the Work Instructions of the service bulletin.

(2) If any corrosion is found, before further flight, rework the affected bolt holes as specified in and per Part 2.G. of the Work Instructions of the service bulletin.

(3) If any cracking is found, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 91–03–17, amendment 39–6884, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

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

Special Flight Permits

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

Issued in Renton, Washington, on June 24, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16406 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–90–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 airplanes and Model MD–88 airplanes, that would have required replacement of certain power relays, and subsequent repetitive overhauls of the replaced power relays. That proposal was prompted by reports indicating that the alternating current (AC) cross-tie relay shorted out internally, which caused severe smoke and burn damage to the relay, aircraft wiring, and adjacent panels. This new action revises the proposed rule by revising the requirements and referencing new service information. The actions specified by this new proposed AD are intended to prevent internal arcing of the left and right generator power relays, auxiliary power relays, and external power relays, and consequent smoke and/or fire in the cockpit and cabin.

DATES: Comments must be received by July 26, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–90–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–90–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 airplanes and Model MD–88 airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 14, 2001 (66 FR 32276). That original supplemental NPRM (hereafter referred to as ''the first supplemental NPRM'') would have required replacement of certain power relays, and subsequent repetitive overhauls of the replaced power relays. The first supplemental NPRM was prompted by reports indicating that the alternating current (AC) cross-tie relay shorted out internally, which caused severe smoke and burn damage to the relay, aircraft wiring, and adjacent panels. That condition, if not corrected, may result in in-flight electrical fires.

Actions Since Issuance of Previous Proposal

1. Issuance of AD 2001–20–15

Since the issuance of the first supplemental NPRM, the FAA has issued AD 2001–20–15, amendment 39–12463 (66 FR 51857, October 11, 2001), which is applicable to certain McDonnell Douglas Model DC–9 airplanes and MD–88 airplanes. That AD requires an inspection to determine if a certain AC cross-tie relay is installed; replacement of a certain AC cross-tie relay with a new AC cross-tie relay; and repetitive cleaning, inspection, repair, and testing of a certain AC cross-tie relay. As discussed in the preamble of that AD, we determined that AC cross-tie relays having part number (P/N) 914F567–3 or –4 pose a more serious safety condition than previously determined in the first supplemental NPRM. As a result, actions required for the AC cross-tie relays, P/Ns 914F567–3 and –4, that were specified in the first supplemental NPRM have been specified in AD 2001–20–15. Therefore, we have revised this second supplemental NPRM by removing the actions that would have been required for the AC cross-tie relays, P/Ns 914F567–3 and –4.

2. Issuance of AD 2002–08–09

The FAA also has issued AD 2002–08–09, amendment 39–12717 (67 FR 19637, April 23, 2002), which is applicable to one McDonnell Douglas Model DC–9–31 airplane, fuselage number 0705. The requirements of that AD for the DC–9–31 airplane are identical to those described above for the airplanes affected by AD 2001–20–15.

3. Explanation of New Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002. The service bulletin describes procedures for a one-time inspection of the generator power relays, auxiliary power relays, and external power relays to determine if a certain Sundstrand (Westinghouse) P/N is installed; and corrective actions, if necessary. The corrective actions include modifying and reidentifying the power relay assemblies; installing certain power relay assemblies within service interval limits; replacing the existing power relay assemblies with power relay assemblies that are within service interval limits; and cleaning, inspecting, repairing, and testing of relay assemblies; as applicable. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

4. Differences Between the Second Supplemental NPRM and the Referenced Service Bulletin

Operators should note that, although the procedures described in Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 8, 2002, specify maintenance (i.e., clean, inspect, repair, and test) of power relays, Sundstrand (Westinghouse) P/N 9008D09 series, when they are beyond service interval limits, the second supplemental NPRM does not require those procedures. For further explanation, see heading ''Request to Delete Certain Requirements'' in the preamble of the second supplemental NPRM.

Operators should also note that the second supplemental NPRM would not require installation of certain power relays or replacement of the existing power relays with power relays that are ''within service interval limits'' (*i.e.,* 7,000 flight hours) as described in the service bulletin. The FAA has determined that any generator power relay, auxiliary power relay, or external power relay having Sundstrand (Westinghouse) P/N 914F567–4 that is removed from the airplane must go through maintenance and be made serviceable before the power relay can be reinstalled on an airplane. Therefore, the second supplemental NPRM would require cleaning, inspecting, repairing, and testing of power relays having Sundstrand (Westinghouse) P/N 914F567–4, or replacing those power relays with serviceable power relays having Sundstrand (Westinghouse) P/N 9008D09 series or 914F567–4. The second supplemental NPRM also would require subsequent repetitive cleaning, inspecting, repairing, and testing of power relays having Sundstrand (Westinghouse) P/N 914F567–4.

Comments Received to First Supplemental NPRM

Due consideration has been given to the comments received in response to the first supplemental NPRM.

Request To Delete Certain Requirements

Several commenters request that the repetitive overhauls for power relay, Sundstrand (Westinghouse) P/N 9008D09 series, specified in paragraph (c) of the first supplemental NPRM, be deleted. The commenters state that there

are no failure modes for that relay that result in the identified unsafe condition specified in the first supplemental NPRM. One commenter states that the design of the main contact arc box for this relay is entirely different than that of power relays, Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, and is not susceptible to the same type of failure in the AC cross-tie position.

The FAA agrees that power relays having Sundstrand (Westinghouse) P/N 9008D09 series are not subject to the identified unsafe condition of the second supplemental NPRM. Therefore, we have deleted the repetitive overhaul requirements for P/N 9008D09 from the second supplemental NPRM.

Requests for Clarification of Applicability

Several commenters request clarification of the applicability to ensure that operators are cognizant of the repetitive overhaul requirements in paragraphs (b), (c), and (d) of the first supplemental NPRM. The commenters note that the applicability of the first supplemental NPRM affects ''Model DC–9 series airplanes and Model MD–88 airplanes, equipped with Westinghouse alternating current (AC) power relays, part number (P/N) 914F567–3.'' However, the proposed repetitive overhauls specified in paragraphs (b), (c), and (d) of the first supplemental NPRM are for airplanes equipped with power relays, Sundstrand (Westinghouse) P/Ns 914F567–4 and 9008D09 series, and for airplanes on which the flight hours since modification or installation of the AC power relay cannot be determined.

The FAA agrees that the applicability needs to be clarified. Because the proposed actions for AC cross-tie relays having Sundstrand (Westinghouse) P/N 914F567–3, and power relays having Sundstrand (Westinghouse) P/N 9008D09 series, have been deleted from the second supplemental NPRM, only the left and right generator power relays, auxiliary power relays, and external power relays, Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, are subject to the requirements of the second supplemental NPRM. We have determined that a one-time inspection of the left and right generator power relays, auxiliary power relays, and external power relays to determine if Sundstrand (Westinghouse) P/N 914F567–3 or –4 is installed, is necessary (see heading ''3. Explanation of New Service Information''). Therefore, we have deleted the phrase ''equipped with Westinghouse alternating current (AC) power relays, part number (P/N) 914F567–3'' from the applicability of the second supplemental NPRM.

Further, we have revised model designations in the applicability of the second supplemental NPRM to reflect the model designations as published in the most recent type certificate data sheet for the affected airplanes. These model designations are also identified in the effectivity of the referenced service bulletin. Because of these changes, we have also updated the number of affected airplanes in the Cost Impact Section of the second supplemental NPRM.

Requests To Revise Certain Compliance Times

Several commenters request that the 30-day compliance time for overhauling the power relays on the airplanes on which the flight hours since modification or installation of the AC power relay cannot be determined, as specified in paragraph (d) of the first supplemental NPRM, be extended.

Several commenters suggest a compliance time of 12 months. Two of these commenters request the extension for AC power relays, Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, and power relays, Sundstrand (Westinghouse) P/N 9008D09 series, of an undetermined service life for all positions. One of the commenters requests the extension for AC power relays, Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, of an undetermined service life in the cross-tie position only. The commenters note that paragraph (a) of the first supplemental NPRM allows AC power relays, Sundstrand (Westinghouse) P/N 914F567–3, for all positions, to remain in service for 12 months before replacement. Since the primary safety concern of the first supplemental NPRM is related to power relays, Sundstrand (Westinghouse) P/N 914F567–3, the commenters state that the compliance time for the power relays, Sundstrand (Westinghouse) P/N 914F567–4, of an undetermined service life should be the same as that of power relays, Sundstrand (Westinghouse) P/N 914F567–3 (*i.e.,* 12 months). One of these commenters and another commenter state that 30 days is not enough time to obtain parts. One commenter also states that the lead-time for obtaining parts is 245 days.

One commenter suggests a compliance time of two years or at the next heavy maintenance check, whichever occurs first, and another commenter suggests 90 or 120 days. The two commenters support the 30-day compliance time for power relays at the cross-tie position only, but request the extensions for all relays at the generator power, auxiliary power, and external power positions. A third commenter also supports the 30-day compliance time for power relays at the cross-tie position only, but does not request an extension for the power relays in the other positions. One commenter states that relays at the generator power, auxiliary power, and external power positions are not as susceptible to the identified unsafe condition and should be allowed to remain on the airplane until the next heavy maintenance check. The commenters also state that such an extension for those power relays will not compromise safety and will allow the proposed overhaul to be accomplished during normal maintenance schedules.

One commenter requests that the 30-day grace period specified in paragraphs (b)(2) and (c)(2) of the first supplemental NPRM be extended for relays at the generator power, auxiliary power, and external power positions only. The commenter provides similar justification as identified above for extending the compliance time of paragraph (d) of the first supplemental NPRM.

The FAA partially agrees. As discussed previously, certain actions required for the AC cross-tie relay having Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, and Sundstrand (Westinghouse) power relays having P/N 9008D09 series, that were specified in the first supplemental NPRM have been deleted from the second supplemental NPRM. Therefore, the commenters' requested changes for those power relays in the second supplemental NPRM are unnecessary.

However, we agree that, for airplanes on which the flight hours since installation of any generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–4, cannot be determined, the compliance time specified in paragraph (d) of the first supplemental NPRM (redesignated as paragraph (c)(2) in the second supplemental NPRM) should be extended from 30 days to 24 months. We also agree that the 30-day grace period specified in paragraph (b)(2) of the first supplemental NPRM (redesignated as paragraph (c)(1) in the second supplemental NPRM) for relays at the generator power, auxiliary power, and external power positions should be extended to 24 months.

We have reviewed the service bulletin (discussed previously) submitted by the manufacturer as to recommended maintenance (*i.e.,* cleaning, inspecting, repairing, and testing) period (i.e., 24

months). We have determined that extending the proposed compliance time of 30 days specified in paragraph (d) of the first supplemental NPRM (redesignated as paragraph (c)(2) in the second supplemental NPRM) and the proposed grace period of 30 days specified in paragraph (b)(2) of the first supplemental NPRM (now specified in paragraph (c)(1) in the second supplemental NPRM) to 24 months will provide an acceptable level of safety. Therefore, we have revised the compliance time for maintenance of generator power relays, auxiliary power relays, and external power relays, Sundstrand (Westinghouse) P/N 914F567–4, specified in the second supplemental NPRM accordingly.

Request To Reconsider Use of Term ''Overhaul''

Several commenters request that the FAA reconsider the use of the term ''overhaul'' in the first supplemental NPRM. One commenter suggests using the phrase ''between removals'' instead to avoid misinterpretation. Another commenter suggests the use of the term ''maintenance.'' One commenter notes that power relays, Sundstrand (Westinghouse) P/Ns 914F567–3 and –4, are maintained with an overhaul manual, while power relays, Sundstrand (Westinghouse) P/N 9008D09 series, are maintained with a component maintenance manual (CMM). This commenter states that the Common Support Data Dictionary (CSDD) defines overhaul as ''The work necessary to return an item to the highest standard specified in the relevant manual.'' Therefore, the commenter concludes that an ''overhaul'' should not be mandated for power relay, Sundstrand (Westinghouse) P/N 9008D09 series, because it is beyond the level of maintenance required to address the accumulation of contamination. Based on industry history, the commenter also states that maintenance (*i.e.,* cleaning of the contacts and a check and repair) for power relay, Sundstrand (Westinghouse) P/N 9008D09 series, per the CMM, is sufficient.

The FAA agrees with the commenters that the use of the term ''overhaul'' in the first supplemental NPRM is not correct. Our intent was that the repetitive overhauls remove the metallic dust from electrical contact wear that accumulates in the power relays. We find that such removal can be accomplished by cleaning, inspecting, repairing, and testing of the generator power relays, auxiliary power relays, and external power relays (*i.e.,* maintenance), per Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002 (described previously). Boeing Alert Service Bulletin DC9–24A191 references Westinghouse Overhaul Manual 24–20–46 (for relays, P/N 914F567–4) and Hamilton Sundstrand CMM 24–20–87 (for relays, P/N 9008D08 series) as additional sources of service information for accomplishing the proposed repetitive maintenance actions. However, as discussed previously, we have deleted the repetitive overhaul requirements for power relays, Sundstrand (Westinghouse) P/N 9008D09 series, from the second supplemental NPRM. Therefore, we have revised the second supplemental NPRM to require repetitive cleaning, inspecting, repairing, and testing of generator power relays, auxiliary power relays, and external power relays, Sundstrand (Westinghouse) P/N 914F567–4, only.

Request To Limit Actions to Cross-Tie Position

Two commenters request that the actions required by the first supplemental NPRM be limited to power relays in the cross-tie position only, which is identified as the unsafe condition in the first supplemental NPRM. One commenter states that there are no data to support the proposed actions for AC power relays at the generator power, auxiliary power, or external power positions. The commenters understand the FAA's concern that if all relays are the same P/N, there may be a risk of putting the wrong part in the cross-tie position. However, the commenters contend that operators have demonstrated their capability to deal with position-related restrictions for parts on airplanes, and that they can ensure that no relay, Sundstrand (Westinghouse) P/N 914F567–3, is installed in the cross-tie position.

One commenter states that it does not support the need for replacement of Westinghouse AC power relays, P/N 914F567–3, or the establishment of time between overhaul (TBO) limits for any of the AC power relays. The commenter uses relays, P/Ns 914F567–3, 914F567–4, 9008D09–1, and 9008D09–2, interchangeably in all seven positions, including the cross-tie position. The commenter states that its service experience indicates that each of these relays operate reliably well beyond the proposed TBO limits.

The FAA does not agree. Although there have been no reported cases of the power relays at the generator power, auxiliary power, or external power positions shorting out internally, the potential for an electrical short still exists when a power relay, Sundstrand (Westinghouse) P/N 914F567–3, is installed in those positions. The accumulation of conductive particle material on any power relays, Sundstrand (Westinghouse) P/N 914F567–3, can build an electrical path to its adjacent terminal and cause a phase-to-phase short circuit. Such a short circuit will result in internal arcing of the power relays and consequent smoke and/or fire in the cockpit and cabin. The second supplemental NPRM addresses that potential unsafe condition by removing generator power relays, auxiliary power relays, and external power relays, Sundstrand (Westinghouse) P/N 914F567–3, and periodically removing the build-up of conductive particle material from the generator power relays, auxiliary power relays, and external power relays, Sundstrand (Westinghouse) P/N 914F567–4.

However, we find that clarification of the wording of the unsafe condition of the second supplemental NPRM is necessary, because the identified unsafe condition for AC cross-tie relays, Sundstrand (Westinghouse) P/N 914F567–3 and –4, is now being addressed in AD 2001–20–15. Therefore, we have revised the unsafe condition specified throughout the second supplemental NPRM to read ''to prevent internal arcing of the left and right generator power relays, auxiliary power relays, and external power relays, and consequent smoke and/or fire in the cockpit and cabin.''

Request To Include a New Paragraph for Spares

One commenter requests that a new paragraph be added to the first supplemental NPRM to state, ''As of the effective date of this AD, no person shall install an AC power relay P/N 914F567–3 at the cross-tie relay position on any airplane.'' The commenter states that this paragraph would prevent operators from putting an unmodified relay in the cross-tie position during the time period that unmodified relays will be available.

The FAA does not agree. As discussed previously, we have revised the second supplemental NPRM by removing the actions that would have been required for the AC cross-tie relays, Sundstrand (Westinghouse) P/N 914F567–3. Therefore, no change to the second supplemental NPRM is necessary in this regard.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide

additional opportunity for public comment.

Cost Impact

There are approximately 1,991 Model DC–9 airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,219 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $146,288, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–90–AD.

Applicability: This AD applies to the following airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002:

McDonnell Douglas Model

DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes
DC–9–21 airplanes
DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes
DC–9–41 airplanes
DC–9–51 airplanes
DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes
MD–88 airplanes

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

Compliance: Required as indicated, unless accomplished previously.

To prevent internal arcing of the left and right generator power relays, auxiliary power relays, and external power relays, and consequent smoke and/or fire in the cockpit and cabin, accomplish the following:

Inspection

(a) Within 24 months after the effective date of this AD, perform a one-time inspection of the left and right generator power relays, auxiliary power relays, and external power relays, to determine if Sundstrand (Westinghouse) part number (P/N) 914F567–3 or –4, is installed, per Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002.

Replacement or Modification/Reidentification of Any Generator Power Relay, Auxiliary Power Relay, or External Power Relay, P/N 914F567–3

(b) If any generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–3, is found installed during the inspection required by paragraph (a) of this AD, within 24 months after the effective date of this AD, do either action(s) specified in paragraph (b)(1) or (b)(2) of this AD per the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002.

(1) Replace power relay having Sundstrand (Westinghouse) P/N 914F567–3 with either a serviceable power relay having Sundstrand (Westinghouse) P/N 9008D09 series or 914F567–4.

(2) Modify the power relay, Sundstrand (Westinghouse) P/N 914F567–3, to a –4 configuration.

Maintenance or Replacement of Any Generator Power Relay, Auxiliary Power Relay, or External Power Relay, P/N 914F567–4

(c) If any generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–4, is found installed during the inspection required by paragraph (a) of this AD, clean, inspect, repair, and test the relay, or replace the power relay with a serviceable power relay having Sundstrand (Westinghouse) P/N 9008D09 series or 914F567–4; per Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002; at the time specified in paragraph (c)(1) of this AD, except as provided by paragraph (c)(2) of this AD.

(1) Within 7,000 flight hours after installation of the generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–4, or within 24 months after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the flight hours since installation of any generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–4, cannot be determined: Within 24 months after the effective date of this AD.

Repetitive Maintenance of Generator Power Relay, Auxiliary Power Relay, or External Power Relay, Sundstrand (Westinghouse) P/N 914F567–4

(d) Before or upon the accumulation of 7,000 flight hours on any generator power relay, auxiliary power relay, or external power relay, Sundstrand (Westinghouse) P/N 914F567–4 since accomplishing the action(s) required by either paragraph (b) or (c) of this AD, as applicable, clean, inspect, repair, and test; per Boeing Alert Service Bulletin DC9–24A191, Revision 01, dated January 9, 2002. Thereafter, repeat these actions at intervals not to exceed the accumulation of 7,000 flight hours on the power relay.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that

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

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

Special Flight Permits

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

Issued in Renton, Washington, on June 24, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–16407 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R–02B]

RIN 1218–AC06

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed delay of effective dates; request for comment.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing to delay the effective dates of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule that are presently scheduled to take effect on January 1, 2003 until January 1, 2004. The first defines ''musculoskeletal disorder (MSD)'' and requires employers to check the MSD column on the OSHA Log if an employee experiences a recordable musculoskeletal disorder. The second provision states that musculoskeleletal disorders (MSDs) are not considered ''privacy concern cases.'' The third provision requires employers to enter a check mark in the hearing loss column on the 300 Log for cases involving occupational hearing loss. OSHA is requesting comment on these proposed delays.

DATES: Written comments must be received by August 30, 2002.

ADDRESSES: Because of security-related problems in receiving regular mail service in a timely manner, OSHA is requiring that comments be submitted by one of the following means: (1) Hard copy hand-delivered to the Docket Office; (2) hard copy delivered by Express Mail or other overnight delivery service; (3) electronic mail through OSHA's website; or (4) facsimile (fax) transmission. If you are submitting comments, please do not send them by more than one of these media (except as noted under ''submitting comments electronically''). The following requirements apply to submission of comments on this proposal:

Submitting comments in hard copy: Written comments are to be submitted in triplicate. Comments may be hand-delivered, or sent by U.S. Postal Service Express Mail or other overnight delivery service, to: Docket Officer, Docket No. R–02B, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627).

Submitting comments electronically: Comments may be sent electronically from the OSHA website at *http://ecomments.osha.gov.* Please note that you may not attach materials such as studies or journal articles to your electronic statement. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic statement by name, date, and subject, so that we can attach the materials to your electronically-submitted statement.

Submitting comments by fax: Comments of 10 pages or less may be faxed to the OSHA Docket Office at (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. The MSD Provisions

In January, 2001 OSHA published revisions to its rule on recording and reporting occupational injuries and illnesses (66 FR 5916–6135) to take effect on January 1, 2002. On July 3, 2001, OSHA proposed to delay the effective date of 29 CFR 1904.12 *Recording criteria for cases involving work-related musculoskeletal disorders* until January 1, 2003. OSHA explained that it was reconsidering the requirement in 29 CFR 1904.12 that employers check the MSD column on the OSHA Log for a case involving a ''musculoskeletal disorder'' as defined in that section. This action was taken in light of the Secretary of Labor's decision to develop a comprehensive plan to address ergonomic hazards, and to schedule a series of forums to consider key issues relating to the plan, including the approach to defining ergonomic injuries.

After considering the views of interested parties, OSHA published a final rule on October 12, 2001 delaying the effective date of 29 CFR 1904.12 until January 1, 2003. OSHA also added a note to 29 CFR 1904.29(b)(7)(vi) explaining that the second sentence of that section, which provides that MSDs are not ''privacy concern cases,'' would not become effective until January 1, 2003.

OSHA concluded that delaying the effective date of the MSD definition in Section 1904.12 was appropriate because the Secretary was considering a related definitional question in the context of her comprehensive ergonomics plan. The Agency found that it would be premature to implement § 1904.12 before considering the views of business, labor and the public health community on the problem of ergonomic hazards. It also found that it would create confusion and uncertainty to require employers to implement the new definition of MSD contained in § 1904.12 while the Secretary was considering how to define an ergonomic injury under the comprehensive plan.

On April 5, 2002, OSHA announced a comprehensive plan to address ergonomic injuries through a combination of industry-targeted guidelines, enforcement measures, workplace outreach, research, and dedicated efforts to protect Hispanic and other immigrant workers. OSHA found that no single definition of ''ergonomic injury'' was appropriate for all contexts. The Agency stated that it would work closely with stakeholders to develop definitions for MSDs as part of its overall effort to develop industry-or-task specific guidance materials.

Reasons for Delay

OSHA must now determine whether a single definition of MSD is appropriate and useful for recordkeeping purposes, and if so, whether the new definition in § 1904.12 is the appropriate one. OSHA has preliminarily concluded that

delaying the effective date of § 1910.12 until January 1, 2004 will give the Agency the time necessary to resolve whether and how MSDs should be defined for recordkeeping purposes and will cause the least disruption to employers, employees and the Bureau of Labor Statistics (BLS)—the federal agency responsible for compiling and publishing occupational injury and illness statistics.

In these circumstances, OSHA believes that delaying the effective date of § 1910.12 for an additional year is preferable to allowing the section to take effect on January 1, 2003 as scheduled. To implement the section beginning in 2003, OSHA would have to issue new forms containing the MSD column and definition, and employers would have to train their personnel to apply the new requirements. If OSHA finally decides to revoke or modify the definition of MSD beginning in calendar year 2004, these efforts by employers and others to implement the definition during calendar year 2003 would be wasted and employees would have to be retrained. MSD statistics produced for 2003 would have little value because they would not be comparable to data for prior years, or to data for 2004 and subsequent years. OSHA therefore believes that the one-year proposed delay in implementation of § 1910.12 is appropriate while the Agency continues to consider the issue of whether and how to define MSDs for recordkeeping purposes.

If the effective date of § 1904.12 is finally delayed, and OSHA then decides that the definition in that section is the appropriate one, the definition will automatically take effect on January 1, 2004 without the need for further action by the Agency. If, on the other hand, OSHA decides that no definition, or a different definition, is warranted, the Agency would complete the necessary rulemaking procedures to revoke or modify § 1901.12 as of January 1, 2004.

Effect of the Proposed Delay of the Effective Date of § 1904.12 on Employers' Recordkeeping Obligations in Calendar Year 2003

This proposal to delay the effective date of § 1904.12 does not affect the employer's obligation to record all injuries and illnesses that meet the criteria set out in §§ 1904.4–1904.7. Employers must continue to record soft-tissue disorders, including those involving subjective symptoms such as pain, as injuries or illnesses if they meet the general recording criteria that apply to all injuries and illnesses. The proposed delay simply means that employers will not have to determine which injuries and illnesses should be classified under the category of ''MSDs'' or ''ergonomic injuries'' during the calendar year 2003.

During 2003, employers would record disorders affecting the muscles, nerves, tendons, ligaments and other soft tissue areas of the body in accordance with the general criteria in §§ 1904.4–1904.7 applicable to any injury or illness. Employers would also treat the symptoms of soft-tissue disorders the same as symptoms of any other injury or illness. Soft-tissue cases would be recordable only if they are work-related (§ 1904.5), are a new case (§ 1904.6), and meet one or more of the general recording criteria (§ 1904.7). Employers would continue to check either the ''injury'' or the ''all other illness'' column, as appropriate.

The MSD Definition and 300 Form Column

The definition of MSD was a topic in the forums held in 2001 to elicit information about how to deal with ergonomics problems. Information received during the forums relative to the definition of an ergonomics injury has been included in this rulemaking record (Exhibit 2) and may be used to develop and support a final rule.

Some of the forum participants supported the MSD definition published in the 2001 rule. These participants contended generally that the definition is similar to definitions used by other government agencies, consensus standards committees, the National Academy of Sciences, and other countries; that the definition has a sound scientific basis; and that the definition is easily understood by employers, unions, workers and the government.

Other participants argued that to define MSD, as § 1904.12 does, to include all soft-tissue disorders except those resulting from slips trips or falls, lumps together a broad range of ill-defined and unrelated health conditions. They contended that this approach serves no useful purpose and could be counter-productive. Some holding this view pointed out that the § 1904.12 definition includes at least two distinct categories of disorders which should be addressed separately. One class of disorders are those caused by a single event, such as a heavy lift, a particularly awkward motion, or some other one-time event. The other class includes disorders caused by repetitive or cumulative events, such as repetitive lifting, typing, or assembly line work. Some types of disorders may be caused by either type of event.

By narrowing the definition of MSD in § 1904.12 to focus on a group of similar or related health conditions, some forum participants maintained, OSHA would produce more useful statistics. For example, it was argued that data on disorders caused by repetitive or cumulative activity would be more relevant for purposes of developing ergonomics programs than would data that included disorders caused by one-time events. Alternatively, more relevant data might be produced if the MSD definition were limited in its application to employment conditions involving regular or routine exposure to the activity that resulted in the injury.

On the other hand, some forum participants urged that the § 1904.12 definition is widely recognized as appropriate for scientific and statistical purposes, and that limiting the definition might lead to a loss of useful data. Some holding this view argued that the existing definition is also the most relevant one for purposes of developing ergonomics programs because, among other things, it is often difficult to determine if an MSD was caused by a single event or if a single event was merely the last in a series of events that led to the injury. Some even argued that the existing definition should be expanded to include additional disorders.

In 2002, OSHA announced a comprehensive four-part strategy for dealing with the ergonomics issue. The strategy did not include a single definition of MSD, recognizing that MSD is a term of art in scientific literature that refers collectively to a group of injuries and illnesses that affect the musculoskeletal system and that there is no single diagnosis for MSDs. The frequently asked questions (FAQs) issued with the comprehensive approach noted that, as OSHA develops guidance material for specific industries, the agency may narrow the definition as appropriate to address the specific workplace hazards covered, and that OSHA will work closely with stakeholders to develop definitions for MSDs as part of its overall effort to develop guidance materials.

OSHA believes that additional study is needed to determine whether the MSD definition in Section 1904.12 captures an overly diverse group of health outcomes. Some evidence submitted during the ergonomics forums suggests that the definition would be more useful for occupational safety and health purposes if it addressed only soft-tissue disorders having certain key factors in common. This approach argues against

combining, for example, back pain and tendinitis in a single definition, because the causes and treatment of these disorders are often very different. At the same time, OSHA recognizes that much needs to be learned about soft tissue disorders and that the § 1904.12 definition, or one similar to it, may be the most appropriate one for some purposes.

At this time there appear to be three approaches to defining MSDs for recordkeeping purposes. OSHA could allow the existing definition in § 1904.12 to take effect, which, in turn, could result in the production of corresponding statistical data by the BLS. OSHA could decide that the existing definition is too broad to be useful, and delete it from the rule. Finally, OSHA could develop a new definition for the recordkeeping rule, which BLS could also adopt for statistical purposes. For example, the definition could focus on repetitive or cumulative hazards by defining MSDs as ''musculoskeletal disorders associated with repetitive motion and/or stress.'' Alternatively, OSHA might link the definition to exposure to hazards by defining MSDs to include only cases in which there was regular or routine exposure to the activity that resulted in the injury.

II. The Hearing Loss Column

Section 1904.10 of the January 2001 final rule required employers to check the ''hearing loss'' column on the 300 Log for each case in which an audiogram revealed that a Standard Threshold Shift (STS) had occurred. On July 3, 2001, OSHA proposed to delay the effective date of Section 1904.10 for one year so that it could reconsider whether the occurrence of an STS is the appropriate criteria for recording hearing loss cases (66 FR 35114). OSHA asked for comment on the proposed decision to delay the effective date and on alternative criteria for recording occupational hearing loss (*id.* at 35115).

On October 12, 2001, OSHA issued a final rule delaying the effective date of Section 1904.10 until January 1, 2003 and establishing criteria for recording hearing loss cases to be used in calendar year 2002 (66 FR 52031–52034). The October 12 final rule also stated that new OSHA 300 Log forms would be issued for use in 2002 that did not contain the MSD or hearing loss columns (*id.* at 52034).

After considering the comments submitted pursuant to the July 2001 notice, OSHA decided to revise the criteria for recording occupational hearing loss. The amended hearing loss criteria, now designated 29 CFR 1904.10(a) and 1904.10(b)(1)–(7), are contained in a separate **Federal Register** document published today. The amended rule revises in part the criterion for determining which shifts in hearing are recordable, eliminates the presumption of work-relationship, and retains other elements of the January 2001 rule. Section 1904.10(b)(7) contains the requirement stated in the January 2001 rule to check the hearing loss column on the Log for cases that meet the criteria for recording occupational hearing loss.

Reasons for Delay

OSHA stated that it included a separate hearing loss column in the January 2001 rule to improve the national statistics on the subject of occupational hearing loss. OSHA noted in the preamble that the Bureau of Labor Statistics (BLS) collects only the relatively small fraction of recorded hearing loss cases that result in days away from work (66 FR 6004, 6005). Adding a hearing loss column to the 300 Log would improve the national statistics, OSHA concluded, ''[b]ecause BLS will collect hearing loss data in future years both for cases with and without days away from work, which will allow for more reliable published statistics concerning this widespread occupational disorder'' (66 FR 6005).

OSHA believes that this rationale for requiring a hearing loss column on the Log should be reconsidered, and that public comment on the advantages and disadvantages of the column should be weighed, before the requirement becomes effective. OSHA did not include a hearing loss column in the 1996 proposed recordkeeping rule, and did not ask for comment on whether a column should be required in the final rule. The July 3, 2001 proposal to reconsider the § 1904.10 criteria for recording hearing loss cases also did not give clear notice that the column requirement was under review. Therefore, OSHA's decision to require a hearing loss column in the January 2001 final rule, and subsequently to include the column requirement in the amendment to § 1904.10, was made without considering the views of all interested parties. OSHA believes that it should have the benefit of all viewpoints, including those of employers who would be subject to the requirement, and those of scientists, statisticians and others who would gather and interpret the data, before finally resolving this matter.

In addition, the agency itself has concerns about whether requiring a hearing loss column is necessary, or is the best way, to produce more reliable national statistics on occupational hearing loss. OSHA is working with the BLS, the agency primarily responsible for producing national occupational injury and illness statistics, to investigate alternative survey methods that could be used to produce more reliable hearing loss statistics without the need for a column. Both government and employer resources could be conserved by delaying implementation of § 1904.10(b)(7) for a year while alternative approaches for improving hearing loss statistics are explored.

Finally, OSHA notes that it is reconsidering the need for an MSD column, and that resolution of that question may require a change in the OSHA 300 Log form beginning in 2004. If 29 CFR 1904.10(b)(7) is to take effect on January 1, 2003, as scheduled, OSHA will have to issue revised forms for 2003 containing a hearing loss column. It would be beneficial to delay making changes in the forms until the MSD column issue is decided, so that only one further round of revisions will be required. It would be confusing and burdensome for the regulated community if OSHA were to issue revised forms for 2003 containing a hearing loss column, and then to issue further revised forms for 2004 reflecting a final decision on the MSD column. For these reasons, OSHA is proposing to delay the effective date of 29 CFR 1904.10(b)(7) for one year while the agency reconsiders the need for a separate hearing loss column on the 300 Log.

III. Issues for Public Comment

OSHA invites comment on the following issues:

Hearing Loss Column

Issue 1. OSHA requests comment on the proposed delay of the effective date of 29 CFR 1904.10(b)(7) until January 1, 2004, including any reasons for supporting or opposing the delayed effective date.

Issue 2. Is a hearing loss column needed on the OSHA 300 Log? Would the statistics generated by an additional column be superior to the statistics now generated by the BLS? For what purposes would the statistics be used? Are there other ways to produce occupational hearing loss statistics that do not require revision of the forms? Would there be additional costs or burdens associated with adding a hearing loss column to the 300 Log? Additional benefits?

MSD

Issue 1. OSHA requests comment on the proposed delay of the Section

1904.12 effective dates until January 1, 2004, including any reasons for supporting or opposing the delayed effective dates.

Issue 2. Is an MSD column needed on the OSHA 300 Log? Should the column be reinstated in § 1904.12 or should § 1904.12 be deleted? Would the statistics generated by an additional column be superior to the statistics now generated by the BLS? Are there other ways to produce statistics on MSDs that do not require revision of the forms? If the column is retained, should it include both injuries and illnesses, or should it be limited to MSD illnesses? Are there other problems associated with an MSD column on the 300 Log? Are there other advantages to the column?

Issue 3. If OSHA decides to include a separate column for MSD injuries and illnesses, what definition of MSD should be used? Should the definition include a broad class of disorders, or be limited by the type of injury (such as by excluding back cases)? Should the definition exclude injuries caused by one-time events? Should the definition exclude disorders caused by infrequently performed activities? In particular, what are the relative merits of the current § 1904.12 definition and an MSD definition that would focus on disorders associated with work-related repetitive motion and/or stress.

State Plans

26 States and territories operate their own OSHA-approved occupational safety and health plans. These states and territories are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, New Jersey, and New York have OSHA approved State Plans that apply to state and local government employees only. For requirements that determine which occupational injuries and illnesses are recorded and how they are recorded, the States must have the same requirements as Federal OSHA to ensure the uniformity of the collected information (See § 1904.37 and § 1952.4). Therefore, these States and territories will be required to adopt a regulation that is substantially identical to any final federal regulation issued pursuant to this proposal. A final regulation could include a delay of effective dates for specific provisions of §§ 1904.10 and 1904.12, the adoption of substantive requirements within §§ 1904.10 and 1904.12, or both.

Paperwork Reduction Act

The proposed rule will continue OSHA's current policies regarding the recording of soft tissue disorders and will not impose any new paperwork requirements.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), the Assistant Secretary certifies that the proposed rule will not have a significant adverse impact on a substantial number of small entities. The rule does not add any new requirements, but merely delays the effective date of Section 1904.12. The delay will not impose any additional costs on the regulated public.

Executive Order

This document has been deemed significant under Executive Order 12866 and has been reviewed by OMB.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657).

Signed at Washington, DC, this 25th day of June, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

For the reasons stated in the preamble, OSHA proposes to amend 29 CFR part 1904 as set forth below:

PART 1904—[AMENDED]

1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

2. Revise § 1904.10(b)(7) to read as follows:

§ 1904.10 Recording criteria for cases involving occupational hearing loss.

* * * * *

(b) * * *

(7) *How do I complete the 300 Log for a hearing loss case?* When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.

Note: § 1904.10(b)(7) is effective beginning January 1, 2004.

3. Revise the note to § 1904.12 to read as follows:

§ 1904.12 Recording criteria for cases involving work-related musculoskeletal disorders.

This section is effective January 1, 2004. From January 1, 2002 until December 31, 2003, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in accordance with the requirements applicable to any injury or illness under §§ 1904.5, 1904.6, 1904.7, and 1904.29. For entry (M) on the OSHA 300 Log, you must check either the entry for ''injury'' or ''all other illnesses.''

4. Revise § 1904.29(b)(7)(vi) to read as follows:

§ 1904.29 Forms.

* * * * *

(b) * * *

(7) * * *

(vi) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log. Musculoskeletal disorders (MSDs) are not considered privacy concern cases.

Note: The first sentence of this § 1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2004.

* * * * *

[FR Doc. 02–16393 Filed 6–28–02; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 243–0357b; FRL–7232–7]

Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the portions of the California State Implementation Plan (SIP) that are associated with the Bay Area Air Quality Management District (BAAQMD) and South Coast Air Quality Management District (SCAQMD). These revisions concern volatile organic compound emissions from solid waste disposal sites. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 31, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–

4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109–7799.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4124.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: BAAQMD Rule 8–34 and SCAQMD Rule 1150.1. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: June 6, 2002.

Laura Yoshii,

Acting Regional Administrator, Region 9.

[FR Doc. 02–16362 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CA 268–0360; FRL–7239–9]

Approval and Promulgation of Implementation Plans and Determination of Attainment of the 1-Hour Ozone Standard for the Santa Barbara County Area, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Santa Barbara County area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act. EPA is also proposing to approve 1-hour ozone contingency measures as revisions to the Santa Barbara portion of the California State Implementation Plan (SIP).

DATES: Comments on this proposal must be received by July 31, 2002.

ADDRESSES: Please address your comments to: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are available for public inspection during normal business hours at EPA's Region 9 office and at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117

The SIP materials are also electronically available at: *http://www.sbcapcd.org/capes.htm*

FOR FURTHER INFORMATION CONTACT: Dave Jesson, US EPA Region 9, at(415) 972–3957, or Jesson.David@epa.gov

SUPPLEMENTARY INFORMATION:

I. Attainment Finding

A. Santa Barbara's Current Ozone Classification

The Santa Barbara County nonattainment area (''Santa Barbara area'') is currently classified as serious for the 1-hour ozone national ambient air quality standard (NAAQS).[1]

When the Clean Air Act (CAA) Amendments were enacted in 1990, each area of the country that was designated nonattainment for the 1-hour ozone standard, including the Santa Barbara area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area's air quality problem. CAA sections 107(d)(1)(C) and 181(a). The Santa Barbara area was initially classified as moderate. *See* 40 CFR 81.305 and 56 FR 56694 (November 6, 1991).

Upon the Santa Barbara area's classification as moderate, the CAA required submittal of a state implementation plan (SIP) demonstrating attainment of the 1-hour ozone standard as expeditiously as practicable but no later than November 15, 1996. CAA sections 181(a)(1) and 182(b)(1)(A)(i). The SIP had to meet several other CAA requirements for moderate areas. See generally CAA section 182(b). The Santa Barbara County Air Pollution Control District (SBCAPCD) prepared a moderate area plan, which was timely submitted by the California Air Resources Board (CARB). CARB later withdrew the attainment demonstration, since the area continued to violate the 1-hour standard in 1996. We approved the remaining portions of the SIP on January 8, 1997 (62 FR 1187).

On December 10, 1997 (62 FR 65025), we determined that the area had not attained the 1-hour ozone standard by the November 15, 1996 attainment date. As a result of that finding, the Santa Barbara area was reclassified to serious, by operation of law under CAA section 181(b)(1)(A).

Upon the area's reclassification to serious, the CAA required California to submit a revised SIP demonstrating attainment of the 1-hour ozone standard in the Santa Barbara area as expeditiously as practicable but no later than November 15, 1999. CAA sections 181(a)(1)and 182(c)(2)(A). In response, SBCAPCD adopted and CARB submitted a plan addressing the serious area requirements. EPA fully approved this plan on August 14, 2000 (65 FR 49499).

B. Clean Air Act Provisions for Attainment Findings

Under CAA section 181(b)(2)(A), we must determine within six months of the applicable attainment date whether an ozone nonattainment area has attained the standard. If we find that a serious area has not attained the standard and does not qualify for an extension, it is reclassified by operation of law to severe.[2] Under CAA section

[1] The 1-hour ozone nonattainment area is the ''Santa Barbara-Santa Maria-Lompoc Area,'' which comprises the entire County of Santa Barbara. *See* 40 CFR 81.305.

[2] If a states does not have the clean data necessary to show attainment of the 1-hour standard but does have clean air in the year immediately preceding the attainment date and has fully implemented its applicable SIP, it may apply to EPA, under CAA

181(b)(2)(A), we must base our determination of attainment or failure to attain on the area's design value as of its applicable attainment date, which for the Santa Barbara area was November 15, 1999.

The 1-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year over any 3-year period. 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the 1-hour standard by calculating, at each monitor, the average number of days over the standard per year during the preceding 3-year period.[3] For this proposal, we have based our determination of attainment on both the design value and the average number of exceedance days per year as of November 15, 1999.

The design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a State designs its control strategy for attaining the ozone standard. A monitor's design value is the fourth highest ambient concentration recorded at that monitor over the previous 3 years. An area's design value is the highest of the design values from the area's monitors.[4]

We make attainment determinations for ozone nonattainment areas using all available, quality-assured air quality data for the 3-year period up to and including the attainment date.[5] Consequently, we used all of the 1997, 1998, and 1999 quality-assured data available to determine whether the Santa Barbara area attained the 1-hour ozone standard by November 15, 1999. From the available air quality data, we have calculated the average number of days over the standard and the design value for each ozone monitor in the Santa Barbara nonattainment area.

C. Attainment Finding for the Santa Barbara Area

1. Adequacy of the Santa Barbara Area Ozone Monitoring Network

Determining whether or not an area has attained under CAA section 181(b)(1)(A) is based on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient ozone levels in the area.

We evaluate 4 basic elements in determining the adequacy of an area's ozone monitoring network. The network needs to meet the design requirements of 40 CFR part 58, appendix D; the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53; and the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the requirements of 40 CFR part 58, appendix A. The ozone network in the Santa Barbara area meets or exceeds these requirements and is therefore adequate for use in determining the ozone attainment status of the area.

2. The Santa Barbara Area's Ozone Design Value for the 1997–1999 Period

We have listed in Table 1 the design values and the average number of exceedance days per year for the 1997 to 1999 period for each monitoring site in the Santa Barbara area. We calculated the design values following the procedures in the Laxton memo.[6]

TABLE 1.—AVERAGE NUMBER OF OZONE EXCEEDANCE DAYS PER YEAR AND DESIGN VALUES BY MONITOR IN THE SANTA BARBARA AREA, 1997–1999

Site	Average number of exceedance days per year	Site design value (ppm)
El Capitan St (SLAMS)	0	0.08
Goleta (SLAMS)	0	0.09
Lompoc H Street (SLAMS)	0	0.08
Santa Barbara (SLAMS)	0	0.09
Santa Maria (SLAMS)	0	0.07
Santa Ynez (SLAMS)	0	0.09
Santa Rosa Island (Nat. Park)	0	0.08
Carpinteria (SPM)	0	0.11
GTC B (SPM)	0	0.09
Lompoc HS&P (SPM)	0	0.09
Paradise Road (SPM)	0.3	0.11
Las Flores Canyon (Site 1) (SPM)	1.0	0.11
Vandenburg AFB STS (SPM)	0	0.09

Note: State or Local Air Monitoring Stations (SLAMS) are operated by SBCAPCD or CARB, while special purpose monitors (SPMs) are operated independently by certain permitted stationary sources in the county under the oversight of the SBCAPCD. All data produced by these SPMs are submitted to EPA's Aerometric Information Retrieval System-Air Quality Subsystem (AIRS–AQS) database.

[3] See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; ''Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,'' February 3, 1994. While explicitly applicable only to marginal areas, the general procedures for evaluating attainment in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

[4] The fourth highest value is used as the design value because a monitor may record up to 3 exceedances of the standard in a 3-year period and still show attainment, since 3 exceedances over 3 years would average 1 day per year, the maximum allowed to show attainment of the 1-hour ozone standard. If the monitor records a fourth exceedance in that period, it would average more than 1 exceedance day per year and would no longer show attainment. Therefore, if a State can reduce the fourth highest ozone value to below the standard, thus preventing a fourth exceedance, then it can demonstrate attainment.

[5] All quality-assured available data include all data available from the state and local/national air monitoring (SLAMS/NAMS) network as submitted to EPA's AIRS system and all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 58.13. See Memorandum John Seitz, Director, OAQPS, to Regional Air Directors; ''Agency Policy on the Use of Ozone Special Purpose Monitoring Data,'' August 22, 1997.

[6] See memorandum, William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards to Regional Air Directors, ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

From Table 1, the highest design value at any monitor, and thus the design value for the Santa Barbara area is 0.11 ppm at the Carpinteria, Paradise Road, and Las Flores Canyon sites. No monitor in the Santa Barbara area recorded an average of more than 1 exceedance of the 1-hour ozone standard per year during the 1997 to 1999 period.

Because the area's design value is below the 0.12 ppm 1-hour ozone standard and the area has averaged less than 1 exceedance per year at each monitor for the 1997 to 1999 period, we propose to find that the Santa Barbara area has attained the 1-hour ozone standard by its Clean Air Act mandated attainment date of November 15, 1999.

Although the attainment determination is based on the 1997 to 1999 period, we have also looked at data for 2000 and 2001. During that period, we found that the area's 1-hour ozone design values were below 0.12 ppm and that the area continued to record less than 1 exceedance per year on average at each monitoring location.

D. Attainment Findings and Redesignations to Attainment

A finding that an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) does not redesignate the area to attainment for the 1-hour standard nor does it guarantee a future redesignation to attainment.

The redesignation of an area to attainment under CAA section 107(d)(3)(E) is a separate process from a finding of attainment under CAA section 181(b)(1)(A). Unlike an attainment finding where we need only determine that the area has had the pre-requisite number of clean years, a redesignation requires multiple determinations. Under section 107(d)(3)(E), these determinations are:

1. We must determine, at the time of the redesignation, that the area has attained the relevant NAAQS.

2. The State must have a fully approved SIP for the area.

3. We must determine that the improvements in air quality are due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal regulations and other permanent and enforceable reductions.

4. We must have fully approved a maintenance plan for the area under CAA section 175(A).

5. The State must have met all the nonattainment area requirements applicable to the area.

To address the provisions of CAA section 175(A), Santa Barbara adopted its 2001 Clean Air Plan (including a maintenance plan) on November 15, 2001. Although the SBCAPCD is already implementing the plan, the State does not expect to submit the plan as a SIP revision until early 2003. CARB has submitted for federal approval at this time, however, the contingency measures in the maintenance plan. The State and the SBCAPCD do not intend the delay in submitting the full maintenance plan to impact the contingency rule adoption schedule identified in the maintenance plan. See discussion below in Section II.

It is possible, although not expected, that the Santa Barbara area violate the 1-hour ozone NAAQS before the maintenance plan is approved and the area is redesignated to attainment. If such a violation were to occur after EPA's finding of attainment under CAA section 181(b)(2)(A), and if expedited implementation of contingency measures were to prove insufficient to eliminate future violations, EPA believes that issuance of a SIP call under CAA section 110(k)(5) would be an appropriate response. This SIP call could require the State to submit, by a reasonable deadline not to exceed 18 months, a revised plan demonstrating expeditious attainment and complying with other requirements of Subpart 2 applicable to the area at the time of this finding.

II. Contingency Measures

On May 29, 2002, California formally requested that we make a finding of attainment for the Santa Barbara area and begin evaluating redesignation of the Santa Barbara area to attainment and the adequacy of the area's maintenance plan (letter from Michael P. Kenny, CARB Executive Officer, to Wayne Nastri, Regional Administrator, EPA Region 9). The State's letter attached the 2001 Clean Air Plan, which SBCAPCD adopted on November 15, 2001, to address the CAA provisions relating to maintenance plans for the 1-hour ozone NAAQS.[7] CARB indicated that the State will submit a request that we act on the maintenance plan and redesignate the area to attainment in early 2003, at the time the State requests our approval of an updated vehicle emission factor model for use statewide in SIPs and transportation conformity analyses.

The State did request that we act expeditiously to approve the specific enforceable contingency measures in the maintenance plan, in order to strengthen the SIP and ensure that a remedy will be in place if future violations occur. Should the area record a violation of the 1-hour ozone NAAQS before the area is redesignated to attainment, these measures would be expected to provide the remedy.

The maintenance plan includes a commitment to adopt a group of control measures by specific dates from 2001 through 2009, and a commitment to evaluate and expedite the adoption process in coordination with EPA if Santa Barbara violates the 1-hour ozone NAAQS prior to 2015. While the control measures are intended to be contingency measures for purposes of the federal 1-hour ozone standard, the measures are also proposed to be adopted for the purpose of attaining the California State 1-hour ozone standard.

The measures, their adoption schedule, and associated emission reductions are summarized in Table 2, Contingency Measures. The measures are described at length in the 2001 Clean Air Plan, Appendix B.3, Proposed Emission Control Measures.

TABLE 2.—CONTINGENCY MEASURES SOURCE: 2001 CLEAN AIR PLAN, TABLE 4–3

Rule No.	CAP control measure ID	Description	Adoption schedule	Emission reductions in tons per day (with full implementation)	
				VPC	NO_X
323	R–SC–1	Architectural Coatings (Revision)	2001–2003	0.0998	0
333	N–IC–1, N–IC–3	Stationary IC Engines	2002–2003	0.0008	0.0128
360	N–XC–2	Large Water Heaters & Small Boilers, Steam Generators, Process Heaters (75,000 Btu/hr to <2 MMBtu/hr).	2001–2003	0	[1] 0.0133

[7] On June 13, 2002, we found that this submittal met the completeness criteria in 40 CFR 51 appendix V, including the requirement for proper public notice and adoption.

TABLE 2.—CONTINGENCY MEASURES SOURCE: 2001 CLEAN AIR PLAN, TABLE 4–3—Continued

Rule No.	CAP control measure ID	Description	Adoption schedule	Emission reductions in tons per day (with full implementation)	
				VPC	NO_X
321	R–SL–1	Solvent Degreasers (Revision)	2004–2006	0.0562	0
362	R–SL–2	Solvent Cleaning Operations	2004–2006	1.0103	0
363	N–IC–2	Gas Turbines	2004–2006	0	0
358	R–SL–4	Electronic Industry—Semiconductor Manufacturing	2007–2009	[2] 0.0026	0
361	N–XC–4	Small Industrial and Commercial Boilers, Steam Generators, and Process Heaters (2 MMBtu/hr to <5 MMBtu/hr).	2007–2009	0	[3] 0.0028

[1] This is with 15% implementation, the highest implementation figure available from the District's analysis.
[2] The data shown are for source classification code (SCC) number 3–13–065–06 only. The emission data for the SCC numbers and the category of emission source (CES) numbers subject to Rule 358 are included in the Rule 321 or Rule 361 emission reduction summaries.
[3] The emission reductions shown are based on Rule 361 being a point-of-sale type rule.

The State requested that we approve these measures at this time under CAA section 110(k), and did not request that we approve them under the CAA section 175A provisions relating to maintenance plans. We have therefore reviewed the control measures to determine whether they meet basic SIP approval requirements and whether the measures would strengthen the existing SIP. We conclude that the measures are adequately defined, the implementation of the measures is sufficiently specific, the associated emission reductions are properly quantified, and the SBCAPCD has authority to adopt and enforce the measures. Therefore, we propose to approve the control measures under CAA section 110(k)(3) as strengthening the SIP.

When the State resubmits the 2001 Clean Air Plan and requests that we approve it as meeting the CAA section 175A requirements for maintenance plans, we will review the contingency elements in the Santa Barbara plan and will determine whether or not these elements fully satisfy the specific CAA section 175A(d) requirement for contingency provisions in maintenance plans.

If we finalize approval of the contingency measures under CAA section 110(k)(3), we expect to work closely with CARB and the SBCAPCD to evaluate and expedite the rule adoption schedule in the event that violations are recorded.

III. Summary of EPA Actions

We are proposing to find that the Santa Barbara area attained the 1-hour ozone NAAQS by the CAA deadline. We are proposing to approve contingency measures in the 2001 Clean Air Plan, as shown in Table 2 above, under CAA section 110(k)(3).

IV. Administrative Requirements

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

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

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

List of Subjects in 40 CFR Part 52

40 CFR Part 81

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

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: June 21, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–16463 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 020603140–2140–01,I.D. 050102G]

RIN 0648–AQ00

Regulations Governing the Taking and Importing of Marine Mammals; Eastern North Pacific Southern Resident Killer Whales

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

ACTION: Advance notice of proposed rulemaking; request for information.

SUMMARY: NMFS anticipates proposing regulations to designate the eastern North Pacific Southern Resident stock of killer whales (*Orcinus orca*) as a depleted stock under the Marine Mammal Protection Act (MMPA). NMFS recently reviewed the status of these whales under the Endangered Species Act (ESA) and determined that the eastern North Pacific Southern Resident stock does not qualify as a ''species'' as defined in the ESA. However, this stock of whales has declined by 20 percent in the past 5 years, and evidence suggests that designation as a depleted stock may be warranted. NMFS is requesting that interested parties submit pertinent information and comments regarding the status of this killer whale stock and potential conservation measures that may benefit these whales.

DATES: Information must be received by August 30, 2002.

ADDRESSES: Information should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Comments may also be sent via facsimile (fax) to (503) 230–5435, but will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Eagle, Office of Protected Resources, Silver Spring, MD (301) 713–2322, ext. 105, or Mr. Garth Griffin, Northwest Regional Office, Portland, OR (503) 231–2005.

SUPPLEMENTARY INFORMATION:

Electronic Access

A list of the references used in this notice and other information related to the status of this stock of killer whales is available on the Internet at *http://www.nwr.noaa.gov*.

Background

Depleted Stocks Under the MMPA

Section 3(1)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1362(1)(A)) defines the term, ''depletion≥ or ''depleted'', as any case in which ''the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals ... determines that a species or population stock is below its optimum sustainable population.'' Section 3(9) of the MMPA (16 U.S.C. 1362(9)) defines ''optimum sustainable population [(OSP)]...with respect to any population stock, [as] the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity (K) of the habitat and the health of the ecosystem of which they form a constituent element.'' NMFS' regulations at 50 CFR 216.3 clarify the definition of OSP as a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem (i.e., K) to its maximum net productivity level (MNPL). MNPL is the abundance or population level that results in the greatest net annual increment in population numbers or biomass resulting from additions to the population from reproduction, less losses due to natural mortality.

Section 2 of the MMPA (16 U.S.C. 1361) states that marine mammal species, populations and/or stocks should not be permitted to fall below their OSP level. Historically, MNPL has been expressed as a range of values determined theoretically by estimating the stock size, in relation to K, that will produce the maximum net increase in population abundance. The estimated MNPL has been expressed as a range of values, generally 50 to 70 percent of K (42 FR 12010, March 1, 1977). In 1977, the midpoint of this range (60 percent of K) was used to determine whether dolphin stocks in the eastern tropical Pacific Ocean were depleted under the MMPA (42 FR 64548, December 27, 1977). The 60-percent-of-K value was used in the final rule governing the taking of marine mammals incidental to commercial tuna purse seine fishing in the eastern tropical Pacific Ocean (45 FR 72178, October 31, 1980) and has been used since that time for other status reviews under the MMPA. For stocks of marine mammals, however, K is generally unknown. NMFS, therefore, has used the best estimate of maximum historical abundance as a proxy for K.

Section 115(a)(2) of the MMPA (16 U.S.C. 1383b(a)(2)) requires NMFS to publish a notice in the **Federal Register** prior to proposing regulations to designate a population stock of marine mammals as depleted. The purpose of the notice is to assist NMFS in obtaining scientific information from individuals and organizations concerned with the conservation of marine mammals, from persons in industry which might be affected by the determination, and from academic institutions. In addition, NMFS is required to use, to the extent it determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information.

The MMPA provides protection against the take, the definition of which includes harassment, of marine mammals (MMPA section 102, 16 U.S.C 1372). The MMPA provides that a conservation plan shall be prepared as soon as possible for a stock that is designated as depleted, unless such a plan will not promote the conservation of the stock (MMPA section 115(b)(1), 16 U.S.C 1383b(b)(1)). Furthermore, for a stock designated as depleted under the MMPA, NMFS may develop and implement conservation or management measures to alleviate any impacts that are on areas of ecological significance to the depleted stock and that may be causing the decline or impeding the recovery of the stock (MMPA section 112(e); 16 U.S.C 1382(e)). Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.

Eastern North Pacific Southern Resident Killer Whales

The killer whale is the largest member of the dolphin family (Delphinidae), and the species is the most wide-ranging of all marine mammals. Along the west coast of North America, killer whales occur along the entire Alaskan coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California. North Pacific killer whales have been classified into three forms

termed Residents, Transients, and Offshore whales. All three of these forms are currently classified as the same biological species, *O. orca*. The three forms vary in morphology, ecology, behavior, group size, social organization, acoustic repertoire, and genetic characteristics. Behavioral evidence suggests that Offshore and Transient pods (''pods'' are close-knit family groups ranging from 10 to 70 whales) rarely interact with the Resident pods. Although the Transient form overlaps extensively in range with the Resident form, genetic evidence suggests that the two forms do not interbreed. Furthermore, distinct feeding habits exist, with Transient killer whales primarily preying on other marine mammals and Residents primarily subsisting on fishes (little is known, however, about the habits of the Offshore form).

Resident whales in the North Pacific consist of the following groups: western North Pacific Residents; western Alaska Residents; southern Alaska Residents; eastern North Pacific Northern Residents; and eastern North Pacific Southern Residents. Eastern North Pacific Southern Residents occur in the inland waterways of southern British Columbia and Washington, including the Georgia Strait, the Strait of Juan de Fuca, and Puget Sound.

The abundance of the eastern North Pacific Southern Resident stock has declined 20 percent in the past 5 years (1996–2001), and the decline has been accompanied by changes in survival rates between age and sex categories. NMFS recently reviewed the status of these whales under the ESA and determined that the eastern North Pacific Southern Resident stock does not qualify as a ''species'' as defined in the ESA (NMFS, 2002). However, information gathered during the ESA status review, including population viability analyses, suggests that designating eastern North Pacific Southern Resident killer whales as a depleted stock under the MMPA may be warranted.

Estimates of Historical Stock Size

The true K and MNPL are unknown for eastern North Pacific Southern Resident killer whales. Furthermore, an empirical estimate of maximum historical abundance is not available. When the annual census of the population began in 1974, there were 71 whales in the population. This count, however, followed the period in the 1960s and early 1970s when at least 68 whales were removed or killed during capture operations for public display. Thus, a minimum historical abundance could be estimated to be approximately 140 killer whales if total removals were limited to the 68 animals that were known to be killed or captured. Although reasonably accurate numbers of animals removed by live capture exist, the number killed by shooting or other human activity is unknown. Therefore, the historical abundance may have been much greater than 140 whales.

Lacking sufficient information to support a direct estimate of historical abundance, NMFS has examined indirect evidence for historical stock size. An initial inspection of genetic diversity seen in DNA data (Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001) indicates that eastern North Pacific Southern Resident killer whales have nearly the same number of alleles as Northern Residents (28 versus 35), despite a much smaller sample size (8 versus 126). This is consistent with a hypothesis that Southern Residents may have recently been a much larger population. In other words, if Northern Residents can be viewed as representing the expected genetic diversity of populations of their size (214), then Southern Residents may have been a similar stock size in the recent past (NMFS, 2002).

Although there are no empirical estimates of the historical stock size for eastern North Pacific Southern Resident killer whales, the best available scientific information suggests a historical abundance of approximately 140-200 whales. Under the MMPA, a stock is depleted if its abundance is below MNPL, the lower bound of OSP. Using the inferred historical stock size of 140-200 eastern North Pacific Southern Resident killer whales as a proxy for K, the estimated MNPL for the stock would be 84-120 whales (60 percent of K). The 2001 abundance of 78 killer whales is below even the most conservative (lowest) estimate of MNPL for the stock.

NMFS completed a comprehensive status review under the ESA for this stock of killer whales. To supplement that status review, NMFS is now initiating a review of the status of the eastern North Pacific Southern Resident stock of killer whales under the MMPA. NMFS will augment the information obtained during its recent ESA status review with any other available information regarding the stock's abundance relative to its OSP to determine whether it warrants a depleted designation under the MMPA.

Information Solicited

To ensure that the review is comprehensive and is based on the best available data, NMFS is soliciting information and comments from any interested person concerning the status of the eastern North Pacific Southern Resident stock. It is requested that data, information, and comments be accompanied by (1) supporting documentation such as maps, logbooks, bibliographic references, personal notes, or reprints of pertinent publications; and (2) the name of the person submitting the data, his/her address, and any association, institution, or business that the person represents. NMFS also seeks information on impacts on areas of significance to the eastern North Pacific Southern Resident stock that may be causing the decline or impeding the recovery of the stock; on potential conservation measures that may be useful in alleviating those impacts and rebuilding the stock; and on the potential economic impacts and the potential biological benefits of alternative conservation measures. This would include information on potential effects of whale watching on resident killer whales in Washington waters and measures that might be proposed to reduce or mitigate such effects.

References

A complete list of all cited references is available via the Internet (see Electronic Access) or upon request (see **ADDRESSES**).

Dated: June 7, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–16528 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 020603138–2138–01; I.D. 042502B]

RIN 0648–ZB22

Endangered and Threatened Wildlife and Plants: 12-Month Finding for a Petition To List Southern Resident Killer Whales as Threatened or Endangered Under the Endangered Species Act (ESA)

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

ACTION: Status review; notice of determination.

SUMMARY: NMFS announces a 12–month finding for a petition to list Southern Resident killer whales (*Orcinus orca*) as threatened or endangered under the Endangered Species Act (ESA). After a review of the best available scientific and commercial information, the agency finds that listing the Southern Resident killer whales is not warranted at this time because these killer whales do not constitute a species, subspecies, or distinct population segment (DPS) under the ESA. NMFS will continue to seek new information on the taxonomy, biology, and ecology of these whales, as well as potential threats to their continued existence, and within 4 years will reassess the status of these whales under the ESA. NMFS is issuing an advance notice of proposed rulemaking to designate this stock of killer whales as depleted under the Marine Mammal Protection Act (MMPA).

DATES: The finding announced in this document was made on May 31, 2002.

ADDRESSES: The complete file for this finding, including comments and information submitted, is available for public inspection by appointment during normal business hours at the NMFS Protected Resources Division, 525 NE Oregon Street, Suite 500, Portland, OR, 97232–2737.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Eagle, Office of Protected Resources, Silver Spring, MD (301) 713–2322, ext. 105, or Mr. Garth Griffin, Northwest Regional Office, Portland, OR (503) 231–2005.

SUPPLEMENTARY INFORMATION:

Electronic Access

A list of references cited in this notice is available via the Internet at *http://www.nwr.noaa.gov*. Additional information, including the report of the NMFS Biological Review Team (BRT) and written comments from the Marine Mammal Commission and other co-managers, is also available at this Internet address.

Background

Section 4(b)(3)(B) of the ESA requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, NMFS must make a finding within 12 months of the date of receipt of the petition about whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Upon making a 12–month finding, the agency must promptly publish notice of such finding in the **Federal Register**.

On May 2, 2001, NMFS received a petition from the Center for Biological Diversity (CBD) and 11 co-petitioners (CBD, 2001a) to list Southern Resident killer whales as threatened or endangered and to designate critical habitat for them under the ESA. The petitioned whales consist of three pods (J, K, and L) whose range during the spring, summer, and fall includes the inland waterways of Puget Sound, Strait of Juan de Fuca, and Georgia Strait. The primary impetus behind the petition is a recent decline in these pods from 97 animals in 1996 to 78 animals in 2001. The petition highlighted key issues for NMFS' consideration, including: (1) Genetic, behavioral, and ecological evidence indicating that Southern Resident killer whales may be a DPS under the ESA; (2) population data documenting a recent decline in Southern Resident killer whales and analyses indicating that these whales may be at risk of extinction; and (3) an array of threats that may account for the decline in Southern Resident killer whales. On July 26, 2001, NMFS received additional information from the lead petitioner, including an updated population viability analysis and a report on the July 2001 census of Southern Resident killer whales returning to the inland waters of Washington and southern British Columbia (CBD, 2001b).

On August 13, 2001 (66 FR 42499), NMFS provided notice of its determination that the petition presents substantial information indicating that a listing may be warranted and that it would initiate a status review to determine if Southern Resident killer whales warrant listing under the ESA. To conduct the status review, NMFS formed a BRT comprising scientists from the agency's Alaska, Northwest, and Southwest Fisheries Science Centers. Because the ESA requires that NMFS make a listing determination based upon the best available scientific and commercial information, the agency solicited pertinent information on killer whales (66 FR 42499, August 13, 2001) and convened a meeting on September 26, 2001, to gather technical information from co-managers, scientists, and individuals having research or management expertise pertaining to killer whale stocks in the north Pacific Ocean. In addition, in March 2002, the BRT received comments from the Marine Mammal Commission and Washington, Tribal, and Canadian co-managers on a preliminary draft of the BRT's status review findings. These comments were evaluated by the BRT, who then prepared a final status review document for Southern Resident killer whales (NMFS, 2002). The status review and other documents forming the administrative record for this finding are available on the Internet (see Electronic Access) or from NMFS (see **ADDRESSES**).

Biological Background

Killer whales are one of the most strikingly pigmented of all cetaceans, making field identification easy. Killer whales are black dorsally and white ventrally, with a conspicuous white oval patch located slightly above and behind the eye. A highly variable gray or white saddle is usually present behind the dorsal fin. Saddle shape varies among individuals, pods, and from one side to the other on a single animal. Sexual dimorphism occurs in body size, flipper size, and height of the dorsal fin. More detailed information regarding this species' distribution, behavior, genetics, morphology, and physiology is contained in the BRT's status review (NMFS, 2002).

Killer whales are classified as top predators in the food chain and the world's most widely distributed marine mammal (Leatherwood and Dahlheim, 1978; Heyning and Dahlheim, 1988). Although observed in tropical waters and the open sea, they are most abundant in coastal habitats and high latitudes. In the northeastern Pacific Ocean, killer whales occur in the eastern Bering Sea (Braham and Dahlheim, 1982) and are frequently observed near the Aleutian Islands (Scammon, 1874; Murie, 1959; Waite et al., 2001). They reportedly occur year-round in the waters of southeastern Alaska (Scheffer, 1967) and in the intracoastal waterways of British Columbia and Washington State (Balcomb and Goebel, 1976; Bigg *et al.*, 1987; Osborne *et al.*, 1988). There are occasional reports of killer whales along the coasts of Washington, Oregon, and California (Norris and Prescott, 1961; Fiscus and Niggol, 1965; Rice, 1968; Gilmore, 1976; Black *et al.*, 1997), both coasts of Baja California (Dahlheim *et al.*, 1982), the offshore tropical Pacific (Dahlheim *et al.*, 1982), the Gulf of Panama, and the Galapagos Islands. In the western North Pacific, killer whales occur frequently along the Soviet coast in the Bering Sea, the Sea of Okhotsk, the Sea of Japan, and along the eastern side of Sakhalin and the Kuril Islands (Tomilin, 1957). There are numerous accounts of their occurrence off China (Wang, 1985) and Japan (Nishiwaki and Handa, 1958; Kasuya, 1971; Ohsumi, 1975). Data from the central Pacific are scarce. They have been reported off

Hawaii, but do not appear to be abundant in these waters (Tomich, 1986; Caretta *et al.*, 2001).

The killer whale is the largest species within the family Delphinidae. Various scientific names have been assigned to the killer whale (Hershkovitz, 1966; Heyning and Dahlheim, 1988). These various names can be explained by sexual and age differences in the size of the dorsal fin, individual variations in color patterns, and the cosmopolitan distribution of the animals. The genus Orcinus is currently considered monotypic with geographical variation noted in size and pigmentation patterns. Two proposed Antarctic species, *O. nanus* (Mikhalev *et al.*, 1981) and *O. glacialis* (Berzin and Vladimirov, 1982; Berzin and Vladimirov, 1983), both appear to refer to the same type of smaller individuals. However, due to significant uncertainties regarding the limited specimen data, these new taxa have not yet been widely accepted by the scientific community. Recent genetic investigations note marked differences between some forms of killer whale (Hoelzel and Dover, 1991; Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001). A worldwide review of specimens is needed to document geographical variation in morphology.

Killer whales in the Eastern North Pacific region (which includes the petitioned whale pods) have been classified into three forms termed Residents, Transients, and Offshore whales. The three forms vary in morphology, ecology, behavior, and genetic characteristics, all of which play an important role in determining whether the monotypic species O. orca can be subdivided under the ESA.

Resident Killer Whales

Resident killer whales in the Eastern North Pacific are noticeably different from both the Transient and Offshore forms. The dorsal fin of Resident whales is rounded at the tip and falcate (curved and tapering). Resident whales have a variety of saddle patch pigmentations, with five different patterns recognized (Baird and Stacey, 1988a). Resident whales occur in large, stable pods with membership ranging from 10 to approximately 60 whales. Their presence has been noted in the waters from California to Alaska. The primary prey of Resident whales is fish. A recent summary of the differences between Resident and Transient forms is found in Baird (2000).

Resident killer whales in the North Pacific consist of the following groups: Southern, Northern, Southern Alaska, western Alaska and western North Pacific Residents. Under the Marine Mammal Protection Act (MMPA), Residents are separated into two stocks: (1) The eastern North Pacific southern resident stock, which is the petitioned unit and (2) the eastern North Pacific northern resident stock, which includes the Northern (British Columbia) Residents, the Southern Alaska Residents, and the western Alaska Residents. The descriptions of the various units follows.

Southern Residents: The Southern Resident killer whale assemblage contains three pods, J pod, K pod, and L pod, and is considered a stock under the MMPA. Their range during the spring, summer, and fall includes the inland waterways of Puget Sound, Strait of Juan de Fuca, and Georgia Strait. Their occurrence in the coastal waters off Washington, Vancouver Island, and more recently off the coast of central California has been documented. Little is known about the winter movements and range of the Southern Resident stock. Southern Residents have not been seen to associate with other Resident whales. Genetic data indicate that females from the Southern and Northern Resident populations have not been migrating between populations within at least the recent evolutionary history of these populations, suggesting reproductive isolation between Southern and Northern Resident killer whale stocks (Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Northern Residents: The Northern Resident killer whale assemblage contains approximately 16 pods. They range from Georgia Strait (British Columbia) to Southeast Alaska (Ford *et al.*, 1994; Dahlheim, 1997). On occasion they have been known to occur in Haro Strait (west of San Juan Island, Washington). Although some overlap in range occurs between the Northern and Southern Residents, no intermixing of pods has been noted. However, in Southeast Alaska, Northern Resident whales are known to associate with Southern Alaska Residents (Dahlheim *et al.*, 1997), and there may be some gene flow between the two populations (Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Alaska Residents: There are two groups of Alaska Resident animals, Southern Alaska Residents and western Alaska Residents. The Resident whales of Southeast Alaska and Prince William Sound comprise the Southern Alaska Resident killer whale assemblage. At least 15 pods have been identified in these two regions. Resident killer whales photographed in Southeast Alaska travel frequently to Prince William Sound and intermix with all Resident groups from this area (Dahlheim *et al.*, 1997; Matkin and Saulitis, 1997). Prince William Sound Resident whales have not been seen in Southeast Alaska, but have been noted off Kodiak Island intermixing with other, yet unnamed, Resident pods (Dahlheim, 1997; National Marine Mammal Laboratory, 2001). There are 241 animals photographed in western Alaska that have been provisionally identified as ''Western Alaska Residents,'' but the number of pods represented is unknown (National Marine Mammal Laboratory, 2001). Recent vessel surveys in the southeastern Bering Sea have provided preliminary estimates of approximately 400 killer whales (Waite *et al.*, 2001). Although it is not yet known how many of these animals were Residents, killer whales occur both nearshore and offshore in the Bering Sea.

Western North Pacific Residents: Resident killer whales co-occur with salmon along the coasts of Washington, British Columbia, and Alaska. If this pattern continues (or historically continued) further to the west, then Resident killer whales may be expected to occur along the coastline of Russia and Japan. Although there is documentation of killer whales in these areas, little is known about whether they are more similar to Resident, Transient, or Offshore types.

Transient Killer Whales

There are several differences between Transient and Resident killer whales; these have most recently been summarized in Baird (2000). The dorsal fin of Transient whales tends to be more erect (i.e., straighter at the tip) than those of Resident and Offshore whales. Saddle patch pigmentation of Transient killer whales is restricted to three patterns (Baird and Stacey, 1988a). Pod structure is small (e.g., fewer than 10 whales) and dynamic in nature. Transient whales occur throughout the Eastern North Pacific with a preference toward coastal waters. Their geographical range overlaps that of the Resident and Offshore whales. Individual Transient killer whales have been documented to move great distances reflecting a large home range (Goley and Straley, 1994; National Marine Mammal Laboratory, 2001). The primary prey of Transient killer whales is other marine mammals. Transient whales are not known to intermingle with Resident or Offshore whales. Significant genetic differences occur among Resident, Transient, and Offshore killer whales (Stevens *et al.*, 1989; Hoelzel and Dover, 1991; Hoelzel

et al., 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001). At this time, only one stock of Transient killer whales is recognized in eastern North Pacific waters, although recent genetic investigations indicate that up to three genetically different groups of Transient killer whales exist in the eastern North Pacific (the ''west coast'' Transients, the ''Gulf of Alaska Transients'' and AT1 pod) (Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Offshore Killer Whales

Offshore killer whales are similar to Resident whales (i.e., their fins appear to be more rounded at the tip). Most saddle patches appear to be closed (National Marine Mammal Laboratory, 2001). Offshore whales have been seen in groups ranging from 10 to 70 whales. They are known to range from central coastal Mexico to Alaska and occur in both coastal and offshore waters (300 miles off Washington State). While foraging, it is assumed that the main target is fish, but observational data on feeding events are extremely limited. Offshore whales are not known to intermingle with Resident or Transient whales. Genetic analysis suggests that Offshores may be reproductively isolated, but they appear to be more closely related to Southern Residents than to Northern Residents (Hoelzel *et al.*, 1998).

Consideration as a ''Species'' Under the ESA

The ESA defines a species to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' Guidance on what constitutes a DPS is provided by the joint NMFS-U.S. Fish and Wildlife Service interagency policy on vertebrate populations (61 FR 4722, February 7, 1996). To be considered a DPS, a population, or group of populations, must be ''discrete'' from other populations and ''significant'' to the taxon (species or subspecies) to which it belongs. A population segment of a vertebrate species may be considered discrete if:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological or behavioral factors. Quantitative measures of genetic or morphological discontinuity may also provide evidence of this separation; or

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant under section 4(a)(1)(D) of the ESA.

If a population segment is considered discrete, NMFS must then consider whether the discrete segment is ''significant'' to the taxon to which it belongs. Criteria that can be used to determine whether the discrete segment is significant include:

(1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon;

(2) Evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon;

(3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and

(4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

A population segment needs to satisfy only one of these criteria to be considered significant. Furthermore, the list of criteria is not exhaustive; other criteria may be used, as appropriate. As noted in the DPS policy, Congress has instructed NMFS and the U.S. Fish and Wildlife Service to use the authority to list a DPS ''sparingly and only when the biological evidence indicates such action is warranted'' (Senate Report 151, 96th Congress, 1st Session (1979)).

Defining a DPS Under Existing Killer Whale Taxonomy

Two types of genetic data that have been collected for killer whales have proven useful for identifying DPS boundaries in other species: microsatellite (nuclear) DNA and mitochondrial DNA (mtDNA). Each type of genetic data offers a unique and valuable perspective on the ecology and evolutionary history of killer whales. Microsatellite data are available for killer whales from seven populations: Southern Residents, Northern Residents, Southern Alaskan Residents, Gulf of Alaska Transients, west coast Transients, and AT1 Transients from Prince William Sound in Alaska. The magnitude of the genetic differences between Southern and Northern Residents was about half that found between Residents and Transients and about twice that found between Northern Residents and Southern Alaska Residents. These differences indicate that the Southern Resident, Northern Resident, and Alaska Resident populations are reproductively isolated populations and that the isolation of Southern and Northern Residents from each other is greater than the isolation between Northern and Southern Alaska Residents. There may be some gene flow between the Northern Residents and Southern Alaska Residents (Hoelzel *et al.*, 1998; Barrett-Lennard, 2000; Barrett-Lennard and Ellis, 2001).

Two mtDNA sequences have been found in North Pacific Resident killer whales. The Southern Residents have one sequence and the Northern Residents have another that differs by one DNA nucleotide. Southern Alaska Residents have both sequences. Both males and females inherit the mtDNA of their mother, so these data indicate that females from the Southern and Northern Resident populations have not been migrating between populations within at least the recent evolutionary history of these populations.

The BRT recommended that Southern Residents meet the criterion for ''discreteness'' under the DPS policy based on genetics and other information. However, the consideration of ''significance'' was far more difficult, largely due to uncertainties surrounding killer whale taxonomy. Correctly identifying the killer whale taxon is critical because the criteria used to evaluate ''significance'' of a DPS are defined relative to other populations within that taxon. The BRT concluded that the current designation of one global species for killer whales is likely inaccurate because available data suggest that additional species/subspecies of killer whales probably exist.

In its consideration of ''significance,'' the BRT evaluated the importance of Southern Residents to the taxon represented by the currently recognized global species, O. orca. Based upon the following arguments, the BRT concluded that Southern Resident killer whales are not a DPS of the global species.

Persistence in an ecological setting that is unusual or unique for the taxon. The habitat used by Southern Resident killer whales is very similar to that of the neighboring Northern Resident population segment (coastal fjord system, significant freshwater input, seasonal availability of concentrations of salmon) though different from habitats that other populations of killer whales occupy globally. In addition, although Southern and Northern/Alaska Residents consume salmon from different oceanographic systems, this difference is quite minor when comparing Southern Resident killer whales foraging strategies with other killer whale foraging strategies on a global scale.

The petitioners suggested that Southern Resident killer whales occupy

a unique setting because the Puget Sound region is highly urbanized. Based upon the recommendation of the BRT, NMFS finds that this habitat difference is irrelevant to the ESA discussion because there is no evidence that Southern Residents have adapted in an evolutionary sense to urbanization in Puget Sound.

Loss would represent a significant gap in the range of the taxon. Because Transient killer whales are known to occupy the same range as Southern Resident killer whales and because Offshore killer whales may occupy a portion of the same range as Southern Resident killer whales, extinction of Southern Resident killer whales might not result in a gap in the range of the taxon. In addition, other Resident or Offshore animals could re-colonize the current range of Southern Residents should that population be extirpated.

Although it is plausible that the loss of Southern Resident killer whales could result in few, if any, killer whales in parts of Puget Sound for an extended period, killer whales would occupy their existing range from the Bering Sea through British Columbia. Furthermore, Transient and Offshore pods would continue to occupy other areas within the Pacific Ocean. NMFS, therefore, concluded that the potential gap that could result in the loss of Southern Residents would not be considered ''significant'' to the species.

The only surviving natural occurrence of a taxon. Because Southern Resident killer whales are clearly not a ''discrete population segment representing the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range,'' the BRT did not consider this criterion from the DPS policy.

Evidence that the Southern Residents differ markedly from other populations in genetic characteristics. The BRT evaluated the genetic discreteness of Southern Resident killer whales in the context of genetic differences among all aggregations of killer whales globally. It found that the differences between Southern Residents and Resident pods in Canada and Alaska were small compared to genetic differences between Resident and Transient killer whale stocks. Consequently, the Southern Resident killer whale stock does not have markedly different genetic characteristics.

Southern Residents as a DPS Under Alternative Killer Whale Taxa

Although the BRT concluded that current killer whale taxonomy was outdated, the scientists acknowledged that alternative taxa were not easily identified and noted that formal taxonomic changes would be slow to occur. In light of this, the BRT assessed which of several population units of killer whales might be designated as a putative taxon that would include Southern Resident killer whales if the global species were to be subdivided into two or more taxa.

The BRT supported about equally four different scenarios for alternative taxa: (1) North Pacific Resident killer whales; (2) North Pacific Resident and Offshore killer whales; (3) fish-eating killer whales worldwide; and (4) the entire mtDNA lineage that includes Resident and Offshore type killer whales. Despite the broad range of possible alternative taxa, the BRT did attempt to discern whether the Southern Resident population would qualify as a DPS with respect to each of these alternative taxonomic scenarios. Such information would be deemed useful if future changes in this species' taxonomy warranted reconsidering the ESA/DPS status of Southern Resident killer whales.

Within these four scenarios, the BRT expressed the strongest support for the proposition that Southern Residents would be a DPS of the Northern Pacific Residents (which included Southern, Northern, Alaska, and western North Pacific Resident killer whales). Support for Southern Residents as their own DPS diminished as the hypothesized taxon grew larger.

Risk Assessment Under Alternative Taxa

Upon concluding that the petitioned entity–Southern Resident killer whale–is not a DPS of the smallest taxon identified by the scientific community (i.e., the global species), the BRT could have ended its investigation. However, because the team members believed that current killer whale taxonomy is outdated, they continued their assessment beyond the narrow focus of the petition. Therefore, the BRT also investigated Southern Residents as a component of several potential DPS, and they examined various putative taxa of which Southern Residents would be a DPS. Then, the BRT conducted Population Viability Analyses (PVA) to estimate the probability of extinction for two of the smallest possible population units.

The first scenario analyzed was one for Southern Resident killer whales alone. As a continuation of the BRT's alternative taxa deliberations, this information would be considered useful if future changes in this species' taxonomy warranted reconsidering the ESA/DPS status of Southern Resident killer whales. According to the PVA model results, Southern Residents would have a ≤10 percent probability of extinction in 100 years under the assumption that population declines seen from 1992 to 2001 continue into the future. Under the assumption that growth rates in the future would more accurately be predicted by the full (27–year) time series of data available, the model predicts that extinction probability is 1 to 5 percent in 100 years, with the higher values associated with higher probability and magnitude of catastrophic mortality events (e.g., oil spill). Again, these results pertain only to the smallest population assemblage containing Southern Residents, not to a recognized DPS. As such, they represent ''worst case'' estimates that are intended for comparison with other, larger aggregations.

The second scenario evaluated the extinction risk of a combination of Southern Residents and the closest population stock (identified under the MMPA), which is the eastern North Pacific Northern Resident stock (resident killer whales in British Columbia and Alaska). According to the model, the extinction risk over 100 years for this larger assemblage is negligible, and even larger aggregations are expected to yield similarly negligible extinction risks. Therefore, additional simulations were not conducted.

Conclusions of the BRT

Correctly identifying the killer whale taxon is critical because at least two of the criteria used to evaluate ''significance'' of a DPS are defined relative to other populations within that taxon. A population segment will qualify as a DPS if it occupies an ''ecological setting unusual or unique for the taxon'' or if ''loss of the discrete population segment would result in a significant gap in the range of the taxon.'' The BRT concluded that the current designation of one global species for killer whales is likely inaccurate because available data suggest that present taxonomy does not reflect current knowledge and additional species/subspecies of killer whales should be ''officially'' recognized.

The BRT attempted to identify alternative taxa, but gave roughly equal support to four different scenarios. The taxon to which Southern Residents might belong if the global species were to be subdivided could be as small as North Pacific Resident killer whales or as large as the mtDNA lineage consistent with fish eating whales. The BRT

conducted PVA modeling on two population units of killer whales, Southern Residents along and in combination with Northern and Alaska Residents for comparative purposes. Although Southern Residents are not considered a DPS of the global species, they face a relatively high risk of extinction. The combination of Southern, Northern, and Alaska Residents, however, was at a very low risk of extinction. Thus, the manner by which killer whale taxonomy is resolved in the future will play a key role in determining whether there is a DPS to which Southern Resident killer whales belong and in evaluating the status of that DPS under the ESA.

As described previously in this notice, NMFS received comments on a preliminary draft of the BRT's status review findings from the Marine Mammal Commission and from Washington, Tribal, and Canadian co-managers. These comments included technical questions and data (e.g., recent census data for Northern Resident whales), discussions of DPS and listing policy issues, and information describing the cultural and spiritual importance of killer whales to Native American Tribes.

Some co-managers requested that NMFS use other DPS criteria for significance, such as the ecological role of Southern Resident killer whales in Puget Sound and Georgia Straits. The BRT discussed an array of criteria that may be useful for determining significance, including some not contained in the DPS policy but raised by the petitioners or co-managers. However, only the criteria described in the DPS policy were deemed applicable to assessing the significance of Southern Residents. Based on these criteria, the BRT concluded that Southern Resident killer whales are *not* a DPS of the global species. The criteria before the BRT for considering ''significance'' were sufficient to evaluate whether or not Southern Residents represented a DPS of killer whales. In the notice of joint policy regarding DPS determinations (61 FR 4722, February 7, 1996), NMFS and the U.S. Fish and Wildlife Service discussed the criteria for evaluating a portion of a species as a DPS. The Services noted that the ESA is not intended to establish a comprehensive biodiversity conservation program; rather, the ESA is focused on the protection and recovery of threatened and endangered species or population segments that are discrete and significant to the species and on the ecosystems upon which these particular species depend. In the 1996 policy notice, the Services responded to a comment suggesting that the ''significance'' criteria include a consideration of the affected population's importance to the ecosystem it occupies. The Services noted that most, if not all, populations play a significant role in their ecosystems. The Services also stated, ''On the other hand, populations commonly differ in their importance to the overall welfare of the species they represent, and it is this importance that the (DPS) policy attempts to reflect in the consideration of significance.'' NMFS concurs with other co-manager comments that the issue of classifying Southern Resident killer whales into a particular DPS cannot be resolved until the taxonomic structure of *O. orca* is clarified.

Finding

NMFS has reviewed the petition, the report of the BRT (NMFS, 2002), co-manager comments, and other available information, and has consulted with species experts and other individuals familiar with killer whales. On the basis of the best available scientific and commercial information, the agency finds that the petitioned action is not warranted at this time because the petitioned group of killer whales does not constitute a DPS of the currently recognized species *O. orca*.

The status review revealed uncertainties regarding the taxonomic status of killer whales worldwide. The taxonomy of killer whales that is currently published in the scientific literature includes a single species that includes all killer whales globally. The BRT discussed more recent, but inconclusive, evidence that *O. orca* could be separated from a single, global species into additional species or subspecies. In this case, NMFS recognized that taxonomists may be conservative or liberal in assigning new species and that the relevance of new information may be debated widely before it is generally accepted by the scientific community. Because the recent information related to the taxonomy of killer whales has not been subjected to that scientific debate, NMFS considers the published standard of a single, global species as the best available scientific information. In accordance with the report of the BRT, NMFS finds that Southern Resident killer whales are not a ''species'' under the ESA. Consequently, NMFS finds that listing Southern Resident killer whales as threatened or endangered is not warranted at this time.

As noted in the report of the BRT, NMFS also investigated alternatives to identify whether there is a DPS to which Southern Residents may belong. Although a DPS could not be identified clearly, the BRT evaluated the risk of extinction of other larger potential DPSs by aggregating logical units. For a first logical step in aggregating units of killer whales, the BRT combined the Southern, Northern, and Alaska Residents and simulated the risk of extinction for this aggregation. Simulation results predicted that the extinction risk of that initial aggregation was negligible. Therefore, NMFS cannot identify a DPS to which Southern Residents may belong that is in danger of extinction throughout all or a significant portion of its range or likely to become endangered in the foreseeable future.

NMFS is, however, concerned about the recent decline in the Southern Resident assemblage, and will continue to seek new information on the taxonomy, biology, and ecology of these whales, as well as potential threats to their continued existence. Within 4 years, NMFS will reconsider the taxonomy of killer whales. If the species *O. orca* has been subdivided in a manner that may allow Southern Resident killer whales to be identified as a DPS, NMFS will reconvene a BRT to reassess the status of these whales under the ESA. Also, in light of new information presented in the recently completed status review and in response to some co-manager recommendations, the agency will review the status of Southern Resident killer whales to determine whether they warrant reclassification as a depleted stock under the MMPA. A request for information relevant to making this latter determination is being made via a concurrent notice in the **Federal Register**.

References

A complete list of all cited references is available on the Internet (see Electronic Access) or from NMFS upon request (see **FOR FURTHER INFORMATION CONTACT**).

Dated: June 7, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–16526 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020409080–2155–04; I.D. 061402D]

RIN 0648–AP78

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery

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

ACTION: Proposed interim rule; request for comments.

SUMMARY: NMFS proposes an interim rule under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to implement additional interim measures intended to reduce overfishing on species managed under the Northeast Multispecies Fishery Management Plan (FMP). This rule proposes additional restrictions specified in the Settlement Agreement Among Certain Parties (''Settlement Agreement''), which was ordered to be implemented by the U.S. District Court for the District of Columbia (Court) in a Remedial Order issued on May 23, 2002. The additional measures include the following: A freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996–2000 (beginning May 1, 1996 through April 30, 2001) and a 20-percent cut from that level; a freeze on the issuance of new open access Hand-gear permits, and a decreased cod, haddock, and yellowtail flounder possession limit for that category; increased gear restrictions for certain gear types, including gillnets, hook-gear and trawl nets; restrictions on yellowtail flounder catch; and mandated observer coverage levels for all gear sectors in the Northeast (NE) multispecies fishery. This rule also proposes to continue many of the measures contained in an earlier interim final rule that was published on April 29, 2002, for this fishery. This action is necessary to bring the regulations governing the (NE) multispecies (groundfish) fishery into compliance with the Settlement Agreement Among Certain Parties (Settlement Agreement) and the Court's Remedial Order.

DATES: Comments on this proposed interim rule must be received no later than 5 p.m., local time, on July 16, 2002.

ADDRESSES: Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the August Proposed Interim Rule for Groundfish.'' Comments also may be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

Written comments regarding the approved collection-of-information requirements should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Copes of the rule, including the Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available upon request from the Regional Administrator. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.nmfs.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone: 978–281–9347, fax: 978–281–9135; e-mail: *thomas.warren@noaa.gov*

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2001, a decision was rendered by the Court on a lawsuit brought by the Conservation Law Foundation (CLF), Center for Marine Conservation, National Audubon Society and Natural Resources Defense Council against NMFS (*Conservation Law Foundation, et al.*, v. *Evans*, Case No. 00CVO1134, (D.D.C., December 28, 2001)). The lawsuit alleged that Framework Adjustment 33 to the FMP violated the overfishing, rebuilding and bycatch provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*), as amended by the Sustainable Fisheries Act (SFA). The Court granted Plaintiffs' Motion for Summary Judgment on all counts, but did not impose a remedy. Instead, the Court asked the parties to the lawsuit to propose remedies consistent with the Court's findings. Shortly thereafter, several additional parties were allowed to intervene in the lawsuit for purposes of proposing the appropriate remedy. These parties (''Intervenors'') included the States of Maine, New Hampshire, Massachusetts, and Rhode Island, and three industry groups. Additional background on the lawsuit is contained in the preamble to the interim rules published by NMFS on April 29, 2002 (67 FR 21140), May 6, 2002 (67 FR 30331), and June 5, 2002 (67 FR 38608), and is not repeated here.

From April 5–9, 2002, Plaintiffs, Defendants and Intervenors engaged in Court-sponsored mediation to try to agree upon mutually acceptable short-term and long-term solutions to present to the Court as an appropriate remedy. Although these discussions ended with no agreement, several of the parties continued mediation and filed a Settlement Agreement with the Court on April 16, 2002. In addition to NMFS, the parties signing the agreement include CLF, which is one of the Plaintiff conservation groups, all four state Intervenors, and two of three industry Intervenors.

In order to ensure the implementation of protective management measures by May 1, 2002, NMFS, notwithstanding that the Court had not yet issued its Remedial Order, filed an interim final rule with the Office of the Federal Register on April 25, 2002, for publication on April 29, 2002. The interim final rule that was published on April 29, 2002, implemented measures identical to the short-term measures contained in the Settlement Agreement filed with the Court.

On April 26, 2002, the Court issued a Remedial Order that ordered the promulgation of two specific sets of management measures—one to be effective from May 1, 2002, to July 31, 2002, and the other from August 1, 2002, until promulgation of Amendment 13 to the FMP. The Court-ordered measures for the first set of measures were, in the majority, identical with those contained in the Settlement Agreement and the measures contained in NMFS' April 29, 2002, interim final rule. However, the Court-ordered measures included additional provisions and an accelerated schedule of effectiveness for all measures, which were not contained in either the Settlement Agreement or the April 29, 2002, interim final rule. According to the Court, these additional provisions were included to strengthen the Settlement Agreement provisions ''in terms of reducing overfishing and minimizing bycatch without risking the lives of fishermen or endangering the future of their communities and their way of life.'' Remedial Order, p.13. Further, the Court ordered that NMFS publish in the **Federal Register**, as quickly as possible, an ''amended interim rule and an amended second interim rule'' that would ''include the departures from the Settlement

Agreement incorporated in the Remedial Order.'' To comply with the Court Order, NMFS published a second interim final rule (''amended interim rule'') to modify the measures implemented through the April 29, 2002, interim final rule and to accelerate the effectiveness of the gear restrictions, as required by the Remedial Order. Because the Court's Remedial Order was not entirely consistent with the terms of the Settlement Agreement, NMFS, CLF, and the Intervenors filed motions for reconsideration with the Court, requesting that the Court implement the terms of the Settlement Agreement without change.

On May 23, 2002, the Court issued an Order, in the case of *Conservation Law Foundation, et al.,* v. *Evans et al* (Case No. 001134 GK)(D.D.C. May 23, 2002) granting the motions for reconsideration on the basis that ''the important changes made by the Court in the complex and carefully crafted Settlement Agreement Among Certain Parties * * * would produce unintended consequences.'' The Court ordered that the Settlement Agreement be implemented according to its terms; that the Secretary of Commerce (Secretary) publish an interim rule, effective no later than June 1, 2002, to reduce overfishing in the first quarter of the 2002–2003 fishing year; that the Secretary publish another interim rule to be effective no later than August 1, 2002, to reduce overfishing beginning with the second quarter of the 2002–2003 fishing year, and continuing until implementation of Amendment 13 to the FMP, which complies with the overfishing, rebuilding, and bycatch provisions of the SFA; and that, no later than August 22, 2003, the Secretary promulgate such an amendment to the FMP.

In response to the May 23, 2002, Court Order, on May 31, 2002, NMFS filed an interim rule with the **Federal Register** (67 FR 38608, June 5, 2002) that implemented regulations for the June 1 through July 31, 2002, period, consistent with the Settlement Agreement. This proposed interim rule would implement management measures for the period August 1, 2002, through the implementation of Amendment 13, in accordance with the Settlement Agreement and the Remedial Order. Amendment 13, which will bring the FMP into full compliance with the SFA, is under development by NMFS and the New England Fishery Management Council (Council) and is intended to be implemented by August 22, 2003. This proposed rule is being proposed as an interim action necessary to reduce overfishing consistent with and pursuant to section 305(c) of the Magnuson-Stevens Act, while Amendment 13 is being developed.

Management Measures

All measures that were in effect prior to May 1, 2002, and not amended by this proposed interim rule, remain in effect as of August 1, 2002. These measures, therefore, are not discussed specifically in the description that follows. The following management measures are proposed to be implemented on August 1, 2002. These measures are designed to reduce overfishing on all ''regulated species'' managed under the FMP.

New Regulated Mesh Areas

This interim action would redefine and divide the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area (RMA) into two areas: The GOM RMA, which is the area north of the GOM cod exemption line currently used to define the areas where the GOM cod and GB cod trip limits apply; and the GB RMA, which is that part of the current GOM/GB RMA that lies south of the GOM cod exemption line and continues south to the EEZ for the areas lying east of 69°00′ W. long. The Southern New England (SNE) and Mid-Atlantic (MA) RMAs would also be redefined. The SNE RMA would be defined as the area that lies west of the GB RMA and east of a line beginning at the intersection of 74°00′ W. long. and the south-facing shoreline of Long island, NY, and running southward along the 74°00′ W. long. line. The MA RMA would be defined as the area west of the SNE RMA. Specific management measures would apply, depending on the area fished. For the purposes of the exempted fishery programs already implemented under the FMP, the GOM/GB and SNE RMAs, as defined under Amendment 7, would remain in effect and would be referred to as Exemption Areas.

DAS Freeze

This measure proposes to establish a new DAS baseline, or ''used DAS baseline,'' for each vessel, based on the permit history of that vessel. The used DAS baseline for a limited access permit would be calculated based on the highest number of DAS that a vessel(s) fished during a single fishing year using the 1996 through 2000 fishing years, beginning May 1, 1996, through April 30, 2001, not to exceed the vessel's current DAS allocation in any given year. For vessels where the calculation of the baseline DAS would result in a net amount of DAS less than 10, the vessel would be allocated a used DAS baseline of 10 DAS. For the majority of limited access vessels, the used DAS baseline would be determined by the number of DAS called-in to the NE multispecies DAS program during the May 1, 1996, through April 30, 2001, period. For vessels fishing with a NMFS-approved Vessel Monitoring System (VMS), NE multispecies DAS for each trip would be determined based on when the first hourly location signal was received showing that the vessel crossed the VMS Demarcation Line leaving port, until the first hourly location signal was received showing that the vessel crossed the VMS Demarcation Line upon its return to port, unless the vessel's authorized representative declared the vessel out of the NE multispecies fishery for a specific time period by notifying the Regional Administrator, Northeast Regional Office, NMFS (RA) through the VMS prior to the vessel leaving port. Because some NE multispecies limited access vessels that are currently required to fish under the NE multispecies DAS program were exempt from the DAS requirements prior to July 1, 1996, the implementation date of Amendment 7 (61 FR 2270, May 31, 1996); *i.e.,* vessels in the 45-ft (13.7-m)-and-less, Hook-Gear and Gillnet permit categories; NE multispecies DAS for these vessels during the period May 1, 1996, through June 30, 1996, would be determined based on information derived from the Vessel Trip Reports (VTRs), provided that the VTRs were submitted to NMFS prior to April 9, 2002. The procedure for determining a vessel's used DAS baseline would be the same for vessels that currently possess a Confirmation of Permit History. Vessels that have a valid NE multispecies limited access Small Vessel category permit (vessels 30 ft (9.1 m) or less in length overall) would remain exempt from the NE multispecies DAS restrictions.

As noted above, the used DAS baseline would be calculated based upon historic DAS use associated with the currently valid limited access permit. The DAS associated with a particular permit history may not equal the DAS associated with a particular vessel because vessels may be replaced and the permits transferred from one vessel to another. NMFS will notify vessel owners in writing of their NE multispecies used DAS baselines. A vessel's used DAS baseline may be appealed to the Regional Administrator by August 31, 2002. The request to appeal must be in writing and provide credible evidence that the information used by the Regional Administrator in making the determination of the vessel's used DAS baseline was based on

mistaken or incorrect data. The decision on appeal shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator's decision on appeal is the final decision of the Department of Commerce.

DAS Effort Reduction

This measure would reduce the vessel's baseline level of used DAS, calculated as described above, by 20 percent. This measure would be specific to the 2002 fishing year, beginning May 1, 2002, through April 30, 2003, and for the 2003 fishing year, beginning May 1, 2003, until implementation of Amendment 13 to the FMP. For the 2002 fishing year, NE multispecies DAS that were fished by a vessel during the period May 1 through July 31, 2002, would be deducted from that vessel's total allocated DAS. That is, each vessel's DAS allocation for August 1, 2002, through April 30, 2003, would be equal to that vessel's used DAS baseline, minus 20 percent of that vessel's used DAS baseline, minus the DAS that vessel fished during May through July, 2002. During the period May 1 through July 31, 2002, all NE multispecies DAS vessels are subject to a minimum of 15 hours for each NE multispecies DAS trip that exceeded 3 hours. For the purposes of determining NE multispecies DAS used during the period May through July, 2002, DAS would be counted based on the 15-hour minimum restriction for day gillnet vessels only. DAS for all other vessels fishing under a NE multispecies DAS during May through July, 2002, would be counted as actual time.

Vessels for which the amount of NE multispecies DAS available for use as of August 1, 2002, would be less than or equal to the DAS fished during the May through July 2002, period, the vessel would be left with zero NE multispecies DAS for the remainder of the fishing year, unless the vessel had carry-over DAS from the previous fishing year (see description below of how carry-over DAS would apply).

Vessels that have a monkfish Category C or D permit (i.e., vessels that possess both a monkfish and a limited access NE multispecies DAS permit) must run both their monkfish DAS clock and the NE multispecies DAS clock concurrently when fishing under a monkfish DAS. Limited access monkfish permit holders are allocated 40 monkfish DAS (under the monkfish FMP). Under the proposed measure, vessels for which the NE multispecies DAS reduction would result in the vessel having more monkfish DAS allocated than NE multispecies DAS, such vessels could still fish under a monkfish DAS when NE multispecies DAS are no longer available, but would then be required to fish under the provisions of a monkfish Category A or B vessel, i.e., limited access monkfish vessels that do not possess a limited access NE multispecies permit. For example, if a monkfish category D vessel's NE multispecies DAS allocation were 30, and the vessel fished 30 monkfish DAS, 30 NE multispecies DAS would also be used. However, after all 30 NE multispecies DAS were used, the vessel could utilize its remaining 10 monkfish DAS to fish on monkfish, without a NE multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a category B vessel and does not retain any regulated multispecies.

DAS Carry-Over From Fishing Year 2001

Under measures promulgated through a previous NE multispecies interim final rule (67 FR 21140, April 29, 2002), effective May 1, 2002, through July 31, 2002, a vessel is allowed to use no more than 25 percent of its annual NE multispecies DAS allocation during May-July, 2002. However, because carry-over DAS are not considered part of a vessel's allocated DAS, carry-over DAS from the previous fishing year are not allowed to be used when determining the 25-percent of DAS that can be used during the May-July, 2002, period; consequently, carry-over DAS are not allowed to be fished during that period. Under this proposed interim rule, vessels would be allowed to fish any carry-over DAS from the 2001 fishing year beginning August 1, 2002, through April 30, 2003. These carry-over DAS would be in addition to the vessel's 2002 NE multispecies DAS allocation and would, therefore, be factored into that vessel's total NE multispecies DAS available for the 2002 fishing year, after the 20-percent DAS reduction and after the DAS fished during the May-July period are deducted from that vessel's used DAS baseline. For example, if a vessel's used DAS baseline is 50 DAS and it has carry-over DAS from fishing year 2001, its total DAS for the fishing year would equal: 50 DAS − 20 percent of used DAS baseline (10 DAS)—DAS fished during May-July 2002 + carry-over DAS from fishing year 2001. If the vessel fished 22 DAS during May-July and had 10 carry-over DAS from fishing year 2001, under this example the vessel would be allowed to fish up to 28 DAS during the period August 1, 2002, through April 30, 2003 (50 DAS − 10 DAS − 22 DAS + 10 DAS = 28 DAS).

Freeze on Issuance of New Handgear Permits

Under this proposed interim rule, vessels that have never been issued an open access NE multispecies Handgear permit, or that have not applied for an open access Handgear permit by August 1, 2002, would be prohibited from obtaining a Handgear permit for the duration of this action.

Prohibition on Front-Loading the DAS Clock

NE multispecies regulations prior to May 1, 2002, require that, at the end of a vessel's trip, upon its return to port, the vessel owner or owner's representative must call NMFS to notify NMFS that the trip has ended, thus ending a DAS. However, there is no restriction on when a vessel can start its DAS clock. Consequently, some vessel owners start their DAS clock well in advance of the actual departure of the vessel, a practice known as ''front-loading.'' Front-loading is prohibited through July 31, 2002, as a result of the interim rule published April 29, 2002; this proposed interim rule would continue that prohibition for the duration of this action.

Under this proposed measure, a vessel owner or authorized representative would be required to notify NMFS no earlier than 1 hour prior to the vessel leaving port to fish under the NE multispecies DAS program. A DAS would begin once the call has been received and a confirmation number is given. This measure would apply in all management areas.

Closed Area Additions/Modifications

This measure would implement additional seasonal and year-round area closures. Specifically, this action proposes to continue, in its current configuration, the closure of the Western Gulf of Maine (WGOM) Area Closure. This action would also expand Rolling Closure Area III by closing area blocks 124 and 125 for the month of May, 2003, and expand Rolling Closure Area IV by closing area blocks 132 and 133 for the month of June, 2003. This action would further expand the Bank Seasonal Closure Area by closing blocks 80 and 81 and the portion of blocks 118–120 that are south of 42°20′ N. lat. during the month of May, 2003.

Additionally, the Cashes Ledge Closure Area, in its original configuration, would be closed for the duration of the interim final rule.

Exemptions to the current GOM rolling closure areas would remain the

same for the expanded rolling closures and the expanded GB Seasonal Closure Area that would be implemented by this proposed interim rule. All of the current exemptions are proposed to apply to the WGOM and Cashes Ledge Closure Areas, with the following exceptions: Vessels are prohibited from fishing with scallop dredge gear or fishing in the Raised Footrope Trawl Exempted Whiting Fishery.

Finally, this interim action would open an inshore area from January through March, which corresponds to area blocks 124 and 125, by eliminating the groundfish January Massachusetts Bay-Stellwagen Bank Conditional Closure Area and the February Rolling Closure Area VI, and by eliminating blocks 124 and 125 from the March Rolling Closure Area I. All other closure areas would remain unchanged. Charts of the proposed closure areas are available from the Regional Administrator upon request (see **ADDRESSES**).

Gear Restrictions

Trawl Vessels When Fishing in the GOM, GB, and Mid-Atlantic RMAs

Under this proposed interim rule, vessels fishing with otter trawl gear, and fishing any part of a NE multispecies DAS in the GOM, GB, or Mid-Atlantic RMAs, would be required to fish with a minimum 6.5-inch (16.5-cm) diamond or square mesh codend. This requirement applies only to the codend of the net; the minimum mesh-size for the remaining portion of the net would remain unchanged, i.e., 6.0-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof, throughout the remaining portion of the net. Trawl vessels that currently fish with 6.5-inch (16.5-cm) square mesh throughout the entire net would not be subject to mesh changes under the proposed interim rule. For vessels fishing with a 6.5-inch (16.5-cm) diamond mesh codend, or for vessels fishing with a 6.5-inch (16.5-cm) square mesh codend and a combination of square mesh and diamond mesh throughout the remaining portions of the net, the codend would be defined as follows: 25 meshes for diamond mesh, or 50 bars in the case of square mesh, from the terminus of the net for vessels 45 ft (13.7 m) in length and less; and 50 meshes for diamond mesh, or 100 bars in the case of square mesh, from the terminus of the net for vessels greater than 45 ft (13.7 m) in length.

Trawl Vessels When Fishing in the SNE RMA

Under this proposed interim rule, when fishing any part of a NE multispecies DAS in the SNE RMA, otter trawl vessels would be required to fish with a minimum 7.0-inch (17.8-cm) diamond or 6.5-inch (16.5-cm) square mesh codend. This requirement would apply only to the codend of the net; the minimum mesh-size for the remaining portion of the net would remain unchanged, *i.e.*, 6.0-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof, throughout the remaining portion of the net. As in the GOM and GB RMAs, trawl vessels that currently fish with 6.5-inch (16.5-cm) square mesh throughout the entire net would not be subject to mesh changes under this rule. For vessels fishing with a 7.0-inch (17.8-cm) diamond mesh codend, or for vessels fishing with a 6.5-inch (16.5-cm) square mesh codend and a combination of square mesh and diamond mesh throughout the remaining portions of the net, the codend would be defined as described above under the GOM and GB trawl mesh restrictions.

Gillnet Vessels When Fishing in the GOM RMA

Under this proposed interim rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GOM RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels that obtain an annual designation as a Trip gillnet vessel, when fishing in the GOM RMA during any part of a trip under a NE multispecies DAS, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted to 150 nets, with one tag fixed to each net. Multispecies vessels that obtain an annual designation as a Day gillnet vessel would be allowed to fish up to 100 nets, provided that, when fishing any part of a trip under a NE multispecies DAS in the GOM RMA, the vessel complies with the following specifications: When fishing with flatfish nets, vessels could fish no more than 100 nets, with a minimum mesh size of 7 inches (17.8 cm), with one tag affixed to each net; and when fishing with roundfish nets, vessels would be restricted to fishing during July through February of each fishing year only, and would be allowed to fish no more than 50 nets with a minimum mesh size of 6.5 inches (16.5 cm) and with two tags affixed to each net. Any tag not affixed to a net would have to be retained on the vessel and be immediately available for inspection.

Gillnet Vessels When Fishing in the GB RMA

Under this proposed interim rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the GB RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the GB RMA during any part of a trip under a NE multispecies DAS, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted from fishing more than 50 nets, with two tags fixed to each net.

Gillnet Vessels When Fishing in the SNE RMA

Under this proposed interim rule, limited access NE multispecies vessels that fish under a NE multispecies DAS with gillnet gear in the SNE RMA at any time throughout the fishing year would be required to declare into the Day or Trip gillnet category. Vessels fishing under either the Day or Trip gillnet category in the SNE RMA during any part of a trip under a NE multispecies DAS, would be required to fish with nets with a minimum of 6.5-inch (16.5-cm) mesh and would be restricted from fishing more than 75 nets, with two tags fixed to each net.

Gillnet Vessels When Fishing in the Mid-Atlantic RMA

The minimum mesh size restrictions and number of nets required for gillnet vessels when fishing in the Mid-Atlantic RMA under a NE multispecies DAS would remain unchanged. That is, vessels would be allowed to continue to fish up to 160 nets. This net restriction is different than the net restriction of 150 nets, as in the Settlement Agreement and Court order, for vessels fishing under the monkfish DAS program.

Gillnet Vessels When Fishing Under a Monkfish DAS

Under this proposed interim rule, monkfish vessels that have a monkfish limited access Category C or D permit (i.e., vessels that possess both a monkfish and NE multispecies limited access permit) and that are fishing under a monkfish DAS in all areas would be restricted from fishing more than 150 nets, provided the vessel fishes with nets with a minimum mesh size of 10 inches (25.4 cm). Vessels would be required to affix one tag to each net.

Category A and B monkfish vessels would be unaffected by the proposed measures.

Large-Mesh Vessel Permit Categories

Under this proposed interim rule, vessels that have a valid limited access NE multispecies Large Mesh Individual DAS category or a Large Mesh Fleet DAS category permit would be required to fish with nets with mesh that is 2.0 inches (5.1-cm) larger than the current regulated mesh size when fishing under the NE multispecies DAS program. That is, when fishing in the GOM, GB, and SNE RMAs, vessels fishing with trawl nets or sink gillnets would be required to fish with nets with a minimum mesh size of 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. Vessels fishing with trawl nets or sink gillnets when fishing in the Mid-Atlantic RMA would be required to fish with nets with a minimum mesh size of 7.5-inch (19.0-cm) diamond or 8.0-inch (20.3-cm) square mesh throughout the entire net.

Hook-Gear Vessels

Under this proposed interim rule, vessels that have a valid NE multispecies limited access Hook-Gear permit would be prohibited from using de-hookers (crucifiers) with less than 6-inch (15.2-cm) spacing between the fairlead rollers. Hook-Gear permitted vessels that are fishing any part of a NE multispecies DAS trip in the GOM, GB or SNE RMAs would be required to use 12/0 or larger circle hooks. In addition, Hook-Gear vessels that are fishing any part of a DAS trip in the GOM, GB and SNE RMAs would be subject to a maximum number of rigged hooks on board the vessel. Specifically, vessels fishing in the GOM or SNE RMAs would be restricted from possessing more than 2,000 rigged hooks, and vessels fishing in the GB RMA would be restricted from possessing more than 3,600 rigged hooks.

Table 1 summarizes the gear restriction measures for each gear sector when fishing in the various RMAs.

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Table 1. - Gear Restrictions by Regulated Mesh Areas

	GOM	GB	SNE	Mid-Atl
MINIMUM MESH SIZE RESTRICTIONS FOR GILLNET GEAR				
NE Multispecies Day Gillnet Category*	July-February only: Roundfish nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	Roundfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 80-net allowance; 2 tags/net
	Year-round: Flatfish nets 7.0" (17.8 cm) mesh; 100-net allowance; 1 tag/net			Flatfish nets 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; 160-net allowance 1 tag/net;
NE Multispecies Trip Gillnet Category*	All nets 6.5" (16.5 cm) mesh; 150-net allowance; 1 tag/net	All nets 6.5" (16.5 cm) mesh; 50-net allowance; 2 tags/net	All nets 6.5" (16.5 cm) mesh; 75-net allowance; 2 tags/net	All gillnet gear 5.5" (14.0 cm) diamond or 6.0" (15.2 cm) square mesh; No net limit;no tag requirement
Monkfish Vessels**	10" (25.4 cm) mesh/150-net allowance			
	1 tag/net			
MINIMUM MESH SIZE RESTRICTIONS FOR TRAWL GEAR				
Codend only mesh size*	6.5" (16.5 cm) diamond or square		7.0" (17.8 cm) diamond or 6.5" (16.5 cm) square	6.5" (16.5 cm) diamond or square
Large Mesh Category - entire net	8.5" (21.59 cm) diamond or square			7.5" (19.0 cm) diamond or 8.0" (20.3 cm)
MINIMUM NUMBER OF HOOKS AND SIZE RESTRICTIONS FOR HOOK-GEAR				
Hook-Gear Category	2,000 hooks	3,600 hooks	2,000 hooks	4,500 hooks (no change)
	No less than 6" (15.2 cm) spacing allowed between the fairlead rollers			
	12/0 circle hooks required			N/A

* When fishing under a NE multispecies DAS
** Monkfish category C and D vessels when fishing under a monkfish DAS

BILLING CODE 3510–22–C

Cod Minimum Fish Size (Commercial Vessels)

Under this proposed interim rule, the minimum size for cod that may be lawfully sold would be 22 inches (55.9 cm)(total length).

NE Multispecies Possession Restrictions

Yellowtail Flounder

This proposed interim rule would require enrollment in one of two exemption programs for any possession of yellowtail flounder and implement restrictions on the harvest of yellowtail flounder when fishing west or south of the GB RMA. During the period March 1 through May 31, all vessels would be subject to a possession and landing limit of 250 lb (113.4 kg) of yellowtail flounder per trip when fishing any part of a trip in the SNE RMA north of 40°00′ N. lat. In addition, during the period June 1 through February 28, all vessels

would be subject to a possession and landing limit of 750 lb (340.3 kg) of yellowtail flounder per day, and a maximum trip limit of 3,000 lb (1,361.2 kg) per trip when fishing any part of trip in the SNE RMA north of 40°00′ N. lat. Vessels fishing for yellowtail flounder in the SNE RMA north of 40°00′ N. lat. would be allowed to possess and land up to the seasonal yellowtail allowable limits, provided the vessel does not fish south of 40°00′ N. lat. and has on board a SNE yellowtail flounder exemption certificate issued by the RA. Under this proposed interim rule, all vessels would be prohibited from possessing yellowtail flounder in the MA or SNE RMAs unless fishing north of 40°00′ N. lat., or unless the vessel is transiting areas south of 40°00′ N. lat. and all fishing gear on board the vessel is properly stowed according to the regulations. Vessels fishing east or north of the SNE RMA would not be subject to the yellowtail flounder possession limit restrictions, provided that the vessel does not fish west of the GB RMA, and posseses on board a GOM/GB yellowtail flounder exemption certificate issued by the RA. Vessels exempt from the yellowtail possession limit requirements could transit areas outside of the specific exempted area that they are fishing, provided that their gear is stowed in accordance with one of the provisions of § 648.23(b).

Handgear Permitted Vessels

Under this proposed interim action, the cod, haddock and yellowtail flounder possession limit for vessels that have been issued a valid open access Handgear permit would be reduced to 200 lb (90.7 kg), combined, per trip.

GB Cod Trip Limit Modification

This action would modify how the DAS clock would accrue for those vessels fishing in the GB RMA and harvesting GB cod. The GB cod trip limit would be maintained at 2,000 lb (907.2 kg) per DAS, up to a maximum possession limit of 20,000 lb (9,071.8 kg) per trip. A vessel subject to this landing limit restriction would come into port with, and offload, cod in excess of the landing limit, as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that the vessel operator does not call out of the DAS program and does not depart from a dock or mooring in port until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded. For example, a vessel that has been called into the DAS program for 25 hr, at the time of landing, may land only up to 4,000 lb (1,814.8 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip. This modification is consistent with the GOM cod trip limit provisions in the NE multispecies regulations. A vessel that would be required to remain in port for the time that it must run its DAS clock could transit to another port during that time, provided the operator notifies the Regional Administrator according to provisions specified in § 648.86(b)(3).

GOM Cod

This action would increase the daily possession limit for GOM cod from 400 lb (181.8 kg) per DAS to 500 lb (227.3 kg) per DAS. The maximum possession limit would remain at 4,000 lb (1,818.2 kg) per trip.

Recreational and Charter/Party Vessel Restrictions

Under this action, the minimum size for cod and haddock that may be retained by a federally permitted charter/party vessel not on a DAS, or a private recreational vessel not holding a Federal permit and fishing in the EEZ, would be 23 inches (58.4 cm) total length.

This action would implement a cod and haddock bag (possession) limit for the charter/party recreational fishing sector when a vessel is fishing in the GOM RMA and not under a DAS. During the period April through November, each person on a charter/party vessel not under a DAS would be allowed to possess no more than 10 cod or haddock, combined, per trip. For each trip during the period December through March, each person on a charter/party vessel not under a DAS would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which could be cod. This action would further restrict the cod possession limit for private recreational vessels by requiring that, when fishing in the GOM RMA during the period December through March, each person on a recreational vessel would be allowed to possess no more than 10 cod or haddock combined, no more than 5 of which could be cod. Cod and haddock harvested by recreational vessels with more than one person aboard could be pooled in one or more containers. Compliance with the possession limit would be determined by dividing the number of fish on board by the number of persons on board.

For a vessel that intends to charter/party fish in the GOM closed areas, this proposed interim rule would require that the vessel possess on board a letter of authorization (LOA) issued by the RA. This LOA would be required for the entire fishing year if the vessel intends to fish in the year-round GOM closure areas, and for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas. Vessels could obtain an LOA by calling the NMFS Permit Office at 978–281–9370.

All other existing recreational measures remain unchanged, including the no-sale provision for all fish caught for both the party/charter and private recreational sectors when not fishing under a NE multispecies DAS. Table 2 summarizes the party/charter and private recreational sector measures.

TABLE 2.—CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES

	Minimum fish size, inches cod & haddock [1]	Bag limit (combined)	GOM closure exemption authorization
Charter/party not on a DAS	23	*April–November:* 10 cod/haddock [2] *December–March:* 10 cod/haddock, no more than 5 which can be cod [2]	A minimum of 3 months, or duration of closure.
Private Recreational	23	*Areas outside of GOM RMA:* 10 cod/haddock *GOM RMA:* 10 cod/haddock, no more than 5 which can be cod, Dec.–Mar.	N/A

[1] All other minimum fish sizes remain unchanged.
[2] When fishing in the GOM RMA.

Observer Coverage

NMFS has been ordered by the Court, by August 1, 2002, to expand its observer coverage in the NE multispecies fishery by providing a minimum of 5-percent coverage, to monitor and collect information on bycatch, as well as other biological and fishery-related information. Additionally, NMFS has been ordered, by May 1, 2003, to expand further its observer coverage, if appropriate.

Classification

By the terms of the Court order which implemented the Settlement Agreement final rulemaking of this action is required to be made effective no later than August 1, 2002. This rule has been determined to be significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the SUMMARY section of the preamble and in the IRFA. A summary of the analysis follows.

The analysis considered three alternatives: The Preferred Alternative, the No Action Alternative, and a Hard TAC Alternative. Analysis of the Preferred Alternative examined the impacts on industry that would result from the Settlement Agreement. Analysis of the No Action alternative examined the impacts on industry that would result from leaving all current management measures in place and allowing fishing inside the WGOM Area Closure. Analysis of the hard TAC alternative examined the impacts to the industry under two different options for how TACs would be implemented: Option 1 was based on achieving a zero fishing mortality rate for all stocks that would have a zero management TAC under Amendment 9 to the FMP; Option 2 assumed that, rather than reducing fishing mortality to absolute zero for those stocks with a management TAC of zero under Amendment 9, management measures would reduce the fishing mortality on those stocks to as close to zero as possible. The economic impacts of the first two alternatives were analyzed and described according to the type of management measure as follows: (a) Commercial measures that were modeled (DAS restrictions, area closures, and trip limits); (b) commercial measures that were not modeled (changes to the open access hand gear category, prohibition on frontloading, prohibition on de-hooker use, mesh size restrictions, and limitations on the number of gillnets and hooks); and (c) recreational measures (private recreational vessel and party/charter). The hard TAC alternative is a fundamentally different type of management scheme and was examined in terms of the economic impacts that would result under the two TAC options that were considered. Option 1 would result in a total closure of GB, a significant portion of southern New England, and Long Island Sound to all gear that is capable of catching groundfish in any significant numbers. Option 2 would result in approximately a 35-percent reduction in the total number of DAS used by all vessels in 1999—a significant reduction in effective effort across the entire commercial fishery.

The proposed action (Preferred Alternative) would have a nominal effect on all NE multispecies permit holders (1,442 limited access, 1,812 open access hand gear, and 610 open access party/charter), all of which may be considered small entities according to the Small Business Administration standards for commercial fishing vessels. The number of actual participants in the NE multispecies fishery is less than the total number of those eligible to participate in the fishery (*i.e.,* not every vessel holding a permit for the fishery actually fishes in a given year); the number of participating vessels that may actually be affected by any one or more of the regulatory measures is estimated to be 37 percent of the permit holders.

The Preferred Alternative measures would result in an aggregate reduction in total groundfish income of 4.2 percent. On an individual vessel basis, about 25 percent (approximately 250) of the participating limited access vessels would experience at least a 5-percent loss in gross annual fishing revenues (relative to the No Action Alternative). Ten percent of the participating limited access vessels would experience at least a 16-percent loss in gross annual fishing revenues. In contrast, fishing revenues would increase for approximately 25 percent of the vessels due to modifications in the area closures and an increase in the GOM cod trip limit. Among those adversely impacted, small otter trawl vessels would be most affected. Vessels positively affected would be gillnet or hook vessels, due to the proposed increase in the GOM cod trip limit and the fact that, for these vessels, cod constitutes a much higher proportion of their total fishing income than it does for other vessels. Detailed cost data, and the analytical tools necessary for calculation of profitability changes that could result from the proposed measures were not available. While profitability of small entities could be affected, it was not possible to estimate such changes. Similarly, it was not possible to estimate the impacts of the proposed action on solvency of small entities. Furthermore, because this is only an interim action, analysis of impacts on long-term profitability or solvency of small entities, even if the necessary data were available, would not be appropriate. NMFS does not have the data to make a determination regarding long-term profitability or solvency at this time. Therefore, NMFS is requesting comments on this issue during the comment period on this proposed interim rule. Long-term impacts will be analyzed in association with Amendment 13 to the FMP, which will replace this interim action.

For some vessel owners, the new DAS restrictions will not allow them to fish the number of days that they would need to cover their fixed costs. Based on a break-even analysis, the number of such vessels could be as high as 213 vessels (22 percent). This estimate, however, is probably an overestimation, due to limitations in the data. It is likely that the number of vessels that could not break even is substantially less than 213.

The proposed reduction in the trip limit for the open access hand gear permit category would affect about one half of the 172 permit holders that reported fishing activity. The average loss was estimated to be $33,700 per vessel. The impact of the front-loading prohibition was estimated based on landings associated with front-loading trips. The prohibition would decrease income by approximately $911 to $1,450 per trip. The following table summarizes the estimated cost to replace trawl codends and gillnet gear that would result from the proposed changes in mesh size requirements.

TABLE 3.—ECONOMIC IMPACT OF MESH SIZE INCREASE—(GEAR REPLACEMENT)

Gear	Number of Vessels analyzed	Average vessel cost
Trawl (replace cod end)	424 (GOM or GB) 211 SNE	$1,250
Day Gillnet in GOM (tie-down nets)	18	7,794
Day Gillnet in GOM (stand-up nets)	31	9,300
Trip Gillnet in GOM	25	18,352
Gillnets in GB or SNA	32	8,800

The proposed measures (for GOM cod) affecting charter/party vessels may result in a loss of revenue due to decreased passenger demand. Based on historic cod landings, the majority of economic impacts will likely be borne by the 20–25 charter/party operators that catch 80 percent of the recreationally harvested GOM cod.

Although there may be alternative sets of management measures to those contained in this proposed rule that would accomplish the objectives, this proposed rule represents the measures agreed to in the Settlement Agreement that was negotiated by numerous interested parties.

Relative to the Preferred Alternative, the No Action Alternative would mitigate most of the adverse economic impacts associated with the Preferred Alternative. In general, gross fishing incomes would increase, particularly for vessels operating in the GOM and would have particularly beneficial impacts on small vessels and gillnet vessels in general. However, the No Action alternative also would result in unacceptably high increases in fishing mortality rates that could compromise the rebuilding of several GOM stocks, GOM cod in particular. For this reason, the No Action alternative would not meet the regulatory objectives of this action.

Relative to the Preferred Alternative, the Hard TAC Alternative would impact more significantly the NE multispecies fishery because of the severe consequences of closing down fisheries when a TAC is reached. The economic and social impacts of either option considered under this alternative would be very severe, if not irreparable. Option 1 would severely impact (essentially do away with) the NE multispecies fishery on GB and southern New England in the near term, and would largely prohibit the monkfish, sea scallop, and spiny dogfish fisheries from operating in that area, as well. Option 2 would prohibit hook and roundfish gillnet gear from GB and allow some low level of trawl fishing, but with a bycatch trigger for GB cod that would likely close the fishery at sometime during the fishing year. Many small entities might either go out of business or would have to relocate. To the extent that participants in the industry could do so, many would be expected to shift effort into other fisheries for which they have permits or could acquire permits for, or that are open access, and/or would shift fishing effort northward, to the GOM, or to south of GB. Fisheries that do not use gear capable of catching groundfish, such as purse seines, traps, and mid-water trawls, would be unaffected by the restrictions, but could experience increases in effort displaced from the groundfish, monkfish, scallop, and other fisheries that would be restricted under Option 1. The primary impact on the recreational fishery would be the prohibition on retention of GB cod. In any event, neither the No Action Alternative nor the Hard TAC Alternative could be implemented because they were not agreed to in the Settlement Agreement ordered to be implemented by the Court.

The compliance requirements associated with the proposed measures are the two yellowtail exemption programs described previously in this document, and the used DAS baseline appeal procedure, if applicable.

This proposed action does not duplicate other Federal rules and takes into consideration the monkfish regulations under § 648.92 in order to be consistent with the objectives of the Monkfish Fishery Management Plan.

Because the terms of the Settlement Agreement accepted by the Court require a final rule to be made effective no later than August 1, 2002, the opportunity for public comment on this proposed rule is abbreviated to 15 days. A longer comment period would likely prevent NMFS from meeting the August 1, 2002, deadline. In addition, the proposed measures were developed in cooperation with and after input from one of the conservation group plaintiffs and all of the intervenors who represent four New England States and a sizable portion of the fishing industry.

This proposed interim rule includes new collection-of-information requirements and references to previously-approved requirements subject to the Paperwork Reduction Act (PRA). The following collection-of-information requirements have been previously approved by OMB under control number 0649–0202. The estimated times per response for these collections are as follows: 30 minutes for a new vessel permit application; 15 minutes for a renewal application for a vessel permit; 5 minutes for a gillnet annual declaration and request for tags; 1 minute for attaching a gillnet tag; 2 minutes to report lost and/or ask for replacement of lost gillnet tags; 2 minutes for a DAS notification; 2 minutes for a transit report for a vessel that has exceeded the cod landing limit; and 5 minutes to request an LOA for either the Cultivator shoals, Nantucket shoals dogfish, Nantucket lightship, SNE little tunny gillnet, small-mesh northern shrimp fishery, mid-Atlantic, Rolling Closure Area charter/party boat, and GOM charter/party boat exemption programs. Requests for an LOA for the whiting raised footrope trawl exempted fishery have been approved under OMB control number 0648–0422, with an estimated response time of 2 minutes.

This action contains two new collection-of-information requirements that have been submitted to OMB for approval. A response time of 2 minutes has been estimated for requests for entry onto one of two exemption programs for vessel owners choosing to fish for yellowtail flounder in the SNE, GB/GOM RMAs. A response time of 2 hours has been estimated for appeals of used baseline DAS determinations.

The aforementioned response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates, or any other aspect of the data requirements, including suggestions for reducing the

burden, to NMFS and OMB (*see* **ADDRESSSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS prepared a draft Environmental Assessment (EA) for this interim action. A copy of the EA is available from NMFS (*see* **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows: [1]

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, the definitions of ''Non-exempt species'', and ''Prior to leaving port'' are revised, and new definitions for ''De-hooker'', ''Private recreational fishing vessel'', and ''Used DAS baseline'' are added in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

De-hooker, with respect to the NE multispecies hook gear fishery, means the fairlead rollers when used in a manner that extracts fish hooks from caught fish, also known as ''crucifiers.''

* * * * *

Non-exempt species means species of fish not included under the GOM, GB and SNE Regulated Mesh Area exempted fisheries, as specified in § 648.80(a)(5); (a)(6); (a)(9) through (14); (b)(3)(i) and (ii); (b)(5) through (8); and (d), (e), (h), and (i).

* * * * *

Prior to leaving port, with respect to the call-in notification system for NE multispecies, and the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category C or D permit provisions, means no more than 1 hour prior to the time a vessel leaves the last dock or mooring in port from which that vessel departs to engage in fishing, including the transport of fish to another port. With respect to the call-in notification system for monkfish vessels that are fishing under the limited access monkfish Category A or B permit provisions, it means prior to the last dock or mooring in port from which a vessel departs to engage in fishing, including the transport of fish to another port.

Private recreational fishing vessel, with respect to the NE multispecies fishery, means a vessel engaged in recreational fishing that has not been issued a Federal NE multispecies permit, does not sell fish, and does not take passengers for hire.

* * * * *

Used DAS baseline, with respect to the NE multispecies fishery, means the number of DAS that represent the historic level of DAS use associated with a particular limited access permit, as described in § 648.82(l).

* * * * *

3. In § 648.4, paragraphs (a)(1)(i)(I)(*2*) and (c)(2)(iii) are revised to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(I) * * *

(*2*) The owner of a vessel issued a limited access multispecies permit may request a change in permit category, unless otherwise restricted by paragraph (a)(1)(i)(I)(*1*) of this section. The owner of a limited access multispecies vessel eligible to request a change in permit category must elect a category upon the vessel's permit application and will have one opportunity to request a change in permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit, unless otherwise allowed under § 648.82(b). If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel permit category will remain unchanged for the duration of the fishing year. A vessel may not fish in more than one multispecies permit category during a fishing year, unless otherwise allowed under § 648.82(b).

* * * * *

(c) * * *

(2) * * *

(iii) An application for a limited access multispecies permit must also contain the following information: For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). A vessel owner electing a Day or Trip gillnet designation must indicate the number of gillnet tags that he/she is requesting and must include a check for the cost of the tags. A permit holder letter will be sent to the owner of each eligible gillnet vessel informing him/her of the costs associated with this tagging requirement and directions for obtaining tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year, unless otherwise allowed in this paragraph. For the 2002 fishing year, vessels electing a Day or Trip gillnet designation will be allowed to change their designation prior to September 1, 2002, and will be allowed to fish under this new designation during the period September 1, 2002, through April 30, 2003. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

* * * * *

4. In § 648.10, paragraph (c)(1) is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(c) * * *

(1) Less than 1 hour prior to leaving port, for vessels issued a limited access NE multispecies permit or, for vessels issued a limited access NE multispecies permit and a limited access monkfish Category C or D permit, and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional Administrator and providing the following information: Owner and caller name and phone number, vessel's name and permit number, type of trip to be taken, port of departure, and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator, or when a vessel leaves port, whichever occurs first.

* * * * *

[1] The amendments to 50 CFR part 648 published at 67 FR 21140 (April 29, 2002) are effective through July 31, 2002.

5. In § 648.14, paragraphs (a)(35), (a)(42), (a)(43), (a)(45), (a)(47), (a)(52), (a)(102), (a)(112), (a)(116), (b)(2), (c)(7), (c)(8), (c)(13) through (15), (c)(23), (c)(26), (c)(29), (c)(31), and (z)(2)(i) are revised, paragraphs (a)(123) through (126), (b)(3) through (5), and (c)(32), (c)(33) and (c)(34) are added, and paragraph (c)(20) is removed and reserved, to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(35) Fish with, use, or have on board, within the areas described in § 648.80(a)(1) and (2), nets with mesh size smaller than the minimum mesh size specified in § 648.80(a)(3) and (4), except as provided in § 648.80(a)(5) through (8), (a)(9), (a)(10), (a)(15), (d), (e), and (i), unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(42) Fish within the areas described in § 648.80(a)(6) with nets of mesh smaller than the minimum size specified in § 648.80(a)(3) or (4).

(43) Violate any of the provisions of § 648.80, including paragraphs (a)(5), the small-mesh northern shrimp fishery exemption area; (a)(6), the Cultivator Shoal whiting fishery exemption area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals dogfish fishery exemption area; (a)(12), the Nantucket Shoals mussel and sea urchin dredge exemption area; (a)(13), the GOM/GB monkfish gillnet exemption area; (a)(14), the GOM/GB dogfish gillnet exemption area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (b)(3), exemptions (small mesh); (b)(5), the SNE monkfish and skate trawl exemption area; (b)(6), the SNE monkfish and skate gillnet exemption area; (b)(7), the SNE dogfish gillnet exemption area; (b)(8), the SNE mussel and sea urchin dredge exemption area; or (b)(9), the SNE little tunny gillnet exemption area. Each violation of any provision in § 648.80 constitutes a separate violation.

* * * * *

(45) Fish for, harvest, possess, or land in or from the EEZ northern shrimp, unless such shrimp were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5).

* * * * *

(47) Fish for the species specified in § 648.80(d) or (e) with a net of mesh size smaller than the applicable mesh size specified in § 648.80(a)(2) or (3), (b)(2), or (c)(2), or possess or land such species, unless the vessel is in compliance with the requirements specified in § 648.80(d) or (e), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(52) Enter, be on a fishing vessel in, or fail to remove gear from, the EEZ portion of the areas described in § 648.81(g)(1) through (i)(1), and (n)(1), except as provided in § 648.81(d), (g)(2), (h)(2), (i)(2), and (n)(2).

* * * * *

(102) Enter or fish in the Gulf of Maine, Georges Bank, and Southern New England Regulated Mesh Areas, except as provided in §§ 648.80(a)(3)(vi) and (b)(2)(vi), and for purposes of transiting, provided that all gear (other than exempted gear) is stowed in accordance with § 648.23(b).

* * * * *

(112) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(9)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5)(ii) or (a)(9)(ii).

* * * * *

(116) Fish for, harvest, possess, or land any species of fish in or from the GOM/GB Inshore Restricted Roller Gear Area described in § 648.80(a)(3)(v) with trawl gear where the diameter of any part of the trawl footrope, including discs, rollers or rockhoppers, is greater than 12 inches (30.48 cm).

* * * * *

(123) Fish for, land, or possess NE multispecies harvested with the use of de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(124) Possess or use de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers while in possession of NE multispecies, unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(125) For vessels issued a limited access NE multispecies permit, or those issued a limited access NE multispecies permit and a limited access monkfish Category C or D permit, call into the DAS program prior to 1 hour before leaving port.

(126) Call in DAS in excess of that allocated under the methods described in § 648.82(l).

(b) * * *

(2) If the vessel has been issued a charter/party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(g)(2)(iii) when fishing in the areas described in § 648.81(g)(1) through (i)(1), during the time periods specified in those sections.

(3) Possess in, or harvest from the EEZ southward of 40°00′ N. lat., any yellowtail flounder unless fishing under recreational or charter/party regulations, or transiting in accordance with § 648.23(b).

(4) Possess in, or harvest from the EEZ in the Southern New England Regulated Mesh Area northward of 40°00′ yellowtail flounder in excess of the seasonal possession or trip limits under § 648.86(h)(2).

(5) Fail to comply with the restrictions described in § 648.86(h)(1), if fishing for, possessing or landing yellowtail flounder in the SNE Regulated Mesh Area north of 40°0′ N. lat.

(c) * * *

(7) Possess or land per trip more than the possession or landing limits specified under § 648.86(a), (b), (c), (d), (e), and (h), and under § 648.82(b)(3), if the vessel has been issued a limited access multispecies permit.

(8) Fail to comply with the restrictions on fishing and gear specified in § 648.80(a)(3)(v), (a)(4)(v), and (b)(2)(v), if the vessel has been issued a limited access multispecies hook-gear permit and fishes in areas specified under § 648.80(a), and (b).

* * * * *

(13) If the vessel has been issued a Day gillnet category designation, fail to remove gillnet gear from the water as described in § 648.82(g) and § 648.82(k)(1)(iv) and (5).

(14) Fail to comply with the tagging requirements for a day gillnet vessel as described in § 648.82(k)(1)(ii), or fail to produce or, cause to be produced, gillnet tags when requested by an authorized officer.

(15) Produce, or cause to be produced, gillnet tags under § 648.82(k)(1) or (2), without the written confirmation from the Regional Administrator described in § 648.82(k)(1)(ii) or (2)(ii).

* * * * *

(23) Fail to enter port and call-out of the DAS program no later than 14 DAS after starting a multispecies DAS trip (i.e., the time a vessel leaves port or when the vessel received a DAS authorization number, whichever comes first), as specified in § 648.10(f)(3), unless otherwise specified in § 648.86(b)(1)(ii) or (2)(ii).

* * * * *

(26) Enter port, while on a multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(2)(ii). Under no circumstances may such trip exceed 14 days in length.

* * * * *

(29) Enter, be on a fishing vessel in, or fail to remove gear from, the areas described in § 648.81(g)(1) through (i)(1), during the time periods specified, except as provided in § 648.81(d), (g)(2), (h)(2) and (i)(2).

* * * * *

(31) If the vessel has been issued a Charter/Party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(g)(2)(iii) when fishing in the areas described in § 648.81(g)(1) through (i)(1) during the time periods specified in those sections.

(32) In the vessel has been fishing with gillnets under either the day or trip category, fail to remove the nets from the water as described under § 648.82(k)(3).

(33) If the vessel has been issued a limited access Trip gillnet category designation, fail to comply with the restrictions and requirements specified in § 648.82(k)(2).

(34) Fail to remain in port for the appropriate time specified in § 648.86(b)(2)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(3).

(z) * * *

(2) * * *

(i) Fish with, use or have available for immediate use within the areas described in §§ 648.80(a), (b), and (c), nets of mesh size smaller than 3-in (7.62-cm), unless otherwise exempted pursuant to § 648.80(a)(8).

* * * * *

6. In § 648.80, paragraphs (a), (b), (c)(1), (c)(2)(ii), (d)(2), (e)(2), (h)(1), and (i)(8) are revised, and paragraphs (c)(2)(iv) and (c)(5) are added to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) *Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas*—(1) *GOM Regulated Mesh Area.* The GOM Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary defined by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G1	(1)	(1)
G2	43°58′	67°22′
G3	42°53.1′	67°44.4′
G4	42°31′	67°28.1′
CII3	42°22′	[2] 67°20′

[1] The intersection of the shoreline and the U.S.-Canada Maritime Boundary.
[2] The U.S.-Canada Maritime Boundary.

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
CII3	42°22′	[2] 67°20′
G6	42°20′	67°20′
G7	42°20′	69°30′
G8	42°00′	69°30′
G9	42°00′	(1)

[1] The intersection of the Cape Cod, MA, coastline and 42°00′ N. lat.
[2] The U.S.-Canada Maritime Boundary.

(2) *GB Regulated Mesh Area.* The GB Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the north by the southern boundary of the GOM Regulated Mesh Area as defined in paragraph (a)(1)(ii) of this section;

(ii) Bounded on the east by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.	Approximate loran C bearings
CII3	42°22′	67°20′	(The U.S.-Canada Maritime Boundary)
SNE1	40°24′	65°43′	(The U.S.-Canada Maritime Boundary as it intersects with the EEZ).

(iii) Bounded on the west by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G12	(1)	70°00′
G11	40°50′	70°00′
NL1	40°50′	69°40′
NL2	40°18.7′	69°00′
NL3	40°22.7′	69°00′
	(2)	69°00′

[1] South facing shoreline of Cape Cod.
[2] Southward to its intersection with the EEZ.

(3) *GOM Regulated Mesh Area minimum mesh size and gear restrictions*—(i) *Vessels using trawls.* Except as provided in paragraphs (a)(3)(i) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any trawl net, except midwater trawl, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined in paragraphs (a)(3)(i)(A) and (B) of this section, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(A) For vessels greater than 45 ft (13.7 m) in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 100 bars counting from the terminus of the net.

(B) For vessels 45 ft (13.7 m) or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (a)(3)(ii) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit

and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* When fishing in the GOM Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Gillnet vessels*—(A) *Trip gillnet vessels.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, for vessels that obtain an annual designation as a Trip gillnet vessel, the minimum mesh size for any sink gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(B) *Day gillnet vessels.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and unless otherwise restricted under paragraph (a)(3)(iii) of this section, for vessels that obtain an annual designation as a Day gillnet vessel, the minimum mesh size for any roundfish gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net, and the minimum mesh size for any flatfish (tie-down) gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 7.0 inches (17.8 cm) throughout the entire net. No roundfish nets may be fished or on board a vessel during the period March through June in the GOM Regulated Mesh Area. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a NE multispecies DAS in the GOM Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 2,000-hook limit. A ''snap-on'' hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited.

(vi) *Other restrictions and exemptions.* Vessels are prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(16) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (a)(7), (a)(9) through (a)(14), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing under the small vessel exemption specified in § 648.82(b)(3); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph (a)(11) of this section; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit, or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(vii) *Rockhopper and roller gear restrictions.* For all trawl vessels fishing in the GOM/GB Inshore Restricted Roller Gear Area, the diameter of any part of the trawl footrope, including discs, rollers, or rockhoppers, must not exceed 12 inches (30.48 cm). The GOM/GB Inshore Restricted Roller Gear Area is defined by straight lines connecting the following points in the order stated:

INSHORE RESTRICTED ROLLER GEAR AREA

Point	N. Lat.	W. Long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM23	42°00′	69°50′
GM24	43°00′	69°50′
GM11	43°00′	70°00′
GM17	43°30′	70°00′
GM18	43°00′	(4)

[1] Massachusetts shoreline.
[2] Cape Cod shoreline on Cape Cod Bay.
[3] Cape Cod shoreline on the Atlantic Ocean.
[4] Maine shoreline.

(4) *GB Regulated Mesh Area gear restrictions.*—(i) *Vessels using trawls.* Except as provided in paragraphs (a)(3)(vi) and (a)(4)(i) of this section, and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any trawl net, except midwater trawl, and the minimum mesh size for any trawl net when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined under paragraph 648.80(a)(3)(i) of this section, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (a)(3)(vi) and (a)(4)(ii) of this section, and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, and the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit

and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* When fishing in the GB Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, and the minimum mesh size for any trawl net, or sink gillnet, when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6-cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Gillnet vessels.* Except as provided in paragraphs (a)(3)(vi) and (a)(4)(iv) of this section, the minimum mesh size for any roundfish or flatfish gillnet, and the minimum mesh size for any roundfish or flatfish gillnet when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), when fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a NE multispecies DAS in the GB Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 3,600 rigged hooks. All hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 3,600-hook limit. A ''snap-on'' hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited.

(5) *Small Mesh Northern Shrimp Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in this paragraph (a) may fish for, harvest, possess, or land northern shrimp in the Small Mesh Northern Shrimp Fishery Exemption Area with nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements of paragraphs (a)(5)(i) through (iii) of this section. The Small Mesh Northern Shrimp Fishery Exemption Area is defined by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

SMALL MESH NORTHERN SHRIMP FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
SM1	41°35′	70°00′
SM2	41°35′	69°40′
SM3	42°49.5′	69°40′
SM4	43°12′	69°00′
SM5	43°41′	68°00′
G2	43°58′	67°22′
G1	(1)	(1)

[1] Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) *Restrictions on fishing for, possessing, or landing fish other than shrimp.* (A) Through April 30, 2003, an owner or operator of a vessel fishing in the northern shrimp fishery under the exemption described in this paragraph (a)(5) may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(B) Beginning May 1, 2003, an owner or operator of a vessel fishing for northern shrimp may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to 100 lb (45.4 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(ii) *Requirement to use a finfish excluder device (FED).* A vessel must have a rigid or semi-rigid grate consisting of parallel bars of not more than 1-inch (2.54-cm) spacing that excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl, secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without the fish or objects having to first pass between the bars of the grate, in any net with mesh smaller than the minimum size specified in paragraphs (a)(3) and (4) of this section. The net must have an outlet or hole to allow fish or other objects that are too large to pass between the bars of the grate to exit the net. The aftermost edge of this outlet or hole must be at least as wide as the grate at the point of attachment. The outlet or hole must extend forward from the grate toward the mouth of the net. A funnel of net material is allowed in the lengthening piece of the net forward of the grate to direct catch towards the grate. (Copies of a schematic example of a properly configured and installed FED are available from the Regional Administrator upon request.)

(iii) *Time restrictions.* A vessel may only fish under this exemption during the northern shrimp season, as established by the Commission and announced in the Commission's letter to participants.

(6) *Cultivator Shoal Whiting Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) and (4) of this section may fish with, use, or possess nets in the Cultivator Shoal Whiting Fishery Exemption Area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(6)(i) of this section. The Cultivator Shoal Whiting Fishery Exemption Area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

CULTIVATOR SHOAL WHITING FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
C1	42°10′	68°10′
C2	41°30′	68°41′

CULTIVATOR SHOAL WHITING FISHERY EXEMPTION AREA—Continued

Point	N. Lat.	W. Long.
CI4	41°30′	68°30′
C3	41°12.8′	68°30′
C4	41°05′	68°20′
C5	41°55′	67°40′
C1	42°10′	68°10′

(i) *Requirements.* (A) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area under this exemption must have on board a valid letter of authorization issued by the Regional Administrator.

(B) Through April 30, 2003, an owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic mackerel; dogfish, and red hake—up to 10 percent each, by weight, of all other species on board; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Beginning May 1, 2003, an owner or operator of a vessel fishing in this area is subject to the mesh size restrictions specified in paragraph (a)(6)(i)(D) of this section and may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 10,000 lb (4,536 kg), except for the allowable incidental species listed in paragraph (a)(6)(i)(B) of this section.

(D) Counting from the terminus of the net, all nets must have a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh applied to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.28 m) in length applied to and the first 50 meshes (100 bars in the case of square mesh) for vessels less than or equal to 60 ft (18.3 m) in length.

(E) Fishing is confined to a season of June 15 through September 30, unless otherwise specified by notification in the **Federal Register**.

(F) When a vessel is transiting through the GOM or GB Regulated Mesh Areas specified under paragraphs (a)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh specified in paragraphs (a)(3) or (4) of this section must be stowed in accordance with one of the methods specified in § 648.23(b), unless the vessel is fishing for small-mesh multispecies under another exempted fishery specified in this paragraph (a).

(G) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the requirements specified in this paragraph (a)(6)(i) for the entire trip.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species, especially haddock.

(iii) *Annual review.* The NEFMC shall conduct an annual review of data to determine if there are any changes in area or season designation necessary, and to make appropriate recommendations to the Regional Administrator following the procedures specified in § 648.90.

(7) *Transiting.* (i) Vessels fishing in the Small Mesh Northern Shrimp Fishery or the Small Mesh Area 1/Small Mesh Area 2 fishery, as specified in paragraphs (a)(5) and (9) of this section, may transit through the Small Mesh Northern Shrimp Fishery Exemption Area as specified in paragraph (a)(5) of this section with nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(3) or (4) of this section, provided that the nets are stowed and not available for immediate use in accordance with one of the methods specified in § 648.23(b).

(ii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the Small Mesh Northern Shrimp Fishery Exemption Area defined in paragraph (a)(5) of this section with nets on board with a mesh size smaller than the minimum size specified, provided that the nets are stowed in accordance with one of the methods specified in § 648.23(b), and provided the vessel has no fish on board.

(iii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may transit through the GOM and GB Regulated Mesh Areas defined in paragraphs (a)(1) and (2) of this section with nets on board with a mesh size smaller than the minimum mesh size specified and with small mesh exempted species on board, provided that the following conditions are met:

(A) All nets with a mesh size smaller than the minimum mesh size specified in paragraphs (a)(3) or (4) of this section are stowed in accordance with one of the methods specified in § 648.23(b).

(B) A letter of authorization issued by the Regional Administrator is on board.

(C) Vessels do not fish for, possess on board, or land any fish, except when fishing in the areas specified in paragraphs (a)(6), (a)(10), (a)(15), (b), and (c) of this section. Vessels may retain exempted small-mesh species as provided in paragraphs (a)(6)(i), (a)(10)(i), (a)(15)(i), (b)(3), and (c)(3) of this section.

(8) *Addition or deletion of exemptions*—(i) *Species*-(A) *Regulated multispecies.* An exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of regulated species bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of regulated species caught as bycatch is, or can be reduced to, less than 5 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of regulated species. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 5 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions or modifications will be made through issuance of a rule in the **Federal Register**.

(B) *Small-mesh multispecies.* Beginning May 1, 2003, an exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of small-mesh multispecies bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of small-mesh multispecies caught as bycatch is, or can be reduced to, less than 10 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In

determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of small-mesh multispecies. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 10 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions, or modifications are made through issuance of a rule in the **Federal Register**.

(ii) The NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(b), additions or deletions to exemptions for fisheries, either existing or proposed, for which there may be insufficient data or information for the Regional Administrator to determine, without public comment, percentage catch of regulated species or small-mesh multispecies.

(iii) The Regional Administrator may, using the process described in either paragraph (a)(8)(i) or (ii) of this section, authorize an exemption for a white hake fishery by vessels using regulated mesh or hook gear. Determination of the percentage of regulated species caught in such fishery shall not include white hake.

(iv) Bycatch in exempted fisheries authorized under this paragraph (a)(8) are subject, at a minimum, to the following restrictions:

(A) With the exception of fisheries authorized under paragraph (a)(8)(iii) of this section, a prohibition on the possession of regulated species.

(B) A limit on the possession of monkfish or monkfish parts of 10 percent, by weight, of all other species on board or as specified by § 648.94(c)(3), (c)(4), (c)(5) or (c)(6), as applicable, whichever is less.

(C) A limit on the possession of lobsters of 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less.

(D) A limit on the possession of skate or skate parts in the SNE Exemption Area described in paragraph (b)(10) of this section of 10 percent, by weight, of all other species on board.

(9) *Small Mesh Area 1/Small Mesh Area 2*—(i) *Description*. (A) Unless otherwise prohibited in § 648.81, through April 30, 2003, a vessel subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1, and from January 1 through June 30, when fishing in Small Mesh Area 2. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to the amounts specified in § 648.86(d); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(B) Unless otherwise prohibited in § 648.81, beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(9)(i)(A) of this section, nets may not have a mesh size of less than 3-inch (7.6-cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch, as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Small-mesh areas 1 and 2 are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)):

SMALL MESH AREA I

Point	N. Lat.	W. Long.
SM1	43°03′	70°27′
SM2	42°57′	70°22′
SM3	42°47′	70°32′
SM4	42°45′	70°29′
SM5	42°43′	70°32′
SM6	42°44′	70°39′
SM7	42°49′	70°43′
SM8	42°50′	70°41′
SM9	42°53′	70°43′
SM10	42°55′	70°40′
SM11	42°59′	70°32′
SM1	43°03′	70°27′

SMALL-MESH AREA II

Point	N. Lat.	W. Long.
SM13	43°05.6′	69°55.0′
SM14	43°10.1′	69°43.3′
SM15	42°49.5′	69°40.0′
SM16	42°41.5′	69°40.0′
SM17	42°36.6′	69°55.0′
SM13	43°05.6′	69°55.0′

(ii) *Raised footrope trawl*. Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (j)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom.

(A) Eight-inch (20.3-cm) diameter floats must be attached to the entire length of the headrope with a maximum spacing of 4 ft (122.0 cm) between floats.

(B) The ground gear must all be bare wire not larger than ½-inch (1.2-cm) for the top leg, not larger than ⅝-inch (1.6-cm) for the bottom leg, and not larger than ¾-inch (1.9-cm) for the ground cables. The top and bottom legs must be equal in length, with no extensions. The total length of ground cables and legs must not be greater than 40 fathoms (73 m) from the doors to wingends.

(C) The footrope must be longer than the length of the headrope, but not more than 20 ft (6.1 m) longer than the length of the headrope. The footrope must be rigged so that it does not contact the ocean bottom while fishing.

(D) The raised footrope trawl may be used with or without a chain sweep. If

used without a chain sweep, the drop chains must be a maximum of 3/8-inch (0.95-cm) diameter bare chain and must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends. If used with a chain sweep, the sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long drop chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging, including drop chains, must be made entirely of bare chain with a maximum diameter of 5/16 inches (0.8 cm). No wrapping or cookies are allowed on the drop chains or sweep. The total length of the sweep must be at least 7 ft (2.1 m) longer than the total length of the footrope, or 3.5 ft (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at intervals of 8 ft (2.4 m) from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 ft (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

(10) *Nantucket Shoals dogfish fishery exemption area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets of mesh smaller than the minimum size specified in the Nantucket Shoals Dogfish Fishery Exemption Area, if the vessel complies with the requirements specified in paragraph (a)(10)(i) of this section. The Nantucket Shoals Dogfish Fishery Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

NANTUCKET SHOALS DOGFISH EXEMPTION AREA

Point	N. Lat.	W. Long.
NS1	41°45′	70°00′
NS2	41°45′	69°20′
NS3	41°30′	69°20′
CI1	41°30′	69°23′
NS5	41°26.5′	69°20′
NS6	40°50′	69°20′
NS7	40°50′	70°00′
NS1	41°45′	70°00′

(i) *Requirements.* (A) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must have on board a letter of authorization issued by the Regional Administrator and may not fish for, possess on board, or land any species of fish other than dogfish, except as provided under paragraph (a)(10)(i)(D) of this section.

(B) Fishing is confined to June 1 through October 15.

(C) When transiting the GOM or GB Regulated Mesh Areas, specified under paragraphs (a)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh size specified in paragraph (a)(3) and (4) of this section must be stowed and unavailable for immediate use in accordance with § 648.23(b).

(D) *Incidental species provisions.* (*1*) Through April 30, 2003, the following species may be retained, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.7 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

(*2*) Beginning May 1, 2003, all nets must comply with a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh, counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length. Vessels may retain the allowable incidental species listed in paragraph (j)(10)(i)(D)(*1*) of this section.

(E) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must comply with any additional gear restrictions specified in the letter of authorization issued by the Regional Administrator.

(ii) *Sea sampling.* The Regional Administrator may conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species.

(11) *Scallop Dredge Fishery Exemption within the GOM Small Mesh Northern Shrimp Fishery Exemption Area.* Unless otherwise prohibited in § 648.81, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a general scallop permit, may fish in the GOM Small Mesh Northern Shrimp Fishery Exemption Area when not under a NE multispecies DAS, providing the vessel complies with the requirements specified in paragraph (a)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is the same as the area defined in paragraph (a)(5) of this section and designated as the Small Mesh Northern Shrimp Fishery Exemption Area.

(i) *Requirements.* (A) A vessel fishing in the GOM Scallop Dredge Fishery Exemption Area specified in paragraph (a)(11) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops.

(B) The combined dredge width in use by or in possession on board vessels fishing in the GOM Scallop Dredge Fishery Exemption Area shall not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(C) The exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(h) and (i).

(ii) [Reserved]

(12) *Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area.* A vessel may fish with a dredge in the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area, provided that any dredge on board the vessel does not exceed 8 ft (2.4 m), measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins. The area coordinates of the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area are the same coordinates as those of the Nantucket Shoals Dogfish Fishery

Exemption Area specified under paragraph (a)(10) of this section.

(13) *GOM/GB Monkfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(13)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

N. Lat.	W. Long.
41°35′	70°00′
42°49.5′	70°00′
42°49.5′	69°40′
43°12′	69°00′
(1)	69°00′

1 Due north to Maine shoreline.

(i) *Requirements.* (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than monkfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through September 14.

(ii) [Reserved]

(14) *GOM/GB Dogfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(14)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area are specified in paragraph (a)(13) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than dogfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 6.5-inch (16.5-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through August 31.

(ii) [Reserved]

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(15)(i) of this section. The exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(h) and (i). The Raised Footrope Trawl Whiting Fishery area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION

Point	N. Lat.	W. Long.
RF 1	42°01.9′	70°14.7′
RF 2	41°59.45′	70°23.65′
RF 3	42°07.85′	70°30.1′
RF 4	42°15.05′	70°08.8′
RF 5	42°08.35′	70°04.05′
RF 6	42°04.75′	70° 16.95′
RF 1	42°01.9′	70°14.7′

(i) *Requirements.* (A) A vessel fishing in the Raised Footrope Trawl Whiting Fishery under this exemption must have on board a valid letter of authorization issued by the Regional Administrator. To obtain a letter of authorization, vessel owners must write to or call during normal business hours the Northeast Region Permit Office and provide the vessel name, owner name, permit number, and the desired period of time that the vessel will be enrolled. Since letters of authorization are effective the day after they are requested, vessel owners should allow appropriate processing and mailing time. To withdraw from a category, vessel owners must write to or call the Northeast Region Permit Office. Withdrawals are effective the day after the date of request. Withdrawals may occur after a minimum of 7 days of enrollment.

(B) Through April 30, 2003, all nets must comply with a minimum mesh size of 2.5-inch (6.4-cm) square or diamond mesh, subject to the restrictions specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than whiting and offshore hake subject to the applicable possession limits as specified in § 648.86, except for the following allowable incidental species: Red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(C) Beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(15)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.6-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(15)(i)(D) of this section. An owner or operator of any vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(D) All nets must comply with the minimum mesh sizes specified in paragraphs (a)(15)(i)(B) and (C) of this section. Counting from the terminus of the net, the minimum mesh size is applied to the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length and is applied to the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length.

(E) Raised footrope trawl gear is required and must be configured as specified in paragraphs (a)(9)(ii)(A) through (D) of this section.

(F) Fishing may only occur from September 1 through November 20 of each fishing year.

(G) A vessel enrolled in the Raised Footrope Trawl Whiting Fishery may fish for small-mesh multispecies in exempted fisheries outside of the Raised Footrope Trawl Whiting Fishery exemption area, provided that the vessel complies with the more restrictive gear, possession limit and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization. For example, a vessel may fish in both the Raised Footrope Trawl Whiting Fishery and the Cultivator Shoal Whiting Fishery Exemption Area and would be restricted to a minimum mesh size of 3 inches (7.6 cm), as required in the Cultivator Shoal Whiting Fishery Exemption Area, the use of the raised footrope trawl, and the catch and bycatch restrictions of the Raised Footrope Trawl Whiting Fishery, except for red hake, which is restricted to 10 percent of the total catch under the Cultivator Shoal Whiting Fishery.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to evaluate the bycatch of regulated species.

(16) *GOM/GB Exemption Area—Area definition.* The GOM/GB Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary, defined by

straight lines connecting the following points in the order stated:

Gulf of Maine/Georges Bank Exemption Area

Point	N. Lat.	W. Long.
G1	(1)	(1)
G2	43°58′	67°22′
G3	42°53.1′	67°44.4′
G4	42°31′	67°28.1′
G5	41°18.6′	66°24.8′

[1] The intersection of the shoreline and the U.S.-Canada Maritime Boundary.

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	N. lat.	W. long.	Approximate loran C bearings
G6	40°55.5′	66°38′	5930–Y–30750 and 9960–Y–43500.
G7	40°45.5′	68°00′	9960–Y–43500 and 68°00′ W. lat.
G8	40°37′	68°00′	9960–Y–43450 and 68°00′ W. lat.
G9	40°30′	69°00′	
NL3	40°22.7′	69°00′	
NL2	40°18.7′	69°40′	
NL1	40°50′	69°40′	
G11	40°50′	70°00′	
G12		[1]70°00′	

[1] Northward to its intersection with the shoreline of mainland Massachusetts.

(b) *Southern New England (SNE) Regulated Mesh Area*—(1) *Area definition.* The SNE Regulated Mesh Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the western boundary of the Georges Bank Regulated Mesh Area described under § 648.80(a)(2)(iii); and

(ii) Bounded on the west by a line beginning at the intersection of 74°00′ W. long. and the south facing shoreline of Long Island, NY, and then running southward along the 74°00′ W. long. line.

(2) *Gear restrictions*—(i) *Vessels using trawls.* Except as provided in paragraphs (b)(2)(i) and (vi) of this section, and unless otherwise restricted under paragraph (b)(2)(iii) of this section, the minimum mesh size for any trawl net, not stowed and not available for immediate use in accordance with section § 648.23(b), except midwater trawl, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 7-inch (17.8-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied to the codend of the net, as defined under paragraph § 648.80(a)(3)(i). This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine.* Except as provided in paragraphs (b)(2)(ii) and (vi) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the net, or any combination thereof. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Large-mesh vessels.* When fishing in the SNE Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b) on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 8.5-inch (21.6) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Vessels using sink gillnets.* The minimum mesh size for any sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b), when fishing under a DAS in the NE multispecies DAS program in the SNE Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(v) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a multispecies DAS in the SNE Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 2,000 rigged hooks. All hooks must be circle hooks, of a minimum size of 12/0. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 2,000-hook limit. A ''snap-on'' hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited.

(vi) *Other restrictions and exemptions.* Vessels are prohibited from fishing in the SNE Exemption Area as defined in paragraph (b)(10) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (b)(3), (b)(5) through (9), (c), (e), (h) and (i) of this section, or if fishing under a NE multispecies DAS, if fishing under the Small Vessel exemption specified in § 648.82(b)(3), or if fishing under a scallop state waters exemption specified in § 648.54, or if fishing under a scallop DAS in accordance with paragraph (h) of this section, or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit, or if fishing as a

charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(3) *Exemptions*—(i) *Species exemptions.* (A) Through April 30, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(4) and (b)(2) of this section, may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the GB and SNE Regulated Mesh Areas when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

(B) Beginning May 1, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may not use nets with mesh size less than 3 inches (7.6 cm), unless exempted pursuant to paragraph (b)(4) of this section, and may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake—up to 10,000 lb (4,536 kg), and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the possession limit restrictions specified under § 648.86. Nets may not have a mesh size of less than 3-inch (7.6-cm) square or diamond mesh, counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.3 m) in length, and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.3 m) in length.

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraph (a)(4) and (b)(2) of this section when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided that such nets are stowed and are not available for immediate use in accordance with § 648.23(b), and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraphs (a)(4) and (b)(2) of this section. Vessels fishing for the exempted species identified in paragraph (b)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels; sea robins; black sea bass; red hake; tautog (blackfish); blowfish; cunner; John Dory; mullet; bluefish; tilefish; longhorn sculpin; fourspot flounder; alewife; hickory shad; American shad; blueback herring; sea raven; Atlantic croaker; spot; swordfish; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less; and skate and skate parts—up to 10 percent, by weight, of all other species on board.

(4) *Addition or deletion of exemptions.* Same as under paragraph (a)(8) of this section.

(5) *SNE Monkfish and Skate Trawl Exemption Area.* Unless otherwise required by monkfish regulations under this part, a vessel may fish with trawl gear in the SNE Monkfish and Skate Trawl Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(5)(i) of this section and the monkfish regulations, as applicable under this part. The SNE Monkfish and Skate Trawl Fishery Exemption Area is defined as the area bounded on the north by a line extending eastward along 40°10′ N. lat., and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the incidentally caught species and amounts specified in paragraph (b)(3) of this section.

(B) All trawl nets must have a minimum mesh size of 8-inch (20.3-cm) square or diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net.

(ii) [Reserved]

(6) *SNE Monkfish and Skate Gillnet Exemption Area.* Unless otherwise required by monkfish regulations under this part, a vessel may fish with gillnet gear in the SNE Monkfish and Skate Gillnet Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(6)(i) of this section and the monkfish regulations, as applicable under § 648.91 through 94. The SNE Monkfish and Skate Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35′ N. lat. and 70°00′ W. long., south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the bycatch species and amounts specified in paragraph (b)(3) of this section.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (b)(6)(i)(B) of this section must be stowed as specified in § 648.23(b).

(ii) [Reserved]

(7) *SNE Dogfish Gillnet Exemption Area.* Unless otherwise required by monkfish regulations under this part a gillnet vessel may fish in the SNE Dogfish Gillnet Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (b)(7)(i) of this section and the applicable dogfish regulations under sub-part (L). The SNE Dogfish Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35′ N. lat. and 70°00′ W. long. south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the western boundary of the SNE Exemption Area as defined in paragraph (b)(10)(ii) of this section.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land dogfish and the bycatch species and amounts specified in paragraph (b)(3) of this section.

(B) All gillnets must have a minimum mesh size of 6-inch (15.2-cm) diamond mesh throughout the net.

(C) Fishing is confined to May 1 through October 31.

(ii) [Reserved]

(8) *SNE Mussel and Sea Urchin Dredge Exemption.* A vessel may fish with a dredge in the SNE Exemption

Area, as defined in paragraph (b)(10) of this section, provided that any dredge on board the vessel does not exceed 8 ft (2.4 m) measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins.

(9) *SNE Little Tunny Gillnet Exemption Area.* A vessel may fish with gillnet gear in the SNE Little Tunny Gillnet Exemption Area when not operating under a NE multispecies DAS with mesh size smaller than the minimum required in the SNE Regulated Mesh Area, if the vessel complies with the requirements specified in paragraph (b)(9)(i) of this section. The SNE Little Tunny Gillnet Exemption Area is defined by a line running from the Rhode Island shoreline at 41°18.2′ N. lat. and 71° 51.5′ W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY; to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY; southeasterly to 41°06.5′ N. lat. and 71°50.2′ W. long.; east-northeast through Block Island, RI, to 41°15′ N. lat. and 71°07′ W. long.; then due north to the intersection of the RI–MA shoreline.

(i) *Requirements.* (A) A vessel fishing under this exemption may fish only for, possess on board, or land little tunny and the allowable incidental species and amounts specified in paragraph (b)(3) of this section and, if applicable, paragraph (b)(9)(i)(B) of this section. Vessels fishing under this exemption may not possess regulated species.

(B) reserved

(C) The vessel must have a letter of authorization issued by the Regional Administrator on board.

(D) All gillnets must have a minimum mesh size of 5.5-inch (14.0-cm) diamond mesh throughout the net.

(E) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (b)(9)(i)(D) of this section must be stowed in accordance with one of the methods described under § 648.23(b) while fishing under this exemption.

(F) Fishing is confined to September 1 through October 31.

(ii) The Regional Administrator shall conduct periodic sea sampling to evaluate the likelihood of gear interactions with protected resources.

(10) *SNE Exemption Area—Area definition.* The SNE Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by straight lines connecting the following points in the order stated:

SOUTHERN NEW ENGLAND EXEMPTION AREA

Point	N. Lat.	W. Long.
G5	41°18.6′	66°24.8′
G6	40°55.5′	66°38′
G7	40°45.5′	68°00′
G8	40°37′	68°00′
G9	40°30.5′	69°00′
NL3	40°22.7′	69°00′
NL2	40°18.7′	69°40′
NL1	40°50′	69°40′
G11	40°50′	70°00′
G12		70°00′[1]

[1] Northward to its intersection with the shoreline of mainland Massachusetts.

(ii) Bounded on the west by a line running from the Rhode Island shoreline at 41°18.2′ N. lat. and 71°51.5′ W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY, southeasterly to the intersection of the 3-nautical mile line east of Montauk Point; southwesterly along the 3-nautical mile line to the intersection of 72°30′ W. long., and south along that line to the intersection of the outer boundary of the EEZ.

(c) * * *

(1) *Area definition.* The Mid-Atlantic Regulated Mesh Area is that area bounded on the east by the western boundary of the SNE Regulated Mesh Area, described under § 648.80(b)(1)(ii).

(2) * * *

(ii) *Large-mesh vessels.* When fishing in the Mid-Atlantic Regulated Mesh Area, the minimum mesh size for any trawl net vessel, or sink gillnet, not stowed and not available for immediate use in accordance with section § 648.23(b), on a vessel or used by a vessel fishing under a DAS in the Large-mesh DAS program, specified in § 648.82(b)(6) and (7), is 7.5-inch (19.0-cm) diamond mesh or 8.0-inch (20.3-cm) square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(iv) *Hook-gear restrictions.* Vessels fishing with a valid NE multispecies limited access Hook-gear permit and fishing under a NE multispecies DAS in the Mid-Atlantic Regulated Mesh Area, and persons on such vessels, are prohibited from possessing gear other than hook gear on board the vessel and are prohibited from fishing, setting, or hauling back, per day, or possessing on board the vessel, more than 4,500 rigged hooks. An unbaited hook and gangion that has not been secured to the ground line of the trawl on board a vessel is deemed to be a replacement hook and is not counted toward the 4,500-hook limit. A ''snap-on'' hook is deemed to be a replacement hook if it is not rigged or baited. The use of de-hookers (''crucifiers'') with less than 6-inch (15.2-cm) spacing between the fairlead rollers is prohibited.

* * * * *

(5) *Mid-Atlantic Exemption Area.* The Mid-Atlantic Exemption Area is that area that lies west of the SNE Exemption Area defined in paragraph (b)(10) of this section.

(d) * * *

(2) When fishing under this exemption in the GOM/GB Exemption Area as defined in paragraph (a)(16) of this section, and in the area described in § 648.81(c)(1), the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with all restrictions and conditions thereof;

* * * * *

(e) * * *

(2) When fishing under this exemption in the GOM/GB Exemption Area as defined in paragraph (a)(16) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator;

* * * * *

(h) * * *

(1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a NE multispecies combination vessel permit or a scallop/multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of regulated species on board the vessel does not exceed the trip limits specified in § 648.86, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

* * * * *

(i) * * *

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small-mesh species specified under paragraphs (a)(5)(i), (a)(9)(i), (b)(3), and (c)(4) of this section when fishing in the areas specified under paragraphs (a)(5), (a)(9), (b)(10), and (c)(5) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also

possess and retain skate as incidental take in this fishery.

* * * * *

7. In § 648.81, paragraphs (d), (g)(1), (g)(2)(iii) through (v), (h), (i) and (n) are revised to read as follows:

§ 648.81 Closed areas.

* * * * *

(d) *Transiting.* A vessel may transit Closed Area I, the Nantucket Lightship Closed Area, the GOM Rolling Closure Areas, the Cashes Ledge Closure Area, the Western GOM Area Closure, and the GB Seasonal Area Closure, as defined in paragraphs (a)(1), (c)(1), (g)(1), (h)(1), (i)(1) and (n)(1), respectively, of this section, provided that its gear is stowed in accordance with the provisions of § 648.23(b).

* * * * *

(g) *GOM Rolling Closure Areas.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in GOM Rolling Closure Areas I through V, as described in paragraphs (g)(1)(i) through (v) of this section, for the times specified in paragraphs (g)(1)(i) through (v) of this section, except as specified in paragraphs (d) and (g)(2) of this section. A chart depicting these areas is available from the Regional Administrator upon request.

(i) *Rolling Closure Area I.* From March 1 through March 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area I, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA I

[March 1–March 31]

Point	N. Lat.	W. Long.
GM3	42°00′	(1)
GM5	42°00′	68°30′
GM6	42°30′	68°30′
GM23	42°30′	70°00′

1 Cape Cod shoreline on the Atlantic Ocean.

(ii) *Rolling Closure Area II.* From April 1 through April 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area II, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA II

[April 1–April 30]

Point	N. Lat.	W. Long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM5	42°00′	68°30′
GM6	42°30′	68°30′
GM9	42°30′	(1)

1 1 Massachusetts shoreline.
2 Cape Cod shoreline on Cape Cod Bay.
3 Cape Cod shoreline on the Atlantic Ocean.

(iii) *Rolling Closure Area III.* From May 1 through May 31, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA III

[May 1–May 31]

Point	N. Lat.	W. Long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM4	42°00′	70°00′
GM23	42°00′	70°00′
GM6	42°30′	68°30′
GM14	43°30′	68°30′
GM10	43°30′	(4)

1 Massachusetts shoreline.
2 Cape Cod shoreline on Cape Cod Bay.
3 Cape Cod shoreline on the Atlantic Ocean.
4 Maine shoreline.

(iv) *Rolling Closure Area IV.* From June 1 through June 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area IV, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA IV

[June 1–June 30]

Point	N. Lat.	W. Long.
GM9	42°30′	(1)
GM23	42°30′	70°00′
GM17	43°30′	70°00′
GM19	43°30′	67°32′ or (2)
GM20	44°00′	67°21′ or (2)
GM21	44°00′	69°00′
GM22	(3)	69°00′

1 Massachusetts shoreline.
2 U.S.-Canada maritime boundary.
3 Maine shoreline.

(v) *Rolling Closure Area V.* From October 1 through November 30, the restrictions specified in paragraph (g)(1) of this section apply to Rolling Closure Area V, which is the area bounded by straight lines connecting the following points in the order stated:

ROLLING CLOSURE AREA V

[October 1–November 30]

Point	N. Lat.	W. Long.
GM1 42°00′	(1)	
GM2 42°00′	(2)	
GM3 42°00′	(3)	
GM4 42°00′	70°00′	
GM8 42°30′	70°00′	
GM9 42°30′	(1)	

1 Massachusetts shoreline.
2 Cape Cod shoreline on Cape Cod Bay.
3 Cape Cod shoreline on the Atlantic Ocean.

(2) * * *

(iii) * * *

(A) For vessels fishing under charter/party regulations in a Rolling Closure Area described under § 648.81(g)(1), it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater; For vessels fishing under charter/party regulations in the Cashes Ledge Closure Area or Western Gulf of Maine Area Closure, as described under § 648.81(h) and (i), respectively, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment until the end of the fishing year.

(B) Fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) The vessel has no gear other than rod and reel or handline on board; and

(D) The vessel does not use any NE multispecies DAS during the entire period for which the letter of authorization is valid.

(iv) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip.

(v) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), and in the GOM Rolling Closure Area V, as specified in paragraph (g)(1)(v) of this section.

(h) *Cashes Ledge Closure Area.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA[1]

Point	N. Lat.	W. Long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

[1] A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(2) Paragraph (h)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (g)(2)(ii) and (iii) of this section.

(i) *Western GOM Area Closure.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Western GOM Area Closure, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (i)(2) of this section:

WESTERN GOM AREA CLOSURE[1]

Point	N. Lat.	W. Long.
WGM1	42°15′	70°15′
WGM2	42°15′	69°55′
WGM3	43°15′	69°55′
WGM4	43°15′	70°15′
WGM1	42°15′	70°15′

[1] A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(2) Paragraph (i)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (g)(2)(ii) and (iii) of this section.

* * * * *

(n) *GB Seasonal Closure Area.* (1) From May 1 through May 31, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in the area known as the GB Seasonal Closure Area, as defined by the straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (n)(2) of this section:

GEORGES BANK SEASONAL CLOSURE AREAS

[May 1—May 31]

Point	N. Lat.	W. Long.
GB1	42°00′	([1])
GB2	42°00′	68°30′
GB3	42°20′	68°30′
GB4	42°20′	67°20′
GB5	41°30′	67°20′
CI1	41°30′	69°23′
CI2	40°45′	68°45′
CI3	40°45′	68°30′
GB6	40°30′	68°30′
GB7	40°30′	69°00′
G10	40°50′	69°00′
GB8	40°50′	69°30′
GB9	41°00′	69°30′
GB10	41°00′	70°00′
G12	([1])	70°00′

[1] Northward to its intersection with the shoreline of Mainland Massachusetts.

(2) Paragraph (n)(1) of this section does not apply to persons on fishing vessels or to fishing vessels:

(i) That meet the criteria in paragraphs (g)(2)(i) or (ii) of this section;

(ii) That are fishing as charter/party or recreational vessels; or

(iii) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel uses an 8-inch (20.3–cm) twine top and complies with the NE multispecies possession restrictions for scallop vessels specified at § 648.80(h).

8. In § 648.82, paragraph (b); introductory text of paragraphs (k) and (k)(1), paragraphs (k)(1)(i), (k)(1)(ii), and (k)(2) are revised; paragraphs (k)(1)(vi) and (vii) are removed; and paragraphs (k)(3) through (5), and paragraph (l) are added to read as follows:

§ 648.82 Effort-control program for multispecies limited access vessels.

* * * * *

(b) *DAS program—permit categories and allocations.* All limited access NE multispecies permit holders shall be assigned to one of the following DAS permit categories according to the criteria specified. For the fishing year 2002 only, permit holders that may request a change in permit category, as specified in § 648.4(a)(1)(i)(I)(*2*), and that were issued a limited access permit prior to August 1, 2002, may request a change in permit category one time prior to either August 31, or within 45 days of permit issuance, whichever date is later. For the fishing year 2003 permit holders may request a change in permit category as specified in § 648.4(a)(1)(i)(I)(*2*). Each fishing year shall begin on May 1 and extend through April 30 of the following year. Beginning August 1, 2002, with the exception of the Small Vessel category described in paragraph (b)(3) of this section, NE multispecies DAS available for use will be calculated as described below.

(1) *Individual DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Individual DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(2) *Fleet DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Fleet DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(3) *Small Vessel category*—(i) *DAS allocation.* A vessel qualified and electing to fish under the Small Vessel category may retain up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, and one Atlantic halibut per trip, without being subject to DAS restrictions, provided the vessel does not exceed the yellowtail flounder possession restrictions specified under § 648.86(h). Such a vessel is not subject to a possession limit for other NE multispecies. Any vessel may elect to switch into this category, as provided in § 648.4(a)(1)(i)(I)(*2*), if such vessel meets or complies with the following:

(ii) The vessel is 30 ft (9.1 m) or less in length overall as determined by measuring along a horizontal line drawn from a perpendicular raised from the outside of the most forward portion of the stem of the vessel to a perpendicular raised from the after most portion of the stern.

(iii) If construction of the vessel was begun after May 1, 1994, the vessel must be constructed such that the quotient of the overall length divided by the beam is not less than 2.5.

(iv) Acceptable verification for vessels 20 ft (6.1 m) or less in length shall be USCG documentation or state registration papers. For vessels over 20 ft (6.1 m) in length, the measurement of length must be verified in writing by a qualified marine surveyor, or the builder, based on the vessel's construction plans, or by other means

determined acceptable by the Regional Administrator. A copy of the verification must accompany an application for a NE multispecies permit.

(v) Adjustments to the Small Vessel category requirements, including changes to the length requirement, if required to meet fishing mortality goals, may be made by the Regional Administrator following framework procedures of § 648.90.

(4) *Hook-Gear category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Hook-gear category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section. A vessel fishing under this category in the DAS program must meet or comply with the gear restrictions specified under § 648.80(a)(3)(vii), (a)(4)(ii), (b)(2)(v) and (c)(2)(iv) when fishing in the respective regulated mesh areas.

(5) *Combination vessel category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Combination Vessel category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section.

(6) *Large Mesh Individual DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Large Mesh Individual DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year, will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section, and then increased by 36 percent. To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish under the specific regulated mesh area minimum mesh size restrictions, as specified in paragraphs (a)(3)(iii), (a)(4)(iii), (b)(2)(iii) and (c)(2)(ii) of this section.

(7) *Large Mesh Fleet DAS category—DAS allocation.* Beginning August 1, 2002, for a vessel fishing under the Large Mesh Fleet DAS category, NE multispecies DAS available for use for the May 1, 2002, through April 30, 2003, fishing year, and for the next fishing year , will be calculated based upon the fishing history associated with the vessel's permit, as described in paragraph (l)(1) of this section, as reduced as specified in paragraph (l)(2) of this section, and then increased by 36 percent. To be eligible to fish under the Large Mesh Fleet DAS category, a vessel, while fishing under this category, must fish under the specific regulated mesh area minimum mesh size restrictions, as specified in paragraphs (a)(3)(iii), (a)(4)(iii), (b)(2)(iii) and (c)(2)(ii) of this section.

* * * * *

(k) *Gillnet restrictions.* Beginning August 1, 2002, vessels issued a limited access NE multispecies permit and fishing under a NE multispecies DAS with gillnet gear must obtain an annual designation as either a Day or Trip gillnet vessel as described in § 648.4(c)(2)(iii).

(1) *Day gillnet vessels.* A Day gillnet vessel fishing with gillnet gear under a multispecies DAS is not required to remove gear from the water upon returning to the dock and calling-out of the DAS program, provided the vessel complies with the restrictions specified in paragraphs (k)(1)(i) through (v) of this section. Vessels electing to fish under the Day gillnet designation must have on board written confirmation issued by the Regional Administrator, that the vessel is a Day gillnet vessel.

(i) *Number and size of nets.* Vessels may not fish with, haul, possess, or deploy more than the number of nets specified in paragraphs (k)(1)(i)(A) through (D) of this section, when fishing in the respective regulated mesh areas, provided the nets are tagged in accordance with paragraph (k)(1)(ii) of this section, unless otherwise specified in this paragraph. Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

(A) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the GOM Regulated Mesh Area, as described in § 648.80(a)(1), may not fish with, haul, possess, or deploy more than 50 roundfish gillnets or 100 flatfish gillnets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 100 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this paragraph (k)(1)(i)(A).

(B) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the GB Regulated Mesh Area as described in § 648.80(a)(2), may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets.

(C) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the SNE Regulated Mesh Area as described in § 648.80(b)(1), may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 75 nets.

(D) A Day gillnet vessel fishing under a NE multispecies DAS and fishing in the Mid-Atlantic Regulated Mesh Area, as described in § 648.80(c)(1), may not fish with, haul, possess, or deploy more than 80 roundfish gillnets or 160 flatfish gillnets. Vessels may fish any combination of roundfish and flatfish gillnets, up to 160 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this paragraph (k)(1)(i)(D).

(ii) *Tagging requirements.* When fishing under a NE multispecies DAS, all gillnets fished, hauled, possessed, or deployed by a vessel in the Day gillnet category, must be tagged according to the provisions specified in paragraphs (k)(1)(ii)(A) through (D) of this section, when fishing in the respective regulated mesh areas, or as otherwise specified under § 648.92(b)(8)(ii). Tags must be obtained as described in § 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Day gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer. A vessel may have tags on board in excess of the number of tags corresponding to the allowable number of nets, provided such tags are onboard the vessel and can be made available for inspection.

(A) When fishing in the GOM Regulated Mesh Area, roundfish nets must be tagged with two tags per net, with one tag secured to each bridle of every net, within a string of nets, and flatfish nets must have one tag per net, with one tag secured to every other bridle of every net within a string of nets.

(B) When fishing in the Mid-Atlantic Regulated Mesh Area, roundfish must be tagged with two tags per net, with one tag secured to each bridle of every net, with a string of nets, and flatfish gillnets must be tagged with one tag per net, with one tag secured to every other bridle of every net within a string of nets.

(C) When fishing in the GB Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net, within a string of nets.

(D) When fishing in the SNE Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net within a string of nets secured to every other bridle of every net within a string of nets.

* * * * *

(2) *Trip gillnet vessels.* When fishing under a NE multispecies DAS, a Trip gillnet vessel is required to remove all gillnet gear from the water before calling out of a NE multispecies DAS under § 648.10(c)(3), and must comply with the restrictions specified in paragraphs (k)(2)(i) and (ii) of this section. When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear as authorized under the exemptions described in § 648.80. Vessels electing to fish under the Trip gillnet designation must have on board written confirmation issued by the Regional Administrator, that the vessel is a Trip gillnet vessel.

(i) *Number and size of nets.* Vessels may not fish with, haul, possess, or deploy more than the number of nets specified in paragraphs (k)(2)(i)(A) through (D) of this section, when fishing in the respective regulated mesh areas, provided the nets are tagged in accordance with paragraph (k)(1)(ii) of this section, unless otherwise specified in this paragraph. Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

(A) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the GOM Regulated Mesh Area, as described in § 648.80(a)(1), may not fish with, haul, possess, or deploy more than 150 gillnets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 150 nets.

(B) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the GB Regulated Mesh Area as described in § 648.80(a)(2), may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets.

(C) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the SNE Regulated Mesh Area as described in § 648.80(b)(1), may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets, up to 75 nets.

(D) A Trip gillnet vessel fishing under a NE multispecies DAS and fishing in the Mid-Atlantic Regulated Mesh Area is not subject to a restrictions on number of allowable nets.

(ii) *Tagging requirements.* When fishing under a NE multispecies DAS, all gillnets fished, hauled, possessed, or deployed by a vessel in the Trip gillnet category, must be tagged according to the provisions specified in paragraphs (k)(2)(ii)(A) through (C) of this section, when fishing in the respective regulated mesh areas, or as otherwise specified under § 648.92(b)(8)(ii) or under paragraph (k)(2)(ii)(D) of this section. Tags must be obtained as described in § 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Day gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer. A vessel may have tags on board in excess of the number of tags corresponding to the allowable number of nets, provided such tags are on board the vessel and can be made available for inspection.

(A) When fishing in the GOM Regulated Mesh Area, roundfish or flatfish nets must be tagged with one tag per net, secured to every other bridle of every net within a string of nets.

(B) When fishing in the GB Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net, within a string of nets.

(C) When fishing in the SNE Regulated Mesh Area, roundfish or flatfish gillnets must be tagged with 2 tags per net, with one tag secured to each bridle of every net within a string of nets.secured to every other bridle of every net within a string of nets.

(D) When fishing in the Mid-Atlantic Regulated Mesh Area, gillnets are not required to be tagged.

(3) *Lost tags.* Vessel owners or operators are required to report lost, destroyed, and missing tag numbers as soon as feasible after tags have been discovered lost, destroyed or missing, by letter or fax to the Regional Administrator.

(4) *Replacement tags.* Vessel owners or operators seeking replacement of lost, destroyed, or missing tags must request replacement of tags by letter or fax to the Regional Administrator. A check for the cost of the replacement tags must be received before tags will be re-issued.

(5) *Removal of nets from the water.* Gillnets must be removed from the water when the vessel's annual NE multispecies DAS allocation has been used.

(l) *Used DAS baseline and DAS reduction*—(1) *Used DAS baseline.* For all valid limited access NE multispecies permits and NE multispecies confirmation of permit histories (CPH), beginning with the 2002 fishing year, a vessel's used DAS baseline will be based on the fishing history associated with its permit and will be determined by the highest number of DAS fished during a single fishing year, as specified in paragraphs (l)(1)(i) through (iv) of this section, during the 5-year period from May 1, 1996, through April 30, 2001, not to exceed the vessel's annual allocation prior to August 1, 2002. If the highest number of DAS fished under such permit during a single fishing year is less than 10 DAS, the used DAS baseline will be 10 DAS. If a vessel that was originally issued a limited access NE multispecies permit was lawfully replaced in accordance with the replacement restrictions specified in section § 648.4(a), then the used DAS baseline will be defined based upon the DAS used by the original vessel and by subsequent vessel(s) associated with the permit during the 5-year period specified above.

(i) Except as provided in paragraphs (l)(1)(ii) through (iv) of this section, historic DAS use will be determined as specified under the DAS notification requirements in § 648.10.

(ii) For a vessel exempt from or not subject to the DAS notification system, specified in § 648.10, during the period May 1996 through June 1996, the vessel's used DAS baseline for that period will be defined based on the vessel's DAS use, calculated from vessel trip reports submitted to NMFS prior to April 9, 2002.

(iii) For a vessel enrolled in a Large Mesh DAS category, as specified in § 648.82(b)(6) and (7), calculation of the used DAS baseline will be determined based on the highest number of DAS fished during a single fishing year during the 1996 through 2000 fishing years, from May 1, 1996, through April 30, 2001, not to exceed the vessel's allocation in any given year. That is, the used DAS baseline shall not be based on additional DAS the vessel fished under the Large Mesh DAS category.

(iv) For vessels fishing under the Day gillnet designation, as specified under § 648.82(k)(1), used DAS, beginning on May 1, 1997 (implementation of differential DAS accounting for gillnet vessels, i.e., Framework Adjustment 20), for trips greater than 3 hours but less

than or equal to 15 hours, will be counted as 15 hours. Trips less than or equal to 3 hours, or greater than 15 hours, will be counted as actual time.

(2) *DAS reduction.* For fishing years beginning May 1, 2002, and May 1, 2003, a NE multispecies DAS vessel, unless otherwise specified in paragraph (l)(2) of this section, shall be allocated 80 percent of its DAS baseline specified under paragraph (l)(1) of this section. An additional 36 percent will be subsequently added and available for use for participants in the Large Mesh DAS categories, as described at § 648.80(b)(6) and (7), provided the participants comply with the applicable gear restrictions.

(i) NE multispecies DAS fished by a vessel during the period May 1, 2002, through July 31, 2002, will be deducted from the DAS available for use for the 2002 fishing year, as calculated under § 648.80(l)(2).

(ii) For vessels fishing under the Day gillnet designation, as specified in § 648.82(k)(1), NE multispecies DAS for the period May 1, 2002, through July 31, 2002, for trips greater than 3 hours, but less than or equal to 15 hours, will be counted as 15 hours. Trips less than or equal to 3 hours, or greater than 15 hours, will be counted as actual time.

(iii) For vessels fishing with gear other than gillnet gear, NE multispecies DAS used for the period May 1, 2002, through July 31, 2002, will be counted as actual time.

(iv) Beginning on August 1, 2002, if the number of DAS used by a vessel during the May 1 through July 31, 2002, period equals or exceeds the number of DAS available for use calculated by NMFS as described in this section, the number of DAS available for use for the remainder of the 2002 fishing year will be zero, unless the vessel has available carry-over days from the previous fishing year, as specified under paragraph (a)(1) of this section.

(3) *Appeal of used DAS baseline.* (i) A vessel's used DAS baseline as determined under paragraph (*l*)(1) of this section, may be appealed to the Regional Administrator, by submitting a written request to appeal. The request to appeal must be received by the Regional Administrator no later than August 31, 2002. The request to appeal must be in writing and provide credible evidence that the information used by the Regional Administrator in making the determination of the vessel's DAS baseline was based on mistaken or incorrect data. The decision on appeal shall be determined solely on the basis of written information submitted, unless the Regional Administrator specifies otherwise. The Regional Administrator's decision on appeal is the final decision of the Department of Commerce.

(ii) *Status of vessel's pending appeal of used DAS baseline.* While a vessel's used DAS baseline is under appeal, the vessel is limited to fishing with the number of DAS in accordance with § 648.80(l).

9. In § 648.83, paragraph (a)(1) is revised to read as follows: *§ 648.83 Multispecies minimum fish sizes.*

(a) * * *

(1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS

Species	Sizes (inches)
Cod	22 (55.9 cm)
Haddock	19 (48.3 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
American plaice (dab)	14 (35.6 cm)
Atlantic halibut	36 (91.4 cm)
Winter flounder (blackback)	12 (30.5 cm)
Redfish	9 (22.9 cm)

* * * * *

10. In § 648.86, paragraphs (b)(1)(i), (b)(1)(ii)(A), (b)(2) and (b)(3) are revised and paragraph (h) is added to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(b) * * *

(1) * * *

(i) Except as provided in paragraph (b)(1)(ii) and (b)(4) of this section, and subject to the call-in provision specified in § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land only up to 500 lb (272.3 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (*e.g.*, a vessel that starts a trip at 6 a.m. may call our of the DAS program at 11 a.m. and land up to 500 lb (272.3 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 500 lb (272.2 kg) for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 4,000 lb (1,818.2 kg) per trip (*e.g.*, a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than 1,000 lb (454.5 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (*e.g.* a vessel that has been called into the DAS program for more than 24 hr but less than 48 hr) may land up to an additional 500 lb (272.2 kg) of cod for that trip provided the vessel complies with § 648.86(b)(1)(ii). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) * * *

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed regardless of whether all of the cod on board is offloaded (*e.g.*, a vessel that has been called into the DAS program for 25 hr, at the time of landing, may land only up to 1000 lb (454.5 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip).

(2) *Georges Bank Cod Landing and Maximum Possession Limits.* (i) For each fishing year, a vessel that is exempt from the landing limit described in paragraph (b)(1) of this section and fishing under a NE multispecies DAS may land up to 2,000 lb (907.2 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (*e.g.*, a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 2,000 lb (907.2 kg)), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 2,000 lb (907.2 kg) for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 20,000 lb (9,071.8 kg) per trip (*e.g.*, a vessel that has been called into the DAS program for 48 hr or less, but more than 24 hr, may land up to, but no more than 4,000 lb (1,814.4 kg) of cod). A vessel that has called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 2,000 lb (907.2 kg) of cod for that trip of cod for that trip provided the vessel complies with 648.86(b)(2)(ii). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel subject to the cod landing limit restrictions described in paragraph

(b)(1)(i) of this section may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr, at the time of landing, may land only up to 4,000 lb (1,814.4 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip).

(B) [Reserved]

(3) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraphs (b)(1) and (2) of this section, and is, therefore, subject to the requirement to remain in port for the period of time described in paragraphs (b)(1)(ii)(A) and (b)(2)(ii)(A) of this section, may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator either at the time the vessel reports its hailed weight of cod or at a later time prior to transiting, and provides the following information: Vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.23(b) and may not have any fish on board the vessel.

* * * * *

(h) *Yellowtail Flounder*—(1) *Yellowtail flounder possession limit north of 40°00′ N. lat. in the Georges Bank or Gulf of Maine Regulated Mesh Area.* Beginning August 1, 2002, except when fishing under the recreational and charter/party restrictions specified under § 648.89, there is no possession limit for yellowtail flounder for a vessel issued a NE multispecies permit and fishing under a NE multispecies DAS north of 40°00′ N. lat. in either the GB or GOM Regulated Mesh Area, provided the vessel complies with the following requirements in order to fish for possess, or land yellowtail flounder:

(i) The vessel possess on board a yellowtail exemption letter issued by the Regional Administrator.

(ii) The vessel does not fish in the SNE Regulated Mesh Area, or south of 40°00′ N. lat. for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program). Vessels subject to these restrictions may transit the SNE Regulated Mesh Area and south of 40°00′ N. lat. with yellowtail flounder on board the vessel, provided that the gear is stowed in accordance with one of the provisions of § 648.23(b).

(2) *Yellowtail flounder possession limit north of 40°00′ N. lat in the Southern New England Regulated Mesh Area.* Beginning August 1, 2002, except when fishing under the recreational and charter/party restrictions specified under § 648.89, a vessel issued a NE multispecies permit and fishing any portion of a trip under a NE multispecies DAS north of 40°00′ N. lat. in the SNE Regulated Mesh Area is subject to the following requirements and trip limits in order to fish for, possess, or land yellowtail flounder:

(i) The vessel possesses on board a yellowtail authorization letter issued by the Regional Administrator.

(ii) The vessel does not fish south of 40°00' N. lat. for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program). Vessels subject to these restrictions may transit the area south of 40°00′ N. lat. provided that the gear is stowed in accordance with one of the provisions of § 648.23(b).

(iii) During the period March through May, vessels may land or possess on board only up to 250 lb (113.6 kg) of yellowtail flounder per trip; and

(iv) During the period June through February, vessels may land only up to 750 lb (340.9 kg) of yellowtail flounder per DAS, or any part of a DAS, up to a maximum possession limit of 3,000 lb (1,364.0 kg) per trip.

(3) *Yellowtail flounder prohibition south of 40°00′ N. lat.* Beginning August 1, 2002, unless fishing under the recreational and charter/party restrictions specified under § 648.89, or transiting as provided for under § 648.86(h)(1) or (2), a vessel not in possession of a valid exemption letter or a vessel fishing any portion of a trip south of 40°00′ N. lat is prohibited from possessing or landing yellowtail flounder.

11. In § 648.88, the introductory text for paragraph (a), and paragraph (a)(1) are revised to read as follows:

§ 648.88 Multispecies open access permit restrictions.

(a) *Handgear permit.* Beginning August 1, 2002, NE multispecies open access Handgear permits shall not be issued to any vessel that has never been issued such permit, or has not submitted a complete application for such permit as of August 1, 2002. A vessel issued a valid open access NE multispecies Handgear permit is subject to the following restrictions:

(1) The vessel may possess and land up to 200 lb (90.9 kg) of cod, haddock, and yellowtail flounder, combined, one Atlantic halibut, per trip, and unlimited amounts of the other NE multispecies, provided that the vessel does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board.

* * * * *

12. In § 648.89, paragraphs (b)(1), (c), and (e)(1) are revised to read as follows:

§ 648.89 Recreational and charter/party restrictions.

* * * * *

(b) * * *

(1) *Minimum fish sizes.* Persons aboard charter or party vessels permitted under this part and not fishing under the NE multispecies DAS program, and private recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

MINIMUM FISH SIZES (TL) FOR CHARTER, PARTY, AND PRIVATE RECREATIONAL VESSELS

Species	Sizes (inches)
Cod	23 (58.4 cm)
Haddock	23 (58.4 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
Atlantic halibut	36 (91.4 cm)
American plaice (dab)	14 (35.6 cm)
Winter flounder (blackback)	12 (30.5 cm)
Redfish	9 (22.9 cm)

* * * * *

(c) *Cod and haddock possession restrictions*—(1) *Private recreational vessels.* (i) Each person on a private recreational vessel may possess per trip no more than 10 cod and/or haddock, combined, in, or harvested from the EEZ, unless further restricted under paragraph (c)(1)(ii) of this section.

(ii) During the period December 1 through March 31, each person on a private recreational vessel fishing any part of a trip in the GOM Regulated Mesh Area as defined in § 648.80(a)(1), may possess no more than 10 cod and/or haddock combined, no more than 5 of which may be cod, in, or harvested from the EEZ.

(iii) For purposes of counting fish, fillets will be converted to whole fish at

the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod and haddock harvested by private recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod and haddock must be stored so as to be readily available for inspection.

(2) *Charter/party vessels.* Charter/party vessels fishing any part of a trip in the GOM Regulated Mesh Area as defined in § 648.80(a)(1), are subject to the following possession limit restrictions:

(i) During the period April 1 through November 30, each person on the vessel may possess no more than 10 cod and/or haddock combined.

(ii) During the period December 1 through March 31, each person on the vessel may possess no more than 10 cod and/or haddock combined, no more than 5 of which may be cod.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod and haddock harvested by charter/party vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limits will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limits on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod and haddock must be stored so as to be readily available for inspection.

(3) *Atlantic halibut.* Charter and party vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess, on board, more than one Atlantic halibut.

* * * * *

(e) * * *

(1) *Gulf of Maine Closed Areas.* A vessel fishing under charter/party regulations may not fish in the Gulf of Maine closed areas specified in § 648.81(g)(1) through (i)(1), during the time periods specified in those sections, unless the vessel has on board a letter of authorization issued by the Regional Administrator pursuant to §§ 648.81(g)(2)(iii) and 648.89(e)(3). The letter of authorization is required for a minimum of 3 months if the vessel intends to fish in the seasonal GOM closure areas, or required for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel intends to fish in the year-round GOM closure areas.

* * * * *

13. In § 648.91, paragraphs (c)(1)(i) and (ii) are revised to read as follows:

§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(c) * * *

(1) * * *

(i) *Trawl nets while on a monkfish DAS.* Except as provided in paragraph (c)(1)(ii) of this section, the minimum mesh size for any trawl net, including beam trawl nets, used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) square or 12-inch (30.5-cm) diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net. The minimum mesh size for the remainder of the trawl net is the regulated mesh size specified under § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i) of the Northeast multispecies regulations, depending upon and consistent with the NE multispecies regulated mesh area being fished.

(ii) *Trawl nets while on a monkfish and NE multispecies DAS.* For vessels issued a Category C or D limited access monkfish permit and fishing with trawl gear under both a monkfish and NE multispecies DAS, the minimum mesh size is that allowed under regulations governing mesh size at § 648.80(a)(3), (a)(4), (b)(2)(i), or (c)(2)(i), depending upon, and consistent with, the NE multispecies regulated mesh area being fished.

* * * * *

14. In § 648.92, paragraphs (b)(2) and (b)(8)(i) are revised to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(2) *Category C and D limited access monkfish permit holders.* Each monkfish DAS used by a limited access multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a multispecies or scallop DAS, as applicable, except where, beginning August 1, 2002, a Category C or D vessel that has an allocation of multispecies DAS under § 648.82(l) that is less than 40 (the number of monkfish DAS) may fish under Category A or B provisions, as applicable, for the number of DAS that equal the difference between 40 and the number of allocated multispecies DAS. For such vessels, when the total allocation of multispecies DAS have been used, a monkfish DAS may be used without concurrent use of a multispecies DAS. (For example, if a monkfish Category D vessel's multispecies DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 multispecies DAS would also be used. However, after all 30 multispecies DAS are used the vessel may utilize its remaining 10 monkfish DAS to fish on monkfish, without a multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated multispecies.)

* * * * *

(8) * * *

(i) *Number and size of nets.* A vessel issued a monkfish limited access permit or fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 150 gillnets. A vessel issued a NE multispecies limited access permit and a limited access monkfish permit, or fishing under a monkfish DAS, may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 150 nets total, provided that the number of monkfish, roundfish, and flatfish gillnets is consistent with the limitations of § 648.82. Nets may not be longer than 300 ft (91.4 m), or 50 fathoms, in length.

* * * * *

[FR Doc. 02–16266 Filed 6–26–02; 3:53 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 67, No. 126
Monday, July 1, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Judith Restoration EIS—Lewis and Clark National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to treat dry forest types, whitebark pine, limber pine and aspen, the need to reduce fuels near the urban interface, the need to improve water quality combined with the timing of a State facilitated sub-basin review, and opportunities for westslope cutthroat trout habitat enhancement. The analysis area encompasses approximately 214,000 acres of the Judith Ranger District, Lewis and Clark National Forest, Judith Basin County, Montana.

DATES: It is anticipated that the draft EIS will be released for review and comment in the winter 2002/2003.

ADDRESSES: Send written comments to Betty Holder, Judith District Ranger, Lewis and Clark National Forest, Box 484, Stanford, MT 59479. Electronic mail may be sent to *comment/rl_lewisclark@fs.fed.us*

FOR FURTHER INFORMATION CONTACT: Jennifer Johnsten, EIS Co-team Leader, (406) 791–7700 or Betty Holder, EIS Co-team Leader (406) 566–2292.

SUPPLEMENTARY INFORMATION: The Forest Service proposes vegetation treatment and road and trail closures/modifications on the Judith Ranger District within the Little Belt Mountains, which includes the Middle Fork and South Fork of the Judith River. A preliminary assessment determined this area to have a high percentage of dry forest types, such as Douglas-fir, which are currently overstocked, largely due to fire suppression. This has also led to high fuel loading, which is problematic near private inholdings and urban interfaces. In addition, water quality in the South Fork and tributaries has been affected by past management actions. Several populations of genetically pure westslope cutthroat trout are found in the South Fork. Improved habitat for these species is key to their survival. The enclosed map shows where, within the analysis area, there are opportunities to take action to address these objectives and meet the goals outlined below. This EIS will review six alternatives.

Decisions To Be Made

The Forest Supervisor will decide whether and where vegetative treatment and road/trail activities would take place in the project area. He will decide the number of acres and miles of road/trail, if any, on which activity would take place and the types of treatment methods to be used. He will decide when any management activities would take place, what mitigation measures would be implemented to address concerns, and whether the action requires amendment(s) to the Lewis and Clark Forest Plan.

Responsible Official

Rick Prausa, Forest Supervisor, is the Responsible Official for making the decision to implement any of the alternatives evaluated. He will document his decision and rationale in a Record of Decision.

Preliminary Issues

Issues associated with this analysis that have been submitted from initial scoping efforts include impacts of proposed activities on wildlife and fish species and their habitat, soil resources, Wilderness Study Area, Inventoried Roadless Areas, water quality and water yield, and forest health.

Public Involvement, Rationale, and Public Meetings

Initial scoping for this project began in April 2001. A letter was sent to 120 individuals requesting comment on the proposed action. A 45-day review period for comments on the Draft EIS will be provided. Comments received will be considered and included in documentation of the Final EIS. The public is encouraged to take part in the process and to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service has sought and will continue to seek information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action.

Electronic Access and Filing Addresses

Comments may be sent by electronic mail (e-mail) to *mailroom_r1_lewis_and_clark@fs.fed.us*. Please reference the Judith Restoration EIS on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

Estimated Dates for Filing

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by winter, 2002/2003. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register.** 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.** It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by July, 2003. In the final EIS, the Forest Service is required to respond to comments received during the comment period that pertain to the environmental consequences of the action, as well as those pertaining to applicable laws, regulations, and policies. These will be considered in making a decision regarding the proposal.

The Reviewers Obligation To Comment

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be

waived or dismissed by the courts. *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 that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: June 24, 2002.

Lynn Johnson,

Acting Lewis and Clark Forest Supervisor.

[FR Doc. 02–16420 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Library's intent to request approval for a new information collection from the Food Safety Research Information Office to obtain research and funding activity in food safety.

DATES: Comments on this notice must be received by September 4, 2002 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Yvette Alonso, Food Safety Research Information Office Coordinator, 10301 Baltimore Ave., Room 113; Beltsville, MD 20705; Fax: 301–504–6409. Submit electronic comments to *yalonso@nal.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Yvette Alonso, 301–504–3774.

SUPPLEMENTARY INFORMATION:

Title: Food Safety Research Activity.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: Approval for new data collection.

Abstract: The collection of food safety research activity using the Food Safety Research Activity form will provide Web site users with the ability to submit project information and funding opportunities to add to the food safety research searchable database. We will review the data for accuracy and validity before posting the information in the database. This form will provide the Food Safety Research Information Office (FSRIO) with an online resource to acquire data from organizations or researchers who conduct research, including foreign research organizations, private research companies, government, educational environments and researchers themselves. These organizations or researchers maybe unknown to the Food Safety Research Information Office. The Food Safety Research Activity form is a document comprised of 14 inquiry components where users submit research or funding activity. Information to be submitted includes, user contact information (name, organization, email), whether the activity being submitted is a funding opportunity or current research project, if the research activity is funded by government, educational institutions or private organizations and the name of this organization or agency and URL if available. The user enters information on the specific research activity, including the project/funding title, date of research, project number if available, location where research is conducted, funding amount, contact information for the project such as the researcher who works on the project, the type of funding (grant, appropriated funds, private), and a research abstract providing a description of the activity.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Food safety research community, including food safety researchers in the private and public sector and research grant administrators or personnel.

Estimated Number of Respondents: 100 per year.

Estimated Total Annual Burden on Respondents: 25 hours.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: June 13, 2002.

Caird E. Rexroad,

Associate Deputy Administrator.

[FR Doc. 02–16418 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Risk Management Agency

Request for Applications (RFA): Research Partnerships for Risk Management Development and Implementation

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Announcement of availability of funds and request for application.

SUMMARY: In accordance with section 522 of the Federal Crop Insurance Act (Act) the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $2 million for partnership agreements that will fund risk management research and development activities. Priority will be given to those activities addressing the need for risk management tools for producers of Noninsured Crop Disaster Assistance Program (NAP) crops, specialty crops, and underserved commodities. Awards, on a competitive basis, may be for a period of up to two years. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to substantial involvement of RMA in the project. This announcement lists the information needed to submit an application for these funds.

Closing Date: The deadline for submission for all applications is 5 p.m. CST on August 15, 2002. The agency will not consider applications received after the deadline.

FOR FURTHER INFORMATION: Applicants may download an application package from the Risk Management Agency Website at: *http:\\www.rma.usda.gov.* Applicants may also request an application package from: David W. Fulk, Risk Management Agency, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, phone: (816) 926–6343, fax: (816) 926–7343, e-mail: *RMARED.Application@rm.fcic.usda.gov.*

Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RMA/RED Partnership Agreement Program, Risk Management Agency, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, e-mail: *RMARED.Application@rm.fcic.usda.gov.*

Completed and signed application packages sent via the U.S. Postal Service must be sent to the following address: RMA/RED Partnership Agreement Program, c/o David W. Fulk, USDA, Risk Management Agency, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676. Applicants using the U.S. Postal Service should allow for extra security-processing time for mail delivered to government offices.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 25), the collection of information requirements contained in this announcement have been approved under OMB Document Nos. 0348–0043, 0348–0044, and 0348–0046.

The Catalog of Federal Domestic Assistance Number for this program is 10.450.

SUPPLEMENTARY INFORMATION: This announcement consists of six parts:

Part I—General Information
A. Legislative Authority
B. Background
C. Project Objectives
D. Purpose
Part II—Eligibility/Funding
A. Eligible Applicants
B. Project Period
C. Availability of Funds
Part III—Research Program Description
A. Recipient Activities
B. RMA Activities
Part IV—Preparation of an Application
A. Program Application Materials
B. Content of Applications
C. Submission of Applications
D. Acknowledgement of Applications
Part V—Review Process
A. General
B. Evaluation Criteria and Weights
C. Confidentiality
Part VI—Additional Information
A. Access to Panel Review Information
B. Partnership Agreement Awards
C. Confidential Aspects of Proposals and Awards
D. Reporting Document
E. Audit Requirements
F. Prohibitions and Requirements with Regard to Lobbying

Part I—General Information

A. Legislative Authority

This program is authorized under section 522(d) and Section 506(h) of the Federal Crop Insurance Act (Act), as amended.

B. Background

RMA is committed to meeting the risk management needs and improving or developing risk management tools for the nation's farmers and ranchers. It does this by offering Federal crop insurance and other risk management products through a network of private-sector entities, by overseeing the creation of new products, by seeking enhancements in existing products and by ensuring the integrity of crop insurance programs.

RMA's research and contracting mission was strengthened significantly when the Act was amended in June of 2000. Section 522(d) of the Act authorizes RMA to enter into partnerships with public and private organizations for the purpose of increasing the availability of loss mitigation, financial, and other risk management tools for producers with a priority given to risk management tools for producers of NAP crops, specialty crops, and underserved agricultural commodities.

C. Project Objectives

The objectives of the partnerships as defined in section 522(d)(3)(A) through (E) and (G) of the Act are:

- To enhance the notice and timeliness of notice of weather conditions that could negatively affect crop yields, quality, and final product use in order to allow producers to take preventive actions to increase product profitability and marketability and to reduce the possibility of crop insurance claims;
- To develop a multifaceted approach to pest management and fertilization to decrease inputs, decrease environmental exposure, and to increase application efficiency;
- To develop or improve techniques for planning, breeding, planting, growing, maintaining, harvesting, storing, shipping, and marketing that will address quality and quantity production challenges associated with year-to-year and regional variations;
- To clarify labor requirements and assist producers in complying with requirements to better meet the physically intense and time-compressed planting, tending, and harvesting requirements associated with the production of specialty crops and underserved agricultural commodities;
- To provide assistance to State foresters, or equivalent officials, for the prescribed use of burning on private forest land for the prevention, control, and suppression of fire;
- To develop other risk management tools to further increase economic and production stability; and

D. Purpose

The purpose of this program is to fund partnership agreements that assist producers, minimize their production risks, maximize their potential income, and improve and/or develop risk management tools for the nation's producers. To aid in meeting these goals each partnership agreement awarded through this program will provide the recipient with funds, guidance, and the substantial involvement of RMA to carry out these risk management initiatives.

Part II—Eligibility/Funding

A. Eligible Applicants

Proposals are invited from qualified public and private entities. Eligible applicants include all colleges and universities, Federal, State, and local agencies, nonprofit and for-profit private organizations or corporations, and other entities. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as an eligible entity, other factors may exclude an applicant from receiving Federal assistance under this program (e.g. debarment and suspension, a determination of non-performance based on the information submitted). Applicants must be able to demonstrate they will receive non-financial benefits as a result of the partnership agreement. Non-financial benefits must accrue to the applicant and must include more than the ability to provide employment income to the applicant or for the applicant's employees or the community. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational programs).

B. Project Period

Each project will be funded for a period of up to two years for the activities described in this announcement. Projects can also be in two parts with the first part including the research and feasibility studies and the second part including the development of the risk management tool. If the development of the tool is determined not to be feasible, the partnership may be cancelled after completion of the first part.

C. Availability of Funds

Approximately $2,000,000 is available in FY2002 to fund partnership agreements. It is expected that the awards will be made on or about September 1, 2002 [30 days after application deadline].

Part III—Research Program Description

In conducting activities to achieve the purpose of this proposed research and development of risk management tools, the recipient will be responsible for the activities listed under paragraph A of this part. RMA will be responsible for the activities listed under paragraph B.

A. Recipient Activities

The applicant will be required to perform the following activities:

1. Develop a clear, concise research and development project plan. The background, purpose, key project personnel, statement of work, deliverables and proposed funding must be thoroughly defined and described. The project plan must clearly address one or more of the project objectives detailed in Part I section C. Project Objectives. The project plan must demonstrate the non-financial benefits of the recipient and RMA and define the substantial involvement of the RMA.

2. Coordinate and manage the timely completion of the approved research and development activities.

3. Prepare a monthly summary report of project activities.

4. Prepare a final written research report if applicable, and present the report to RMA.

5. Prepare the proposed risk management tool and present the tool to RMA. If acceptable to RMA, the recipient may be required to make a presentation to the Board of Directors.

6. Prepare educational curriculum and material for producers to enable them to utilize the risk management tools developed under the partnership agreement and be included in the delivery of the education to required producers.

B. RMA Activities

1. Collaborate on the research plan;

2. RMA will advise the recipient on the materials available over the internet and through the RMA website (*http://www.rma.usda.gov*) and be involved in the gathering of any additional information that may be required;.

3. RMA will work with the recipient in all phases of the research and development of the risk management tool, and the educational efforts to enable producers to utilize the risk management tool; and

4. Collaborate with the recipient by developing all materials associated with the research and development program as it relates to publication or presentation of the results and the risk management tools to the public, any producer groups, RMA, and the Board of Directors.

C. Other Activities

In addition to the specific activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify specific ways in which RMA could or should have substantial involvement in that activity.

Part IV—Preparation of an Application

A. Program Application Materials

Applicants may download an application package from the Risk Management Agency website at: *http://www.rma.usda.gov.* Applicants may also request an application package from: David W. Fulk, USDA, RMA/RED, 6501 Beacon Drive, Stop 0813, Kansas City, Missouri 64133–4676, phone: (816) 926–6343, fax: (816) 926–7343, e-mail: *MARED_Application@rm.fcic.usda.gov.*

B. Content of Applications

A complete and valid application package must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.

2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.'' Indirect cost for projects submitted in response to this solicitation are limited to 10 percent of the total direct cost of the agreement. Separate funding should be proposed for research and development of the risk management tools.

3. A written narrative (limited to 10 single-sided pages) that describes the proposed project and its applicability to the program objectives in Part I. C. of this RFA. The submission should include both the research and development aspects of the risk management tools, including the ability to separate research and development aspects, if applicable, to permit separate funding. The submission should also provide reviewers with sufficient information to effectively evaluate the application under the criteria contained in Part V.

4. An appendix containing any attachments that may support information in the narrative (Optional)

5. A statement of the non-financial benefits of any partnership agreement to the recipient and RMA.

6. A completed and signed OMB standard Form LLL, ''Disclosure of Lobbying Activities.''

C. Submission of Applications

1. An original and two copies of the completed and signed application must be submitted in one package at the time of initial submission.

2. All applications must be submitted by the deadline. Applications that do not meet all of the requirements in this announcement are considered as incomplete applications. Late or incomplete applications will not be considered in this competition and will be returned to the applicant.

3. Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the note ''Attention: RMA/RED Partnership Application''.

Mailed applications will be considered meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for sufficient time for delivery. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

D. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter. When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An application identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact David Fulk at (816) 926–6343.

Part V—Review Process

A. General

Each application will be evaluated using a three-part process. First, each application will be screened by RMA personnel to ensure that it meets the administrative requirements, set forth in this announcement.

Second, each application will be evaluated by RMA and/or USDA personnel to determine if the proposal meets the objectives established in Part I. C. of this RFA. Section 522(d) requires that partnership agreement priority be given for projects that reach producers of (a) NAP crops; (b) specialty crops, and (c) underserved agricultural commodities. Third, a review panel will consider the merits of all applications that pass the final two parts of the review process. The panel will be comprised of at least three representatives from USDA, other federal agencies, and others representing public and private organizations, as needed. The narrative and any appendixes provided by each applicant will be used by the review panel to evaluate the merits of the proposed research and development project. The panel will examine and rank all applications and award merit evaluation points based on the ''Evaluation Criteria and Weights'' contained in this RFA.

B. Evaluation Criteria and Weights

Applications will be evaluated according to the following criteria:

1. Research and Development Objectives—Maximum 30 points

The proposal must clearly define a research and development program designed to meet the objectives defined in Part I. C. of this RFA. The proposal that addresses the needs of producers of; (a) NAP crops; (b) specialty crops; or (c) underserved commodities will receive higher rankings.

The application ranking and scoring for this criterion are:

Numbering and Scoring

Highest—30 points
2nd Highest—24 points
3rd Highest—18 points

4th Highest—12 points
5th Highest—6 points

2. Indication of RMA Involvement and Non-financial Benefits—Maximum 10 points

The proposal clearly indicates areas of substantial involvement by RMA in both the research and development of the risk management tool, and the educational efforts to encourage producers to utilize the risk management tool and the proposal clearly indicates benefits derived from the partnership that extend beyond the financial benefits or funding of the proposal. Examples of non-financial benefits would be the benefits derived by an educational institution by providing research and development opportunities to students and enhancing the community involvement of the institution.

Proposals that provide a more balanced involvement of both the recipient and RMA will receive higher rankings.

The application ranking and scoring for this criterion are:

Numbering and Scoring

Highest—10 points
2nd Highest—8 points
3rd Highest—6 points
4th Highest—4 points
5th Highest—2 points

3. Research and Development Approach and Methodology—Maximum 40 points

The proposal must clearly demonstrate a sound methodology and an innovative approach to the development project. The proposal must clearly and concisely detail the research to be done, the risk management tool that will develop, the educational curriculum, materials, and delivery system to enable producers to utilize the risk management tool. Proposals that are to the most clear, concise, and complete will receive the higher rankings.

The application ranking and scoring for this criterion are:

Numbering and Scoring

Highest—40 points
2nd Highest—32 points
3rd Highest—24 points
4th Highest—16 points
5th Highest—8 points

4. Management—Maximum 20 points

The proposal clearly demonstrates the applicants'' ability and resources to coordinate and manage the proposed research and development project. The proposal demonstrates the research approach is cost effective and maximizes the use of the funding. If the applicant has been the recipient of other Federal or other government grants, cooperative agreements, contracts or partnerships, the applicant must also detail that they have consistently complied with financial and program reporting and audit requirements. Applicants that will employ, or have access to, personnel who have experience in risk management and the development of risk management tools will receive higher rankings.

The application ranking and scoring for this criterion are:

Numbering and Scoring

Highest—20 points
2nd Highest—16 points
3rd Highest—12 points
4th Highest—8 points
5th Highest—4 points

C. Confidentiality

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

Part VI—Additional Information

A. Access to Panel Review Information

Upon written request, a copy of rating forms, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

B. Notification of Partnership Agreement Awards

Following approval of the applications selected for funding, notice of project approval and authority to draw down funds will be made to the selected applicants in writing. Within the limit of funds available for such purpose, the awarding official of RMA shall enter into partnership agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement. The partnership agreement will provide the amount of Federal funds for use in the project period, the responsibilities and benefits of the recipient and RMA, the terms and conditions of the award, and the time period for the project.

The effective date of the partnership agreement shall be the date the agreement is executed by both parties. All funds provided to the applicant by FCIC must be expended solely for the purpose for which funds are obligated in accordance with the approved application and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied, as a result of any award made pursuant to this announcement.

C. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Document

Applicants awarded the partnership agreements will be required to submit semi-annual progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

E. Audit Requirements

Applicants awarded the partnership agreements are subject to audit.

F. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors (1) to certify that they have neither used nor will use any appropriated funds for payments of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profit or other nonappropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from David Fulk at the above stated address and telephone number.

Signed in Washington, DC, on June 26, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 02–16502 Filed 6–28–02; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 43–2001]

Foreign-Trade Zone 146—Lawrence County, IL; Application for Subzone Expansion-Subzone 146A, North American Lighting, Inc., Facilities, Flora and Salem, IL, (Automotive Lighting Products); Technical Correction of Application

Notice is hereby given that the application of Board (the Board) by the Bi-State Authority, grantee of FTZ 146, requesting authority on behalf of North American Lighting, Inc. (NAL), operator of FTZ 146A, at the NAL automotive lighting products manufacturing facilities in Flora and Salem, Illinois, to expand FTZ Subzone 146A to include a new site in Paris, Illinois, and requesting authority to expand the scope of FTZ authority to include new manufacturing capacity under FTZ procedures (66 FR 56271, 11–7–01), has been corrected to include an expansion of the boundary of Site 1 at No. 20 Industrial Park in Flora, Illinois. The southern end of Site 1 would be enlarged to include the Columbus Container Illinois, Inc., warehouse parcel (19 acres). (The application initially appeared to list this parcel within the existing Site 1 boundary.) The application remains otherwise unchanged.

The comment period is reopened until July 22, 2002. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Ave., NW, Washington, DC 20230.

A copy of the application is available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No.1 listed above and at the U.S. Department of Commerce Export Assistance Center, Suite 2440, 55 West Monroe Street, Chicago, IL 60603.

Dated: June 25, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–16511 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 28–2002]

Foreign-Trade Zone 84, Houston, TX Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting authority to expand its zone to include a site at the Williams Terminals Holdings, L.P. (Williams) petroleum products storage terminal located near Galena Park, Harris County, Texas, within the Houston-Galveston Customs Port of Entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 25, 2002.

FTZ 84 was approved on July 15, 1983. The zone project currently consists of 14 sites in Harris County, Texas.

The applicant is now requesting authority to expand the general-purpose zone to include *Proposed Site 15* (196 acres)—at the Williams Terminals Holdings, L.P. (Williams) petroleum terminal located in Harris County, Texas, near Galena Park. The site includes all of the facilities of the Williams Galena Park Terminal, including the buildings, dock facilities, storage tanks, pipelines, manifolds, pumps, valves, filters, meters, etc. The terminal includes 138 storage tanks for intermediate and finished petroleum products with a total capacity of 9,077,800 barrels. The facilities (50 employees) will primarily be used to store and distribute intermediates and finished petroleum products for oil refineries and petrochemical plants. Some of the products are or will be sourced from abroad or from U.S. subzone refineries under zone procedures. Williams will be the operator of the site.

Zone procedures would exempt Williams' customers from Customs duties and federal excise taxes on foreign status jet fuel used for international flights and from Customs duties on petroleum product exports. On domestic sales, customers would be able to defer Customs duty payments on foreign status products until they leave the facility. The application indicates that the savings from zone procedures for its customers would help them improve their international competitiveness.

No specific manufacturing requests are being made at this time. Such requests would be made on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW, Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW, Washington, DC 20230.

The closing period for their receipt is August 30, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period until September 16, 2002.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 500 Dallas, Suite 1160, Houston, Texas 77002.

Dated: June 25, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–16510 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty

order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 (2001) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review: Not later than the last day of July 2002, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings	
BELARUS: Solid Urea, A–822–801	7/1/01–6/30/02
BRAZIL: Industrial Nitrocellulose, A–351–804	7/1/01–6/30/02
BRAZIL: Silicon Metal, A–351–806	7/1/01–6/30/02
CHILE: Fresh Atlantic Salmon, A–337–803	7/1/01–6/30/02
ESTONIA: Solid Urea, A–447–801	7/1/01–6/30/02
FRANCE: Stainless Steel Sheet and Strip in Coils, A–427–814	7/1/01–6/30/02
GERMANY: Industrial Nitrocellulose, A–428–803	7/1/01–6/30/02
GERMANY: Stainless Steel Sheet and Strip in Coils, A–428–825	7/1/01–6/30/02
IRAN: In-Shell Pistachio Nuts, A–507–502	7/1/01–6/30/02
ITALY: Certain Pasta, A–475–818	7/1/01–6/30/02
ITALY: Stainless Steel Sheet and Strip in Coils, A–475–824	7/1/01–6/30/02
JAPAN: Cast Iron Pipe Fittings, A–588–605	7/1/01–6/30/02
JAPAN: Clad Steel Plate, A–588–838	7/1/01–6/30/02
JAPAN: Industrial Nitrocellulose, A–588–812	7/1/01–6/30/02
JAPAN: Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/01–6/30/02
LITHUANIA:Solid Urea, A–451–801	7/1/01–6/30/02
MEXICO: Stainless Steel Sheet and Strip in Coils, A–201–822	7/1/01–6/30/02
REPUBLIC OF KOREA: Industrial Nitrocellulose, A–580–805	7/1/01–6/30/02
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/01–6/30/02
ROMANIA: Solid Urea, A–485–601	7/1/01–6/30/02
RUSSIA: Ferrovanadium and Nitrided Vanadium, A–821–807	7/1/01–6/30/02
RUSSIA: Solid Urea, A–821–801	7/1/01–6/30/02
TAJIKISTAN: Solid Urea, A–842–801	7/1/01–6/30/02
TAIWAN: Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/01–6/30/02
THAILAND: Butt-Weld Pipe Fittings, A–549–807	7/1/01–6/30/02
THAILAND: Canned Pineapple, A–549–813	7/1/01–6/30/02
THAILAND: Furfuryl Alcohol, A–549–812	7/1/01–6/30/02
THE PEOPLE'S REPUBLIC OF CHINA: Bulk Aspirin, A–570–853	7/1/01–6/30/02
THE PEOPLE'S REPUBLIC OF CHINA: Butt-Weld Pipe Fittings, A–570–814	7/1/01–6/30/02
THE PEOPLE'S REPUBLIC OF CHINA: Industrial Nitrocellulose, A–570–802	7/1/01–6/30/02
THE PEOPLE'S REPUBLIC OF CHINA: Persulfates, A–570–847	7/1/01–6/30/02
THE PEOPLE'S REPUBLIC OF CHINA: Sebacic Acid, A–570–825	7/1/01–6/30/02
THE UNITED KINGDOM: Industrial Nitrocellulose, A–412–803	7/1/01–6/30/02
THE UNITED KINGDOM: Stainless Steel Sheet and Strip in Coils, A–412–818	7/1/01–6/30/02
TURKMENISTAN: Solid Urea, A–843–801	7/1/01–6/30/02
TURKEY: Certain Pasta, A–489–805	7/1/01–6/30/02
UKRAINE: Solid Urea, A–823–801	7/1/01–6/30/02
UZBEKISTAN: Solid Urea, A–844–801	7/1/01–6/30/02
Countervailing Duty Proceedings	
BRAZIL: Certain Hot-Rolled Carbon Steel Flat Products, C–351–829	1/1/01–12/31/01
EUROPEAN ECONOMIC COMMUNITY: Sugar, C–408–046	1/1/01–12/31/01
ITALY: Certain Pasta, C–475–819	1/1/01–12/31/01
TURKEY: Certain Pasta, C–489–806	1/1/01–12/31/01
Suspension Agreements	
BRAZIL: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, C–351–829	1/1/01–12/31/01
RUSSIA: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–821–809	1/1/01–12/31/01

In accordance with § 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/

Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2002. If the Department does not receive, by the last day of July 2002, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 26, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 02–16512 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–808]

Notice of Extension of Time Limits for the Preliminary Results of Administrative Review of the Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate from Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits for the Preliminary Results of Administrative Review of the Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate from Ukraine.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary results of the administrative review on the suspension agreement on cut-to-length carbon steel plate from Ukraine.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran at (202) 482–1121 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

EXTENSION OF PRELIMINARY RESULTS:

The Department published its notice of initiation of this review in the **Federal Register** on December 19, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 66 FR 65470. Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), the current deadlines are August 2, 2002 for the preliminary results and November 30, 2002 for the final results. Because the Department must collect additional information regarding the suspension agreement and entry requirements of the subject merchandise into the United States, it is not practicable to complete this review within the normal statutory time limit. Therefore, the Department is extending the time limits for completion of the preliminary results until December 2, 2002 in accordance with section 751(a)(3)(A) of the Tariff Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: June 24, 2002

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–16506 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-824]

Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We are amending our final determination (*see Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan*, 67 FR 35474 (May 20, 2002) (*Final Determination*)), to reflect the correction of a ministerial error made in the final determination. This correction is in accordance with section 735(e) of the Tariff Act of 1930, as amended (the Act) and section 351.224 of the Department of Commerce's (the Department's) regulations. The period of investigation (POI) covered by this amended final determination is April 1, 2000, through March 31, 2001. This notice also constitutes the antidumping duty order with respect to polyethylene terephthalate film, sheet, and strip (PET film) from Taiwan.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Tom Futtner at (202) 482-6320 or (202) 482-3814, respectively; 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:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to 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. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (April 2001).

Scope of The Order

For purposes of this order, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Amended Final Determination

On May 20, 2002, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its final determination in this proceeding. *See Final Determination*, 67 FR 35474. Pursuant to 19 CFR 351.224(c), on May

20, 2002, we received a timely filed submission from Nan Ya alleging that, in the final determination, the Department made two ministerial errors in calculating its margin. On May 28, 2002, we received rebuttal comments from the petitioners.[1]

Nan Ya claims that the figure the Department chose to apply as adverse facts available (AFA) is inconsistent with the Department's underlying rational for its decision to apply AFA. According to Nan Ya, the Department's methodology for deriving the AFA figure fails to calculate this figure on the basis of different products with different product thicknesses.

In rebuttal the petitioners contend that Nan Ya's allegation must be rejected because it is outside the scope of a ministerial error. The petitioners argue that Nan Ya challenges the Department's chosen ''methodology for deriving the adverse facts available figure....'' According to the petitioners, taking issue with the Department's substantial findings or methodological decisions are not valid claims of ministerial error.

We disagree with Nan Ya's allegation that our cost adjustment ratio is a ministerial error and, thus, have not recalculated our AFA cost adjustment ratio.

Further, Nan Ya claims that the Department has erroneously excluded the material adjustment offset field in the calculation of its revised total cost of manufacture (COM). In rebuttal, the petitioners agree that the Department's method of calculating conversion costs failed to properly account for Nan Ya's adjustment to material costs. The petitioners argue, however, that if the Department revises its calculation of COM, it should calculate the conversion cost by summing the labor, variable and fixed overhead costs incurred in the stretching and slitting stages.

In accordance with section 735(e) of the Act, we have determined that with respect to the calculation revising total COM, we agree with Nan Ya that a ministerial error was made in our final margin calculations. Thus, we are amending our final determination in order to correct this ministerial error and consequently to revise the antidumping duty rate for Nan Ya. The revised weighed-average dumping margins for Nan Ya and for All Others are listed below. We did not adopt petitioners' recommended solution because it would require a change to the Department's chosen methodology for calculating NanYa's COM and is outside the scope of a ministerial error.

For a detailed analysis of the ministerial errors that we addressed, and the Department's position on each, see the Memorandum to Bernard T. Carreau from Holly A. Kuga and Neal M. Halper, dated concurrently with this notice, regarding Ministerial Error Allegations on file in room B-099 of the Main Commerce building.

Antidumping Duty Order

On June 24, 2002, in accordance with section 735(d) of the Act, the International Trade Commission (the Commission) notified the Department of its final determination that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Taiwan, pursuant to section 735(b)(1)(A) of the Act. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of PET film from Taiwan. These antidumping duties will be assessed on all unliquidated entries of subject merchandise from Nan Ya entered, or withdrawn from warehouse, for consumption on or after May 20, 2002, the date of publication of the final determination in the **Federal Register**. For Shinkong Synthetic Fibers Corporation and all other companies, antidumping duties will be assessed on all unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 21, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan*, 66 FR 65889 (December 21, 2001).

On or after the date of publication of this notice in the Federal Register, U.S. Customs must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average dumping margins listed below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed below.

Manufacturer/exporter	Margin (percent)	Revised Margin (percent)
Nan Ya Plastics Corporation, Ltd.	2.70	2.49
Shinkong Synthetic Fibers Corporation	2.05	2.05
All Others	2.56	2.40

This notice constitutes the antidumping duty order with respect to PET film from Taiwan. Interested parties may contact the Department's Central Records Unit, Room B-099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and

19 CFR 351.211.

Dated: June 25, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–16508 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–S

[1] The petitioners in this investigation are Dupont Teijin Films, Mitsubishi Polyester Film of America and Toray Plastics (America) Inc. (collectively the petitioners).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We are amending our final determination (see *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 34899 (May 16, 2002) (*Final Determination*)) to reflect the correction of a ministerial error made in the final determination. This correction is in accordance with section 735(e) of the Tariff Act of 1930, as amended (the Act) and section 351.224 of the Department of Commerce's (the Department's) regulations. The period of investigation (POI) covered by this amended final determination is April 1, 2000, through March 31, 2001. This notice also constitutes the antidumping duty order with respect to polyethylene terephthalate film, sheet, and strip (PET film) from India.

EFFECTIVE DATE : July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, Zev Primor, or Howard Smith at (202) 482–0065, (202) 482–4114, and (202) 482–5193, respectively; 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:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to 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. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (April 2001).

Scope of The Order

For purposes of this order, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this order is dispositive.

Amended Final Determination

On May 16, 2002, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its final determination in this proceeding. See *Final Determination*, 67 FR 34899. Pursuant to 19 CFR 351.224(c), on May 15, 2002, we received a timely filed submission from the petitioners[1] alleging that, in the final determination, the Department made two ministerial errors in calculating the margin for one of the respondents, Ester Industries Limited (Ester). Specifically, the petitioners allege that (1) the Department should use the date of the final determination rather than the date of the preliminary determination as the payment date in calculating U.S. imputed credit expenses for transactions without payment dates, and (2) the Department failed to deduct from the export price (EP) certain bank charges associated with EP sales.

On May 20, 2002, we received rebuttal comments from Ester regarding the petitioners' allegation of ministerial errors. Ester contends that the alleged errors which the petitioners' claim to be ministerial fall outside the definition of a ''ministerial error'' and, as such, they should not be considered by the Department.

In accordance with section 735(e) of the Act, we have determined that the Department made a ministerial error only with respect to the payment dates used to calculate U.S. imputed credit expenses for transactions without payment dates. We have adjusted our final margin calculations to reflect this correction. This correction changed Ester's final antidumping duty margin from 24.11 percent to 24.14 percent. For a detailed analysis of the alleged ministerial errors, and the Department's position on each, see the Memorandum to Bernard T. Carreau from Holly A. Kuga, dated concurrently with this notice, regarding the subject *Ministerial Error Allegation* on file in room B–099 of the Main Commerce building.

Antidumping Duty Order

On June 24, 2002, in accordance with section 735(d) of the Act, the International Trade Commission (the Commission) notified the Department of its final determination that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from India, pursuant to section 735(b)(1)(A) of the Act. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise (after adjusting for the export subsidy rate in the companion countervailing duty order) for all relevant entries of polyethylene terephthalate film, sheet, and strip from India. These antidumping duties will be assessed on all unliquidated entries of subject merchandise from India (except for imports of subject merchandise produced and exported by Polyplex Corporation Limited) entered, or withdrawn from warehouse, for consumption on or after December 21, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India*, (66 FR 65893).

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average dumping margins listed below, adjusted for the export subsidy rate in the companion countervailing duty order. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed below.

Manufacturer/exporter	Margin (%)
Ester Industries Limited ..	24.14
Polyplex Corporation Limited	*****[2]
All Others	24.14

[2] The Department calculated a weighted-average dumping margin of 10.34 percent for Polyplex before adjusting the margin for export subsidies for which the Department determined to impose countervailing duties. However, because the rate for Polyplex is zero after adjusting the dumping margin for the export subsidies in the companion countervailing duty order, Polyplex is excluded from the antidumping duty order.

This notice constitutes the antidumping duty order with respect to polyethylene terephthalate film, sheet, and strip from India. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

[1] The petitioners in this investigation are Dupont Teijin Films, Mitsubishi Polyester Film of America and Toray Plastics (America) Inc. (collectively the petitioners).

Dated: June 25, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–16513 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–854]

Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Final results of changed circumstances review.

EFFECTIVE DATE: July 1, 2002.

SUMMARY: On January 25, 2002, the Department of Commerce (''the Department'') published a notice of initiation of a changed circumstances review with the intent to revoke, in part, the antidumping duty order on certain tin mill products from Japan with respect to certain tin-free steel as described below. *See Certain Tin Mill Products From Japan: Notice of Initiation of Changed Circumstances Review of the Antidumping Order,* 67 FR 3686 (January 25, 2002) (''*Initiation Notice*''). On March 8, 2002, the Department published the preliminary results of the changed circumstances review and preliminarily revoked this order, in part, with respect to future entries of tin-free steel described below, based on the fact that domestic parties have expressed no interest in continuation of the order with respect to these particular tin-free steel products. *See Certain Tin Mill Products from Japan: Preliminary Results of Changed Circumstances Review,* 67 FR 10667 (March 8, 2002) (''*Preliminary Results*''). In our *Initiation Notice,* and our *Preliminary Results,* we gave interested parties an opportunity to comment; however, we did not receive any comments from domestic parties opposing the partial revocation of the order. On May 7, 2002, Weirton Steel, the only petitioner producer in the underlying investigation, stated that they do not produce the merchandise in question. Weirton did not object to partial revocation. Therefore, in our final results of the changed circumstances review the Department hereby revokes this order with respect to all unliquidated entries for consumption of tin-free steel, as described below, effective August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Ferrier, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1394.

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's (the Department's) regulations are to the regulations at 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION

Background

On August 28, 2000, the Department published in the **Federal Register** the antidumping duty order on certain tin mill products from Japan. *See Notice of Antidumping Duty Order: Certain Tin Mill Products from Japan* 65 FR 52067 (August 28, 2000) (*TMP Order*). On December 3, 2001, Okaya (U.S.A.), Inc. (''Okaya''), a U.S. importer requested that the Department revoke in part the antidumping duty order on certain tin mill products from Japan. Okaya also requested that the partial revocation apply retroactively for all unliquidated entries. Specifically, the U.S. importer requested that the Department revoke the order with respect to imports meeting the following specifications: Steel coated with a metallic chromium layer between 100–200 mg/m^2 and a chromium oxide layer between 5–30 mg/m^2; chemical composition of 0.05% maximum carbon, 0.03% maximum silicon, 0.60% maximum manganese, 0.02% maximum phosphorous, and 0.02% maximum sulfur; magnetic flux density (''Br'') of 10 kg minimum and a coercive force (''Hc'') of 3.8 Oe minimum. The U.S. importer indicated that, based on its consultations with domestic producers, the domestic producers lack interest in producing this specialized product.

On January 16, 2002, Weirton Steel, the only petitioner producer in the underlying investigation filed a letter stating that they did not object to the exclusion of this product from the order. Weirton Steel, a domestic producer of tin mill products, together with the Independent Steelworkers Union and the United Steelworkers of America, AFL-CIO, were the petitioners in the underlying sales at less-than-fair-value investigation (*see Notice of Final Determination of Sales at Less Than Fair Value; Certain Tin Mill Products From Japan,* 65 FR 39364 (June 26, 2000) (*Final LTFV Investigation*). On January 25, 2002, the Department published a notice of initiation of a changed circumstances review of the antidumping duty order on certain tin mill products from Japan with respect to certain tin-free steel. *See Initiation Notice.* On March 8, 2002, the Department published the preliminary results of the changed circumstances review. *See Preliminary Results.* In the *Initiation Notice* and *Preliminary Results,* we indicated that interested parties could submit comments for consideration in the Department's preliminary and final results. We did not receive any comments. On May 7, 2002, Weirton Steel, the only petitioner producer in the underlying investigation, stated that they do not produce the merchandise in question. Weirton did not oppose the partial revocation. *See* Memorandum to File From Michael Ferrier, May 7, 2002.

Scope of Review

The products covered by this antidumping order are tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single-or double-reduced), and whether or not coated with a plastic material. All products that meet the written physical description are within the scope of this order unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

—Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (#10%) or 0.251 mm (90 pound base box) (#10%) or 0.255 mm (#10%) with 770 mm (minimum width) (#1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (# 1/16 inch) and 35.4 inches (maximum

length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m^2; with a chrome oxide coating restricted to 6 to 25 mg/m^2 with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m^2 as type DOS, or 3.5 to 6.5 mg/m^2 as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

—Single reduced electrolytically chromium-or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.

—Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T–1 temper properties.

—Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70–130 mg/m\2\, with a chromium oxide layer of 5–30 mg/m\2\ , with a tensile strength of 260–440 N/mm\2\ , with an elongation of 28–48%, with a hardness (HR–30T) of 40–58, with a surface roughness of 0.5–1.5 microns Ra, with magnetic properties of Bm (KG)10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5–3.8, and MU 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU–60.

—Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).

—Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5⁄64 inch (2.0 mm) and edge wave maximum of 5⁄64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5⁄64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4⁄32 inch (3.2 mm) and no more than two readings at 4⁄32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of ¼ inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/m\2\ and chromium oxide of 10 mg/m\2\, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS–A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1⁄32 inch (0.8 mm) in width and 3⁄64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of # ⅛ inch, with a thickness tolerance of #0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg) with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

—Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3–0.4 grams/base box of type DOS–A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of 25,000 pounds, and with temper/coating/dimension combinations of : (1) CAT 4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

—Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15–20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch × 31.748 inch scroll cut dimensions; or (2) 75

pound/base box (0.0082 inch) thickness and 34.1875 inch × 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch × 34.125 inch scroll cut dimension.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS''), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Final Results of Changed Circumstances Review

Pursuant to section 751(d) of the Act, the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act. Section 782(h)(2) of the Act and § 351.222(g)(1)(i) of the Department's regulations provide that the Secretary may revoke an order, in whole or in part, based on changed circumstances if ''{p}roducers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) * * * pertains have expressed a lack of interest in the order, in whole or in part. * * *'' In this context, the Department has interpreted ''substantially all'' production normally to mean at least 85 percent of domestic production of the like product (*see Oil Country Tubular Goods From Mexico: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 14213, 14214 (March 24, 1999)).

No domestic producers of tin mill products have expressed opposition to the partial revocation of the tin mill products order following the *Initiation Notice* and the *Preliminary Results.* For these reasons the Department is partially revoking the order on tin mill products from Japan, effective August 1, 2001, with respect to all unliquidated entries for consumption of tin-free steel which meets the specifications detailed above in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216. We will instruct the U.S. Customs Service (''Customs'') to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of certain tin mill products (*i.e.,* certain tin-free steel) meeting the specifications indicated above.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of the Department's regulations.

Dated: June 14, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–16505 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Stainless Steel Flanges from India; Extension of Time Limit For Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the final results of the administrative review of the antidumping duty order on certain stainless steel flanges from India.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Robert James, AD/CVD Enforcement, Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–5222, or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2002, the Department published in the Federal Register the preliminary results of administrative review of the antidumping duty order on certain stainless steel flanges from India, covering the period February 1, 2000 through January 31, 2001 (*Certain Forged Stainless Steel Flanges From India; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 10358). The final results are currently due no later than July 5, 2002. The respondents are: Isibars, Ltd., Panchmahal Steel Ltd., Patheja Forgings & Auto Parts, Ltd., and Viraj Forgings, Ltd.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act) requires the Department of Commerce (the Department) to make 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 this time period, section 751(a)(3)(A) of the Tariff Act allows the Department to extend the time limit for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of publication of the preliminary results.

Extension of Final Results Deadline

The Department has determined that because this review involves complex issues, including affiliation allegations in regards to a U.S. customer, disputed duty drawback adjustments, and the correctness of major input pricing on raw materials purchased from affiliated suppliers, it is not practicable to complete the final results of review within the original 120 day time limit mandated by section 751(a)(3)(A) of the Tariff Act and section 351.213(h)(1) of the Department's regulations. Therefore, the Department is extending the time limit for completion of the final results until September 3, 2002, in accordance with 19 CFR 351.213(h)(2).

Dated: June 24, 2002

Joseph A. Spetrini,

Deputy Assistant Secretary For Import Administration, Group III.

[FR Doc. 02–16507 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-825]

Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Howard Smith at

(202) 482-5253 or (202) 482-5193, respectively, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended, (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Scope of Order

For purposes of this order, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this order is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on May 16, 2002, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of PET film from India (67 FR 34905). On June 24, 2002, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of PET film from India.

Therefore, countervailing duties will be assessed on all unliquidated entries of PET film from India entered, or withdrawn from warehouse, for consumption on or after October 22, 2001, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, but before February 19, 2002, the date the Department instructed the U.S. Customs Service to discontinue the suspension of liquidation in accordance with section 703(d) of the Act, and on all PET film from India entered or withdrawn from warehouse for consumption on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary countervailing duty determination may not remain in effect for longer than four months. Thus, entries of PET film made on or after February 19, 2002, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective February 19, 2002, of suspension of liquidation, pursuant to section 703(d) of the Act.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstate the suspension of liquidation effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rates noted below. The ''All Others'' rate applies to all producers and exporters of PET film from India not specifically listed below. The cash deposit rates are as follows: BOXHD≤

Producer/Exporter	Cash Deposit Rate
Ester Industries Ltd.	18.43% *ad valorem*
Garware Polyester Ltd. ...	24.48% *ad valorem*
Polyplex Corporation Ltd.	18.66% *ad valorem*
All Others	20.40% *ad valorem*

This notice constitutes the countervailing duty order with respect to PET film from India, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the main Commerce building, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: June 25, 2002

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–16509 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052802E]

Small Takes of Marine Mammals Incidental to Specified Activities; Missile Launch Operations From San Nicolas Island, CA

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

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the U.S. Navy, Naval Air Weapons Station, China Lake, CA (NAWS) for an incidental harassment authorization (IHA) to take small numbers of marine mammals by harassment incidental to missile launch operations by Naval Air Warfare Center Weapons Division, Point Mugu (NAWCWD) from the western end of San Nicolas Island, CA (SNI). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize NAWS to incidentally take, by harassment, small numbers of pinnipeds on SNI during 15 launches of Vandal (or similar) vehicles and 5 launches of smaller subsonic missiles and targets for 1 year commencing in August 2002.

DATES: Comments and information must be received no later than July 31, 2002.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the NAWS application is available upon request from the same address.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, NMFS, (301) 713–2322, ext. 128 or Christina Fahy, NMFS, (562) 980–4023.

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, notice of a proposed authorization is provided to the public for review.

Permission for incidental takings may be granted if NMFS finds that the taking will have no more than 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 that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking 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 (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

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

On April 9, 2002, NMFS received an application from NAWS requesting an authorization for the harassment of small numbers of three species of marine mammals incidental to target missile launch operations conducted by NAWCWD on SNI, one of the Channel Islands in the Southern California Bight. These operations may occur at any time during the year depending on test and training requirements and meteorological and logistical limitations. On occasion, two or three launches may occur in quick succession on a single day. In 2001, NAWCWD conducted 9 launches of Vandal and similar sized targets and 3 launches of subsonic targets from SNI. NAWS' request for an authorization to incidentally harass small numbers of marine mammals on SNI in 2002 and 2003 anticipates 15 launches of Vandal (or similar sized) vehicles from the Alpha Launch Complex on SNI and 5 launches of smaller subsonic missiles and targets for one year from either the Alpha Launch Complex or Building 807 commencing in August 2002. A detailed description of the operations is contained in the application (NAWS, 2002) which is available upon request (see **ADDRESSES**).

Measurement of Airborne Sound Levels

The types of sounds discussed in NAWS' IHA application are airborne and impulsive. For this reason, the applicant has referenced both pressure and energy measurements for sound levels. For pressure, the sound pressure level (SPL) is described in terms of decibels (dB) re micro-Pascal (micro-Pa), and for energy, the sound exposure level (SEL) is described in terms of dB re micro-Pa^2 -second. In other words, SEL is the squared instantaneous sound pressure over a specified time interval, where the sound pressure is averaged over 5 percent to 95 percent of the duration of the sound (in this case, one second).

Airborne noise measurements are usually expressed relative to a reference pressure of 20 micro-Pa, which is 26 dB above the underwater sound pressure reference of 1 micro-Pa. However, the conversion from air to water intensities is more involved than this (Buck, 1995) and beyond the scope of this document. Also, airborne sounds are often expressed as broadband A-weighted sound levels (dBA). A-weighting refers to frequency-dependent weighting factors applied to sound in accordance with the sensitivity of the human ear to different frequencies. While it is unknown whether the pinniped ear responds similarly to the human ear, a study by C. Malme (pers. commun. to NMFS, March 5, 1998) found that for predicting noise effects, A-weighting is better than unweighted pressure levels because the pinniped's highest hearing sensitivity is at higher frequencies than that of humans. As a result, whenever possible, NMFS provides both A-weighted and unweighted sound pressure levels; where not specified for in-air sounds, A-weighting is implied (ANSI, 1994). In this document, all sound levels have been provided with A-weighting.

Description of the Specified Activity

Target missile launches from SNI are used to support test and training activities associated with operations on the Sea Range off Point Mugu, CA. SNI is under the land management responsibility of NAWS; however, planned missile and other target launches are conducted by NAWCWD. In general, two types of launch vehicles are used, the Vandal and the smaller subsonic missiles and targets. Other vehicles used would be similar in size and weight or slightly smaller and would have characteristics generally similar to the Vandal.

Vandal Target Missiles

The Vandal target missile is a relatively large, air-breathing (ramjet) vehicle with no explosive warhead that is designed to provide a realistic simulation of the mid-course and terminal phase of a supersonic anti-ship cruise missile. These missiles are 7.7 meters (m) (25.2 feet (ft)) in length with a mass at launch of 3,674 kilograms (kg) (8,100 lbs) including the solid propellant booster. There are variants of the Vandal; they all have the same dimensions, but differ in their operational range. The Vandals are remotely controlled, non-recoverable missiles. These and most other targets are launched from a land-based launch site (hereafter referred to as Alpha Launch Complex) on the west-central part of SNI. The Alpha Launch Complex is 192 m (630 ft) above sea level and is approximately 2 kilometers (km)(1.25 miles (mi)) from the nearest pinniped haul-out site. Launch trajectories from Alpha Launch Complex vary from a near-vertical liftoff, crossing the west end of SNI at an altitude of approximately 3,962 m (13,000 ft) to a nearly horizontal liftoff, crossing the west end of SNI at an altitude of approximately 305 m (1,000 ft).

Vandal launches produce the strongest noise source originating from aircraft or missiles in flight over SNI beaches. Sound measurements were collected during two Vandal launches in 1997 and 1999 and are reported in Burgess and Greene (1998) and Greene (1999). Greene (1999) reported that received A-weighted SPL were found to range from 123 dB (re 20 micro-Pa) (SEL of 126 dB re 20 micro-Pa^2 -sec) at 945 m (3,100 ft) to 136 dB (re 20 μPa) (SEL of 131 dB re 20 micro-Pa2 -sec) at 370 m (1,215 ft). The most intense sound exposure occurred during the first 0.3 to 1.9 seconds after launch.

Subsonic Targets and Other Missiles

The subsonic targets and other missiles are small unmanned aircraft that are launched using jet-assisted take-off (JATO) rocket bottles. Once launched, they continue offshore where they are used in training exercises to simulate various types of subsonic threat missiles and aircraft. The larger target, BQM–34, is 7 m (23 ft) long and has a mass of approximately 1,134 kg (2,500 lbs) plus the JATO bottle. The smaller BQM–74, is 420 centimeters (cm) (165.5 inches (in)) long and has a mass of approximately 250 kg (550 lbs) plus the JATO bottle. Other types of small missiles that may be launched include the Exocet, Tomahawk, and Rolling Airframe Missile (RAM). All of these smaller targets are launched from either the Alpha Launch Complex or from Building 807, a second launch site on the west end of SNI. Building 807 is approximately 10 m (30 ft) above sea level and accommodates several fixed and mobile launchers that range from 30 m (98 ft) to 150 m (492 ft) from the nearest shoreline. For these smaller missiles, launch trajectories from Building 807 range from 6 to 45 degrees and cross over the nearest beach at altitudes from 9 to 183 m (30 to 600 ft).

Sound measurements were collected from the launch of a BQM–34S at Naval Air Station (NAS) Point Mugu in 1997. Burgess and Greene (1998) found that for this launch, the A-weighted SPL ranged from 92 dB (re 20 micro-Pa) (SEL of 102.2 dB re 20 micro-Pa^2 -sec) at 370 m (1,200 ft) to 145 dB (re 20 micro-Pa) (SEL of 142.2 dB re 20 micro-Pa2 -sec) at 15 m (50 ft). These estimates are approximately 20 dB lower than that of a Vandal launch at similar distances (Greene, 1999).

General Launch Operations

Aircraft and helicopter flights between NAS, Point Mugu on the mainland, the airfield on SNI and the target sites in the Sea Range will be a routine part of any planned launch operation. These operational flights do not pass at low level over the beaches where pinnipeds are expected to be hauled out. In addition, movements of personnel are restricted near the launch sites 2 hours prior to a launch, no personnel are allowed on the western end of SNI during Vandal launches, and various environmental protection restrictions exist near the island's beaches during other times of the year.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Channel Islands/southern California Bight ecosystem and its associated marine mammals can be found in several documents (Le Boeuf and Brownell, 1980; Bonnell *et al.*, 1981; Lawson *et al.*, 1980; Stewart, 1985; Stewart and Yochem, 2000; Sydeman and Allen, 1999) and is not repeated here.

Marine Mammals

Many of the beaches in the Channel Islands provide resting, molting or breeding places for species of pinnipeds including: northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern fur seals (*Callorhinus ursinus*), and Steller sea lions (*Eumetopias jubatus*). On SNI, three of these species, northern elephant seals, harbor seals, and California sea lions, can be expected to occur on land in the area of the proposed activity either regularly or in large numbers during certain times of the year. Descriptions of the biology and distribution of these three species and others in the region can be found in Stewart and Yochem (2000, 1994), Sydeman and Allen (1999), Barlow *et al.* (1993), Lowry *et al.*(1996), Schwartz (1994), Lowry (1999) and several other documents (Barlow *et al.*, 1997; NMFS, 2000; NMFS, 1992; Koski *et al.*, 1998; Gallo-Reynoso, 1994; Stewart *et al.*, 1987). Please refer to those documents and the application for further information on these species.

Potential Effects of Target Missile Launches and Associated Activities on Marine Mammals

Sounds generated by the launches of Vandal target missiles and smaller subsonic targets and missiles (BQM–34 or BQM–74 type) as they depart sites on SNI towards operational areas in the Point Mugu Sea Range have the potential to take marine mammals by harassment. Taking by harassment will potentially result from these launches when pinnipeds on the beaches near the launch sites are exposed to the sounds produced by the rocket boosters and the high-speed passage of the missiles as they depart the island on their routes to the Sea Range. Extremely rapid departure of the Vandal and smaller targets means that pinnipeds would be exposed to increased sound levels for very short time intervals (i.e., a few seconds). Noise generated from aircraft and helicopter activities associated with the launches may provide a potential secondary source of marine mammal harassment. The physical presence of aircraft could also lead to non-acoustic effects on marine mammals involving visual or other cues. There are no anticipated effects from human presence on the beaches, since movements of personnel are restricted near the launch sites 2 hours prior to launches for safety reasons.

Reactions of pinnipeds on the western end of SNI to Vandal target launches have not been well-studied, but based on studies of other rocket launch activities and their effects on pinnipeds in the Channel Islands (Stewart *et al.*, 1993), anticipated impacts can be predicted. In general, other studies have shown that responses of pinnipeds on beaches to acoustic disturbance arising from rocket and target missile launches are highly variable. This variability may be due to many factors, including species, age class, and time of year. Among species, northern elephant seals seem very tolerant of acoustic disturbances (Stewart, 1981), whereas harbor seals (particularly outside the breeding season) seem more easily disturbed. Research and monitoring at Vandenberg Air Force Base found that prolonged or repeated sonic booms, very strong sonic booms or sonic booms accompanying a visual stimulus, such as a passing aircraft, are most likely to stimulate seals to leave the haul-out area and move into the water. During three launches of Vandal missiles from SNI, California sea lions near the launch track line were observed from video recordings to be disturbed and to flee (both up and down the beach) from their former resting positions. Launches of the smaller BQM–34 targets from NAS Point Mugu have not normally resulted in harbor seals leaving their haul-out area at the mouth of Mugu Lagoon, which is approximately 3.2 km (2 mi) from the launch site. An Exocet missile launched from the west end of SNI appeared to cause far less disturbance to hauled out California sea lions than Vandal launches. Given the variability in pinniped response to acoustic disturbance, the Navy conservatively assumes that biologically significant disturbance (i.e. takes by harassment) will sometimes occur upon exposure to launch sounds with SEL's of 100 dBA (re 20 micro-Pa^2 -sec) or higher.

From Lawson *et al.*(1998), the Navy determined a conservative estimate of the SEL at which temporary threshold shift (TTS) (Level B harassment) may be elicited in harbor seals and California sea lions (SEL of 145 dB re 20 micro-Pa2 -sec) and northern elephant seals (SEL of 165 dB re 20 micro-Pa^2 -sec). The sound levels necessary to elicit mild TTS in captive California sea lions and harbor seals exposed to impulse noises, such as sonic booms, were tens of decibels higher (Bowles *et al.*, 1999) than sound levels measured during Vandal launches (Burgess and Greene,

1998; Greene, 1999). This evidence, in combination with the known sound levels produced by missiles launched from SNI (described later in this document), suggests that no pinnipeds will be exposed to TTS-inducing SELs during planned launches.

Based on modeling of sound propagation in a free field situation, Burgess and Greene (1998) data were used by the Navy to predict that Vandal target launches from SNI could produce a 100–dBA acoustic contour that extends an estimated 4,263 m (13,986 ft) perpendicular to its launch track. In other words, Vandal target launch sounds are predicted to exceed the SEL (100 dBA) disturbance criteria out to a distance of 4,263 m (13,986 ft) from the Alpha Launch Complex. Northern elephant seals, harbor seals, and California sea lions haul out in areas within the perimeter of this 100-dBA contour for Vandal launches. For BQM–34 launches from Alpha Launch Complex, the Navy assumes that the 100 dBA contour extends an estimated 1,372 m (4,500 ft), perpendicular to its launch track (C. Malme, Engineering and Scientific Services, Hingham, MA, unpublished data). Along the launch track and ahead of the BQM–34, the 100 dBA contour extends a shorter distance (549 m or 1,800 ft). For the smaller BQM–74 and Exocet missiles, the Navy predicts that the 100 dBA contours will be smaller still. The free field modeling scenario used to predict these acoustic contours does not account for transmission losses caused by wind, intervening topography, and variations in launch trajectory or azimuth. Therefore, the predicted 100 dBA contours may be smaller at certain beach locations and for different launch trajectories.

In general, the extremely rapid departure of the Vandal and smaller targets means that pinnipeds could be exposed to increased sound levels for very short time intervals (a few seconds) potentially leading to alert and startle responses from individuals on haul out sites in the vicinity of launches. Since preliminary observations of the responses of pinnipeds to Vandal launches at SNI have not shown injury, mortality, or extended biological disturbance, the Navy anticipates that the effects of the planned target launches will have no more than a negligible impact on pinniped populations.

Given that this activity will happen infrequently, and will produce only brief, rapid-onset sounds, it is unlikely that pinnipeds hauled out on beaches at the western end of SNI will exhibit much, if any, habituation to target missile launch activities. In addition, the infrequent and brief nature of these sounds will cause masking for not more than a very small fraction of the time (usually less than 2 seconds per launch) during any single day. Therefore, the Navy assumes that these occasional and brief episodes of masking will have no significant effects on the abilities of pinnipeds to hear one another or to detect natural environmental sounds that may be relevant to the animals.

Numbers of Marine Mammals Expected to Be Taken by Harassment

NAWS estimates that the following numbers of marine mammals may be subject to Level B harassment, as defined in 50 CFR 216.3:

Species by MMPA Stock Designation	Minimum Abundance Estimate of Stock[1]	Harassment Takes in 2001
Northern Elephant Seal (California Stock)	51,625	<2,390
Harbor Seal (California Stock)	27,962	<457
California Sea Lion (U.S. Stock)	109,854	10,086
Northern Fur Seal (San Miguel Stock)	2,336	3

1. From 1999–2000 NMFS Marine Mammal Stock Assessment Reports.

Effects of Target Missile Launches and Associated Activities on Subsistence Needs

There are no subsistence uses for these pinniped species in California waters, and, thus, there are no anticipated effects on subsistence needs.

Effects of Target Missile Launches and Associated Activities on Marine Mammal Habitat on San Nicolas Island

During the period of proposed activity, harbor seals, California sea lions, and northern elephant seals will use various beaches around SNI as places to rest, molt, and breed. These beaches consist of sand (e.g., Red Eye Beach), rock ledges (e.g., Phoca Beach) and rocky cobble (e.g., Vizcaino Beach). The pinnipeds do not feed when hauled out on these beaches, and the airborne launch sounds will not persist in the water near the island for more than a few seconds. Therefore, the Navy does not expect that launch activities will have any impact on the food or feeding success of these animals. The solid rocket booster from the Vandal target and the JATO bottles from the BMQs are jettisoned shortly after launch and fall into the sea west of SNI. While it is theoretically possible that one of these boosters might instead land on a beach, the probability of this occurring is very low. Fuel contained in the boosters and JATO bottles is consumed rapidly and completely, so there would be no risk of contamination even if a booster or bottle did land on the beach. Overall, the proposed target missile launches and associated activities are not expected to cause significant impacts on habitats or on food sources used by pinnipeds on SNI.

Proposed Mitigation

To avoid additional harassment to the pinnipeds on beach haul out sites and to avoid any possible sensitizing or predisposing of pinnipeds to greater responsiveness towards the sights and sounds of a launch, NAWCWD Point Mugu will limit its activities near the beaches in advance of launches. Existing safety protocols for Vandal launches provide a built-in mitigation measure. That is, personnel are normally not allowed near any of the pinniped beaches close to the flight track on the western end of SNI within two hours prior to a launch. Where practicable, NAWCWD Point Mugu will adopt the following additional mitigation measures when doing so will not compromise operational safety requirements or mission goals: (1) The Navy will limit launch activities during pinniped pupping seasons, particularly harbor seal pupping season; (2) the Navy will not launch target missiles at low elevation (under 305 m, 1,000 ft) on launch azimuths that pass close to beach haul-out site(s); (3) the Navy will avoid multiple target launches in quick succession over haul-out sites, especially when young pups are present; and, (4) the Navy will limit launch activities during the night.

Proposed Monitoring

As part of its application, NAWS provided a proposed monitoring plan, similar to that adopted for the 2001–2002 IHA (see 66 FR 41834, August 9,

2001), for assessing impacts to marine mammals from Vandal and smaller subsonic target and missile launch activities on SNI. This monitoring plan is described in their application (NAWS, 2002).

The Navy proposes to conduct the following monitoring during 2002-2003:

Land-Based Monitoring

In conjunction with a biological contractor, the Navy will continue its land-based monitoring program to assess effects on the three common pinniped species on SNI: northern elephant seals, harbor seals, and California sea lions. This monitoring would occur at three different sites of varying distance from the launch site before, during, and after each launch. The monitoring would be via digital video cameras.

During the day of each missile launch, the observer would place three digital video cameras overlooking chosen haul out sites. Each camera would be set to record a focal subgroup within the haul out aggregation for a maximum of 4 hours or as permitted by the videotape capacity.

Following each launch, all digital recordings will be transferred to DVDs for analysis. A DVD player/computer with high-resolution freeze-frame and jog shuttle will be used to facilitate distance estimation, event timing, and characterization of behavior. Details of analysis methods can be found in LGL Ltd. Environmental Research Associates et al. (LGL, 2002).

Acoustical Measurements

During each launch, the Navy would obtain calibrated recordings of the levels and characteristics of the received launch sounds. Acoustic data would be acquired using three Autonomous Terrestrial Acoustic Recorders (ATAR) at three different sites of varying distances from the target's flight path. ATARs can record sounds for extended periods (dependent on sampling rate) without intervention by a technician, giving them the advantage over traditional digital audio tape (DAT) recorders should there be prolonged launch delays of as long as 10 hours. Insofar as possible, acoustic recording locations would correspond with the sites where video monitoring is taking place. The collection of acoustic data would provide information on the magnitude, characteristics, and duration of sounds that pinnipeds may be exposed to during a launch. In addition, the acoustic data can be combined with the behavioral data collected via the land-based monitoring program to determine if there is a dose-response relationship between received sound levels and pinniped behavioral reactions. Once collected, sound files will be transferred onto CDs and sent to the acoustical contractor for sound analysis.

For further details regarding the installation and calibration of the acoustic instruments and analysis methods refer to LGL (2002).

Reporting Requirements

If the IHA is granted, NAWS will provide an initial report on activities to NMFS after the first 90 days of the authorization period. This report will summarize the timing and nature of the launch operation(s), summarize pinniped behavioral observations, and estimate the amount and nature of all takes by harassment or in other ways. In the event that any cases of pinniped mortality are determined by trained biologists to result from launch activities, this information will be reported to NMFS immediately.

A draft final technical report will be submitted to NMFS 120 days prior to the expiration of the IHA. This technical report will provide full documentation of methods, results, and interpretation of all monitoring tasks for launches during the first 6 months of the IHA period, plus preliminary information for launches during months 7 and 8. At the time of the 120–day report, the Navy and NMFS will discuss the scope of additional launch monitoring work on SNI during the 2002–2003 IHA period.

The revised final technical report, including all monitoring results during the authorization, will be due 90 days after the end of the 1–year IHA period.

Endangered Species Act (ESA)

NAWS has not requested the take of any listed species nor is any listed species under NMFS jurisdiction expected to be impacted by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required at this time.

National Environmental Policy Act (NEPA)

In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act , May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined, based on a programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996); the content and analysis of NAWS's request for an IHA; and the NAWCWD's March, 2002 Final Environmental Impact Statement to assess the effects of its ongoing and proposed operations in the Sea Range of Point Mugu, that the proposed issuance of this IHA to NAWS by NMFS will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Therefore, based on this analysis, the action of issuing an IHA for these activities meets the definition of a ''Categorical Exclusion'' as defined under NOAA Administrative Order 216–6 and is exempted from further environmental review.

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of conducting missile launch operations from SNI in the Channel Islands off southern California will result, at worst, in a temporary modification in behavior by certain species of pinnipeds. While behavioral modifications may be made by these species as a result of launch activities, this behavioral change is expected to have a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of launch operations, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document.

Proposed Authorization

NMFS proposes to issue an IHA for 15 launches of Vandal (or similar) missiles and 5 launches of smaller subsonic targets from San Nicolas Island, CA westward towards the Pt Mugu Sea Range for a 1–year period, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of northern elephant seals, harbor seals, California sea lions, and northern fur seals; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this request (see **ADDRESSES**).

Dated: June 21, 2002.

Donna Wieting,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service

[FR Doc. 02–16527 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062602D]

North Pacific Fishery Management Council; Notice of Committee Meeting

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

ACTION: Committee meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) has scheduled two committee meetings.

DATES: The meeting dates are:
July 15, 2002, Anchorage, AK
July 18–29, 2002, Seattle, WA

ADDRESSES: The meeting locations are:
1. Anchorage—RuralCap Board Room, 731 Gambell Street, Anchorage AK.
2. Seattle—Alaska Fisheries Science Center, 7600 Sand Point Way NE, Building 4, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council Staff: 907–271–2809.

SUPPLEMENTARY INFORMATION: *July 15, 2002*—The Halibut Subsistence Committee will meet in Anchorage, Alaska. The Committee will meet between 9 a.m.–4:30 p.m. at the RuralCap Board Room, 731 Gambell Street, Anchorage AK, to develop criteria for harvest limitations to be placed on community harvest permits to federally recognized tribes and other local governments of eligible communities.

July 18–29, 2002—The Council's Observer Advisory Committee will meet at the Alaska Fisheries Science Center, 7600 Sand Point Way NE, Building 4, to discuss long-term structural changes to the North Pacific Council's observer program. For specific starting times and meeting room, please see the Council's website: *www.fakr.noaa.gov/npfmc.*

Although other issues not contained in this notice may come before the Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: June 26, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–16529 Filed 6–28–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Office of Science; Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 22, 2002, 8 a.m. to 5 p.m., and Tuesday, July 23, 2002, 8 a.m. to 12 p.m.

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

FOR FURTHER INFORMATION CONTACT: Sharon Long; Office of Basic Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: (301) 903–5565.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, July 22, 2002
- Welcome and Introduction
- Status of FY 2003 Budget
- Basic Energy Sciences Highlights
- Summary of BESAC-Sponsored Workshop on Theory and Modeling in Nanoscience
- Summary of BESAC-Sponsored Catalysis Planning Workshop
- Summary of the BES Workshop on Basic Research Needs for Countering Terrorism and Related SC-wide Activites
- Discussion of October 2002 BESAC-Sponsored Workshop on the Basic Research Needs to Assure a Secure Energy Future
- Linac Coherent Light Source Update
- Spallation Neutron Source Update
- High Flux Isotope Reactor Update

Tuesday, July 23, 2002
Update on the Nanoscale Science Research Centers
Summary of Transmission Electron Achromatic Microscope Workshop

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Sharon Long at 301–903–6594 (fax) or *sharon.long@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC 20585; between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, on June 25, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee, Management Officer.

[FR Doc. 02–16446 Filed 6–28–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat.770) requires that

public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 22, 2002, 3 p.m.–9 p.m.; Tuesday, July 23, 2002, 8:30 a.m.–4 p.m.

ADDRESSES: Adam's Mark Hotel, 1200 Hampton Street, Columbia, SC 29201.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803)725–5374.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, July 22, 2002

3:00 p.m.—Long-Term Stewardship Committee.
4:30 p.m.—Executive Committee.
6:30 p.m.—Public Comment Session.
7:00 p.m.—Committee Meetings.
7:00–9:00 p.m.—Issues-Based Committee Meetings.
9:00 p.m.—Adjourn.

Tuesday, July 23, 2002

8:30–9:15 a.m.—Approval of Minutes; Agency Updates; Public Comment Session; Facilitator Update.
9:15–10:00 a.m.—Environmental Restoration Committee.
10:00–11:45 a.m.—Waste Management Committee Report.
11:45–12:00 a.m.—Public Comments.
12:00 noon—Lunch Break.
1:00–2:00 p.m.—Nuclear Materials Committee Report.
2:00–3:00 p.m.—Strategic & Long-Term Issue Committee.
3:00–3:30 p.m.—Long-Term Stewardship Committee.
3:30–3:45 p.m.—Administrative Committee Report.
3:45–4:00 p.m.—Public Comments.
4:00 p.m.—Adjourn.

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, July 22, 2002.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make the oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Fleming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC, 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on June 25, 2002.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 02–16447 Filed 6–28–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC02–600–000, FERC–600]

Commission Collection Activities, Proposed Collection; Comment Request; Extension

June 24, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due by August 27, 2002.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC02–600–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filings is available at 202–208–0258 or by e-mail to *efiling@ferc.fed.us*. Comments should not be submitted to the e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to *rimsmaster@ferc.fed.us*.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–600 ''Rules of Practice and Procedures: Complaint Procedures'' (OMB No. 1902–0180) is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA), 16 U.S.C. 791a–825r; the Natural Gas Act (NGA), 15 U.S.C. 717–717w; the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301–3432; the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601–2645; the Interstate Commerce Act, 49 U.S.C. App. § 1 *et seq.* and the Outer Continental Shelf Lands Act, 43 U.S.C. 1301–1356.

With respect to the natural gas industry, Section 14(a) of the NGA provides: The Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

For public utilities, Section 205(e) of the FPA provides: Whenever any such new schedule is filed the Commission shall have the authority, either upon complaint or upon its own initiative without complaint at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice to enter upon hearing concerning the lawfulness of such rate, charge, classification, or service; and

pending such hearing and the decision of the Commission * * *

Concerning hydroelectric projects, Section 19 of the FPA provides: * * * it is agreed as a condition of such license that jurisdiction is hereby conferred upon the Commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control * * *

For qualifying facilities, Section 210(h)(2)(B) of PURPA provides: Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as provided in subparagraph (A) of this paragraph.

Likewise for oil pipelines, Part 1 of the Interstate Commerce Act (ICA), Sections 1, 6 and 15 (recodified by P.L. 95–473 and found as an appendix to Title 49 U.S.C.) the Commission is authorized to investigate the rates charged by oil pipeline companies subject to its jurisdiction. If a proposed oil rate has been filed and allowed by the Commission to go into effect without suspension and hearing, the Commission can investigate the effective rate on its own motion or by complaint filed with the Commission. Section 13 of the ICA provided that: Any person, firm, corporation, company or association, or any mercantile, agricultural, or manufacturing society or other organization, or any common carrier complaining of anything done or omitted to be done by any common carrier subject to the provisions of this chapter in contravention of the provisions thereof, may apply to the Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission * * *

In Order No. 602, 64 FR 17087 (April 8, 1999), the Commission revised its regulations governing complaints filed with the Commission under the above statutes. Order No. 602 was designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner. In order to achieve the latter, the Commission revised Rule 206 of its Rules of Practice and Procedure (18 CFR 385.206) to require that a complaint satisfy certain informational requirements, that answers be filed in a shorter, 20-day time frame, and that parties may employ various types of alternative dispute resolution procedures to resolve complaints.

On August 31, 1999, the Office of Management and Budget (OMB) approved the reporting requirements in Order No. 602 for a term of three years, the maximum period permissible under the Paperwork Reduction Act before an information collection must be resubmitted for approval. As noted above, this notice seeks public comments in order to recertify the FERC–600 reporting requirements in Order No. 602. The data in complaints filed by interested/affected parties regarding oil and natural gas pipeline operations, electric and hydropower facilities in their applications for rate changes, service, and/or licensing are used by the Commission in establishing a basis for various investigations and to make an initial determination regarding the merits of the complaint. Investigations may range from whether there is undue discrimination in rates or service to questions regarding market power of regulated entities to environmental concerns. In order to make a better determination, it is important to know the specifics of any oil, gas, electric, hydropower complaint ''up front'' in a timely manner and in sufficient detail to allow the Commission to act swiftly. In addition, such complaint data will help the Commission and interested parties to monitor the market for exercises of market power or undue discrimination. The information filed with the Commission is voluntary but submitted with prescribed information. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 385, Sections 385.206 and 385.213.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
76*	1	14	1,064

*Represents three year averages (1999–2001).

Estimated cost burden to respondents: 1,064 hours/2,080 hours per year × $117,041 per year = $59,870. The cost per respondent is equal to $787.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the

burden of the collection of information on those who are to respond.

Magalie R. Salas,

Secretary.

[FR Doc. 02–16486 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL02–65–007 and RT01–88–021]

Ameren Services Company, Firstenergy Corp., Northern Indiana Public Service Company, National Grid Usa, Midwest Independent System Operator, Inc.; Notice of Filing

June 25, 2002.

Take notice that on June 20, 2002, Ameren Services Company (Ameren), acting as agent for its electric utility affiliates Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a/ AmerenCIPS, FirstEnergy Corp. (FirstEnergy), on behalf of its subsidiary American Transmission Systems, Inc., Northern Indiana Public Service Company (NIPSCO), and the Midwest Independent System Operator, Inc. (MISO) tendered for filing a compliance filing in the above-referenced dockets. National Grid USA (National Grid) joined the filing to support it in full.

The compliance filing contains a letter of intent and a term sheet between Ameren, FirstEnergy, NIPSCO, and National Grid setting forth the terms to govern the negotiation of agreements providing for the formation of an independent transmission company (ITC), to be called GridAmerica LLC, under the provisions of Appendix I MISO's Open Access Transmission Tariff. GridAmerica will be formed as an LLC with National Grid as the managing member. Ameren, FirstEnergy, and NIPSCO will turn over functional control of their transmission facilities to GridAmerica pursuant to Operation Agreements.

The compliance filing also contains a letter of intent and a term sheet between Ameren, FirstEnergy, NIPSCO, National Grid, and MISO setting forth the terms to govern negotiation of the Appendix I service agreement pursuant to which GridAmerica LLC will join the MISO. The Appendix I service agreement will delineate those functions to be performed by GridAmerica and those to be performed by MISO. This filing was made to comply in full with the terms of the Commission's April 25, 2002 order in this proceeding and with Order No. 2000.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 22, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16484 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1633–000]

Auburndale Peaker Energy Center, L.L.C.; Notice of Issuance of Order

June 25, 2002.

Auburndale Peaker Energy Center, L.L.C. (Auburndale) filed an application requesting authority to engage in the sale of wholesale energy, capacity replacement reserves and ancillary services at market-based rates. Auburndale also requested waiver of various Commission regulations. In particular, Auburndale requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Auburndale.

On June 19, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Auburndale should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Auburndale is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Auburndale, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Auburndale's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 19, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16485 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX96–2–004]

City of College Station, TX; Notice of Filing

June 25, 2002.

Take notice that on June 14, 2002, the Texas Municipal Power Agency (TMPA) tendered for filing with the with the Federal Energy Regulatory Commission (Commission), its compliance filing

required by the Commission's February 16, 1999, Final Order Establishing Rates, Terms and Conditions of Transmission Services in City of College Station, Texas, 86 with the FERC ¶ 61,165 (1999)

TMPA states that it will provide transmission service to the City of College Station (College Station) under the terms and conditions of TMPA's currently effective Public Utility Commission of Texas (Texas Commission) tariff for wholesale transmission services.

TMPA also states that, since January 1, 2000, it has been providing transmission service to College Station for the postage stamp rates contained in its currently effective Texas Commission tariff. TMPA states that it will continue to charge College Station those rates, subject to an adjustment for regulatory expenses associated with the proceeding in Docket No. TX96–2–000. TMPA attaches a pro forma tariff sheet, which provides College Station the option of reimbursing TMPA for those regulatory expenses through either a lump sum payment payable 30 days after the tariff sheet's effectiveness, or through thirty-six (36) equal monthly payments to be made over the three-year period following the effectiveness of the tariff sheet.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 5, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16496 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX96–2–006]

City of College Station, TX; Notice of Filing

June 25, 2002.

Take notice that on June 20, 2002, the Texas Municipal Power Agency (TMPA) and the City of Bryan Texas (Bryan) tendered for filing a Joint Application to Recover Regulatory Expenses from the City of College Station, Texas (College Station).

TMPA and Bryan (hereinafter the Applicants) state that they incurred regulatory expenses as a direct result of College Station's application dated December 15, 1995, for an order under Section 211 of the Federal Power Act (FPA) directing transmission services. The Applicants state that they are submitting this filing pursuant to Section 205 of the FPA and in accordance with the Commission's Final Order Establishing Rates, Terms and Conditions for Transmission Services, issued February 16,1999, in City of College Station, Texas, 86 FERC ¶ 61,165 (1999). The Applicants state that the Final Order makes clear that TMPA and Bryan can seek to recover from College Station reasonable regulatory expenses, including interest, associated with this proceeding.

TMPA and Bryan each attach a tariff sheet, which provides College Station the option of reimbursing the Applicants for the regulatory expenses through either a lump sum payment payable 30 days after the tariff sheets' effectiveness, or through thirty-six (36) equal monthly payments to be made over the three-year period following the effectiveness of the tariff sheets.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: July 11, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16497 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–318–001 and RP01–6–002]

Enbridge Pipelines (KPC); Notice of Compliance Filing

June 25, 2002.

Take notice that on June 20, 2002, Enbridge Pipelines (KPC), formerly Kansas Pipeline Company, (KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing. An August 1, 2002 effective date is proposed for the revised tariff sheets.

KPC states the filing is being made in compliance with the Commission's May 21, 2002, order on KPC's Order Nos. 587–G, 587L, 637 and 637–A.

KPC states that complete copies of its filing are being mailed to all of the parties on the Commission's Official Service list for these proceedings, all of its jurisdictional customers, and applicable State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the

Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16489 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–366–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 25, 2002.

Take notice that on June 19, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective July 1, 2002:

Fifty-Third Revised Sheet No. 8A
Forty-Fifth Revised Sheet No. 8A.01
Forty-Fifth Revised Sheet No. 8A.02
Third Revised Sheet No. 8A.04
Forty-Eighth Revised Sheet No. 8B
Forty-First Revised Sheet No. 8B.01

FGT states that in Docket No. RP02–163–000 filed on February 25, 2002, it filed to establish a Base Fuel Reimbursement Charge Percentage (Base FRCP) of 3.06 % to become effective for the six-month Summer Period beginning April 1, 2002. FGT states in the instant filing, it is filing a flex adjustment of 0.25% to be effective July 1, 2002, which, when combined with the Base FRCP of 3.06% results in an Effective Fuel Reimbursement Charge Percentage of 3.31%. This filing is necessary because FGT is currently experiencing higher fuel usage than is being recovered in the currently effective FRCP of 3.06%. Increasing the Effective FRCP will reduce FGT's underrecovery of fuel and reduce the Unit Fuel Surcharge in the next Summer Period.

FGT states that the tariff sheets listed above are being filed pursuant to Section 27.A.2.b of the General Terms and Conditions of FGT's Tariff, which provides for flex adjustments to the Base FRCP. Pursuant to the terms of Section 27.A.2.b, a flex adjustment shall become effective without prior FERC approval provided that such flex adjustment does not exceed 0.50%, is effective at the beginning of a month, is posted on FGT's EBB at least five working days prior to the nomination deadline, and is filed no more than sixty and at least seven days before the proposed effective date. The instant filing comports with these provisions and FGT has posted notice of the flex adjustment prior to the instant filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16495 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–248–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

June 25, 2002.

Take notice that on June 20, 2002, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Third Revised Sheet No. 96, Third Revised Sheet No. 97, Substitute Third Revised Sheet No. 98, Second Revised Sheet No. 98–A, Substitute First Revised Sheet No. 205, and Substitute Original Sheet Nos. 206–212, to be effective June 1, 2002.

Kern River states that the purpose of this filing is to comply with the Order Accepting Tariff Sheets Subject to Conditions, issued by the Commission on May 31, 2002, by submitting revised tariff sheets that modify certain of Kern River's proposed procedures for posting, bidding on, and awarding available capacity.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16493 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–392–001 and RP00–576–001]

Nautilus Pipeline Company, L.L.C.; Notice of Compliance Filing

June 25, 2002.

Take notice that on June 20, 2002 Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Attachment A to the filing.

Nautilus states that the purpose of this filing is to comply with the Commission's May 21, 2002 order on

Nautilus' Order No. 637 pro forma compliance filing. Pursuant to Ordering Paragraph (B) of that order, Nautilus is not proposing an effective date for the revised tariff sheets at this time.

Nautilus states that a copy of this filing has been served upon its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16490 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–334–002]

Northern Natural Gas Company; Notice of Compliance Filing

June 25, 2002.

Take notice that on June 20, 2002, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheet in compliance with the Commission's Order issued on May 31, 2002, in Docket No. RP02–334–000:

Substitute Third Revised Sheet No. 54A

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16494 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–490–001]

Transwestern Pipeline Company; Notice of Compliance Filing

June 25, 2002.

Take notice that on June 21, 2002, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, pro forma Second Revised Volume No. 1, the following pro forma tariff sheets:

Tenth Revised Sheet No. 20
Twenty-Third Revised Sheet No. 37
Eleventh Revised Sheet No. 38
Sixth Revised Sheet Nos. 39–40
Seventh Revised Sheet No. 51B
Second Revised Sheet No. 81D
Fourth Revised Sheet No. 84
Fifth Revised Sheet No. 92C
Third Revised Sheet No. 92E
First Revised Sheet No. 98
Ninth Revised Sheet No. 147
Fourth Revised Sheet No. 149
First Revised Sheet No. 154
Original Sheet No. 157
Original Sheet No. 159
Original Sheet No. 161
Fourth Revised Sheet No. 27
Third Revised Sheet No. 37A
Original Sheet No. 38A
Nineteenth Revised Sheet No. 48
Eighth Revised Sheet No. 80B
Fourth Revised Sheet No. 83
Second Revised Sheet No. 85
Fifth Revised Sheet No. 92D
Fourth Revised Sheet No. 92F
First Revised Sheet No. 99
Third Revised Sheet No. 148
First Revised Sheet No. 151
First Revised Sheet No. 155
Original Sheet No. 158
Original Sheet No. 160
Original Sheet No. 162

Transwestern states that on August 15, 2000, it submitted pro forma tariff sheets in compliance with the Commission's Order Nos. 637, 637–A, and 637–B issued in Docket Nos. RM98–10 and RM98–12 (Commission Orders). Transwestern states that it has recently held discussions with its customers on how to resolve the remaining issues in this proceeding. The enclosed tariff sheets represent Transwestern's proposal to address issues raised in protests in this proceeding and to incorporate suggestions made by customers. Transwestern states that in several instances, these tariff proposals exceed the requirements set forth in the Commission Orders, but represent matters of importance to Transwestern and its customers that are intertwined with the resolution of issues in this proceeding.

Transwestern states that its discussions with its customers regarding the August 15, 2000 compliance filing in this docket addressed the expressed concerns of those customers filing protests to specific aspects of Transwestern's filing. In addition, Transwestern states that certain provisions contained in the August 15, 2002 filing have been overtaken by subsequent events and are no longer required to comply with Order No. 637, *et seq*, (*e.g.*, netting and trading provisions which were filed by Transwestern and accepted by the Commission in compliance with Order No. 587–L).

In the instant filing, Transwestern is withdrawing all of the pro forma tariff sheets filed on August 15, 2000 and is filing new pro forma tariff sheets which address the issues raised by those parties protesting Transwestern's August 15 filing and update Transwestern's filing to recognize the subsequent events which have occurred.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://*

www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16491 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–545–001 and RP01–55–003]

WestGas InterState, Inc.; Notice of Compliance Filing

June 25, 2002.

Take notice that on June 20, 2002, WestGas Interstate, Inc. (WGI) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 45A, Third Revised Sheet No. 47, First Revised Sheet No. 47B, Third Revised Sheet No. 69, Second Revised Sheet No. 69A, Original Sheet No. 69B, First Revised Sheet No. 87, First Revised Sheet No. 88, and Second Revised Sheet No. 89, to become effective September 1, 2002.

WGI states that the purpose of this filing is to comply with the Commission's Order on Compliance with Order Nos. 637, 587G, and 587L, issued in Docket Nos. RP00–545–000, RP01–55–001, and RP01–55–002 on May 21, 2002.

WGI further states that copies of this filing have been served on WGI's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16492 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–381–000]

Texas Eastern Transmission, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed M–1 Expansion Project and Request for Comments on Environmental Issues

June 25, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the M–1 Expansion Project involving construction and operation of facilities by Texas Eastern Transmission, LP (Texas Eastern) in Monroe, Hinds, Copiah, Amite, Franklin, and Madison Counties, Mississippi, Colbert County, Alabama, and Giles and Wilson Counties, Tennessee.[1] These facilities would consist of about 33 miles of 36-inch diameter pipeline and 28,000 horsepower (hp) of additional compression. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Texas Eastern provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (*http://www.ferc.gov*).

Summary of the Proposed Project

Texas Eastern wants to expand the capacity of its facilities in Mississippi, Alabama, and Tennessee to transport an additional 197,147 dekatherm units per day of natural gas to two distribution companies and one electric generation plant. Texas Eastern seeks authority to construct and operate facilities in three Phases, as described below:

Phase I Facilities (November 1,2003)

1. Construct part of the Union Church Discharge Loop, about 8.0 miles of 36–inch diameter pipeline and appurtenant facilities in Hinds and Copiah Counties, Mississippi.
2. Modify the Egypt Compressor Station in Monroe County, Mississippi by installing a mechanical variable-speed drive (VSD) in place of the existing conventional gearbox on each of the two existing 15,000 hp electric motor-driven compressor units. The uprate would result in a 20,000 hp rating for each compressor unit.
3. Modify the Barton Compressor Station in Colbert County, Alabama by installing a mechanical VSD in place of the existing conventional gearbox on the existing 15,000 hp electric motor driven compressor unit. The uprate would result in a 20,000 hp rating for the compressor unit.
4. Modify the Gladeville Compressor Station in Wilson County, Tennessee by uprating the existing 15,000 hp motor to 20,000 hp. Various appurtant facilities would be replaced for more efficient and quieter options.
5. Provide service to City of Cartersville and winter service to Carolina Power & Light Company.

Phase II Facilities (April 1, 2004)

6. Construct remaining Union Church Discharge Loop, about 6.7 miles of 36-inch diameter pipeline and appurtenant facilities in Copiah County, Mississippi.
7. Construct the St. Francisville Discharge Loop, which consists of 4.5 miles of 36-inch diameter pipeline and appurtenant facilities in Amite and Franklin Counties, Mississippi.
8. Uprate six existing 2,500 hp electric motor driven compressor units to 3,000 hp at the Barton Compressor Station. Various appurtenant facilities would be

[1] Texas Eastern's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

replaced for more efficient and quieter options.

9. Modify the Mount Pleasant Compressor Station in Giles County, Tennessee by installing a mechanical VSD in place of the existing conventional gearbox on the existing 15,000 hp electric motor driven compressor unit. The uprate would result in a 20,000 hp rating for the compressor unit.

10. Provide summer service to Carolina Power & Light Company.

Phase III Facilities (November 1, 2004)

11. Construct the Clinton Discharge Loop, which consists of 12.8 miles of 36-inch-wide diameter pipeline and appurtenant facilities in Madison County, Mississippi.

12. Provide service to Choctaw Gas Generation, LLC

Choctaw Gas Generation, LLC (Choctaw) has been identified as a nonjurisdictional facility associated with the M–1 Expansion Project. The Choctaw facility would be comprised of one steam-driven, and two gas-fired electric generating turbines.

The general location of the project facilities is shown in Appendix 1.[2] If you are interested in obtaining detailed maps of a specific portion of the project, send in your request using the form in Appendix 3.

Land Requirements for Construction

Construction of the proposed facilities would require about 536.4 acres of land. Following construction, about 93.5 acres would be required as new permanent right-of-way in Mississippi. No new permanent right-of-way would be required in Alabama or Tennessee. The remaining 442.9 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

a. Geology and soils
b. Water resources, fisheries, and wetlands
c. Vegetation and wildlife
d. Endangered and threatened species
e. Cultural resources
f. Land use
g. Air quality and noise
h. Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Texas Eastern. This preliminary list of issues may be changed based on your comments and our analysis.

a. 11 federally listed endangered or threatened species may occur in the proposed project area.

b. 14 perennial streams would be crossed, one of which is considered impaired by EPA classification standards.

c. About 4 miles of the 4.5 mile St. Francisville Discharge Loop would traverse through the Homochitto National Forest.

d. Eight residences are within 50-feet of the proposed construction right-of-way.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas/Hydro Branch.
- Reference Docket No. CP02–381–000.
- Mail your comments so that they will be received in Washington, DC on or before July 26, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We might mail the EA for comment. If you are interested in receiving it, please return the Information Request in Appendix 4. If you do not return the Information Request, you will be taken off the mailing list.

On July 8–9, 2002, the staff of the Office of Energy Projects (OEP) will conduct a pre-certification site visit of Texas Eastern's M–1 Expansion Project

[2] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

in Amite, Franklin, Hinds, Copiah, and Madison Counties, Mississippi. The project area will be inspected by automobile and on foot, as appropriate. Representatives of Texas Eastern will accompany the OEP staff. All interested parties may attend. Those planning to attend must provide their own transportation. Contact the Commission's Office of External Affairs at 1–866–208–FERC if you are interested in attending the visit.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies, especially those in Appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC website (*http://www.ferc.gov*) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.[4]

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16483 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

June 25, 2002.

a. *Type of Application*: Original Major License.

b. *Project No.*: P–12187–000.

c. *Date Filed*: June 3, 2002.

d. *Applicant*: Price Dam Partnership, Limited.

e. *Name of Project*: Price Dam Hydroelectric Project.

f. *Location*: On the Mississippi River, in the city of Alton, Wood River Township, Madison County, Illinois. The project would be constructed on the U.S. Corps of Engineers (Corps) Melvin Price Locks & Dam and the nearby Illinois shoreline of the Mississippi River and would affect 7.8 acres of federal lands (including Federal Corps property between Piers 1 to 11 at the dam and a portion of the Illinois shoreline for the transmission line).

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. §§ 791(a)-825(r).

h. *Applicant Contact*: James B. Price, W.V. Hydro, Inc., P.O. Box 903, Gatlinburg, TN 37738, (865) 436–0402, or jimprice@atlantic.net.

i. *FERC Contact*: Lee Emery (202) 219–2778 or lee.emery@FERC.fed.us.

j. *Cooperating agencies*: We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item k below.

k. *Deadline for filing additional study requests and requests for cooperating agency status*: July 30, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, 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.

The Commission's Rules of Practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. This application is not ready for environmental analysis at this time.

m. *Description of Project*: The proposed Price Dam Project would use the Melvin Price Locks & Dam and reservoir, and would consist of the following facilities: (1) 192 portable, turbine/generator units grouped in six steel modules 108.9 feet long by 26.2 feet wide by 44.0 feet high, (a) each module contains 32 turbine/generator sets (two horizontal rows of 16 units each) installed in six stoplog slots on adjacent piers upstream from the nine existing Taintor gate bays in the dam, and (b) each turbine/generator unit includes a 550 kilowatt bulb-type generator, a fixed-blade propeller turbine, and a single draft tube for each two turbine/generating units; (2) six flexible power cables, each connecting the six, 32 turbine/generator sets to six 7.2 kilovolt (kV) transformer and breaker sets on an adjacent pier; (3) lifting access columns at the end of each module; (4) six air-operated spillway gates, 7 feet high by 96 feet long, installed on top of each module with each gate containing an inflatable rubber

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

bladder; (5) a hallway housing the station service transformer, motor control center, and control system; (8) a slave terminal at the lockmaster's office and a control station located on the dam superstructure; (9) a 6.9-kV/138-kV step-up transformer located on a platform on the dam axis at elevation 479 feet National Geodetic Vertical Datum; (10) a mobile, 1,000 metric ton crane with an auxiliary crane riding on top of the module crane; these cranes would lower and raise the power modules and operate the trash rake; (11) a fish bypass on each module; (12) a trashrack assembly with a two-inch clear spacing between the bars, and a crane-operated trash rake; (13) a 500-kilowatt generator; (14) a 0.9-mile-long, 138-kV transmission line connecting the project power to the Mississippi Substation of Ameren, Incorporated; (15) an auxiliary building; and (16) appurtenant facilities. The average annual generation is estimated to be 319,000 megawatt-hours. All generated power would be sold to a local utility connected to the grid.

n. With this notice, we are initiating consultation with the *ILLINOIS HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

p. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later July 30, 2002, and serve a copy of the request on the applicant.

q. *Procedural schedule*: The application will be processed according to the following milestones, some of which may be combined to expedite processing.

Notice of application has been accepted for filing
Notice of NEPA Scoping (unless scoping has already occurred)
Notice of application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

Linwood A. Watson, Jr.,
Deputy Secretary.
[FR Doc. 02–16488 Filed 6–28–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–90–000, CP02–91–000, CP02–92–000, and CP02–93–000]

AES Ocean Express, LLC; Notice of Technical Conference

June 25, 2002.

AES Ocean Express, LLC (Ocean Express) seeks authorization, pursuant to Sections 3 and 7(c) of the Natural Gas Act (NGA), to construct and operate a new pipeline to import gas from the Bahamas into Florida. The proposed route for the new pipeline traverses the Naval Surface Warfare Center's South Florida Testing Facility, located in waters off the coast of Broward County, Florida. The Navy has objected to this proposed routing, contending the pipeline as planned would interfere with the operational capabilities of the area's existing in-water laboratory and measurement facilities. Ocean Express has yet to present mitigation measures or route alternatives acceptable to the Navy.

Take notice that a technical conference to discuss issues raised by proposed pipeline's routing will be held on Tuesday, July 23, 2002, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Parties to this proceeding and interested local, state, and federal agencies that are not parties, but that share jurisdiction or regulatory responsibilities over matters that may pertain to the proposed pipeline routing, will be permitted to attend. In view of the nature of national security issues expected to be discussed, the conference will not be open to the public.

Any party or authorized agency representative who is planning to attend the conference must notify the Commission Staff before 5 p.m. EST, Thursday, July 18, 2002. Please notify Mr. Richard Foley, Office of Energy Projects, Room 6N–07, in writing, or by calling (leave a message) at (202) 208–2245, or by e-mail to Richard.Foley@ferc.gov. If any local, state, or federal authorized agency representative is unable to attend, but wishes to participate via teleconferencing, please so indicate. Teleconferencing details will be provided later, when secure communications are assured.

Linwood A. Watson, Jr.,
Deputy Secretary.
[FR Doc. 02–16481 Filed 6–28–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–036]

New York Power Authority; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Management Properties Included in or Eligible for Inclusion in the National Register of Historical Places

June 25, 2002.

On April 14, 2000, the Federal Energy Regulatory Commission (Commission) issued a notice for the St. Lawrence-FDR Power Project proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement (PA) for managing properties included in or eligible for inclusion in the National Register of Historic Places. On June 5, 2000, the restricted service list was modified to include the Department of the Interior (Interior). On August 2, 2001, the restricted service list was modified to: (1) Change the address for Mr. Thomas Tatham; (2) change the contact for the Saint Regis Mohawk Tribe; (3) change the contact for Interior; and (4) delete Mr. Robert Dean. The St. Lawrence-FDR Power Project is located on the St. Lawrence River, in St. Lawrence County, New York. The New York Power Authority is the licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the

[1] 18 CFR 385.2010

list is established. The following changes to the existing restricted service list are noted.

The contact for the Bureau of Indian Affairs has changed. Delete ''Ms. Malka Pattison'' and replace with ''Dr. James Kardatzke''.

As a result of these changes, the revised final restricted service list, for the purpose of commenting on the PA for the St. Lawrence-FDR Power Project, is as follows:

Dr. Robert Kuhn, NY Office of Parks, Recreation, and Historic Preservation, Peebles Island, P.O. Box 189, Waterford, NY 12188–0189.

William Slade, New York Power Authority, 123 Main Street, White Plains, NY 10601.

Kevin Mendik, National Park Service, 15 State Street, Boston, MA 02109.

Dr. James Kardatzke, Eastern Region Office, Bureau of Indian Affairs, 711 Stewarts Ferry Pike, Nashville, TN 37214.

Salli Benedict, Henry Lickers, Mohawk Council of Akwesasne, P.O. Box 579, Cornwall, Ontario K6H 5T3.

David Blaha, Environmental Resources Management, 2666 Riva Road, Suite 200, Annapolis, MD 21401.

Brian Skidders, Mohawk Nation Council of Chiefs, Box 366, Rooseveltown, NY 13683.

Dr. Laura Henley Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Thomas Tatham, New York Power Authority, 123 Main Street, White Plains, NY 10601.

Judith M. Stolfo, Department of the Interior, Office of the Regional Solicitor, One Gateway Center, Suite 612, Newton, MA 02458–2802.

Francis Boots, THPO, Saint Regis Mohawk Tribe, 412 State Route 37, Hogansburg, NY 13655.

Maxine Cole, Akwesasne Task Force on the Environment, P.O. Box 992, Hogansburg, NY 13655.

James Teitt, Environmental Resources Management, 355 East Campus View Blvd, Suite 250, Columbus, OH 43235.

Kimberly Owens, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–16487 Filed 6–28–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7239–8]

Agency Information Collection Activities: Continuing Collection; Comment Request; Notification of Regulated Waste Activity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Notification of Regulated Waste Activity, EPA ICR #261.14, OMB No. 2050–0028, expires on October 31, 2002. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 30, 2002.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number RCRA–2002–0021 to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA address below. Comments may also be submitted electronically to: *rcra-docket@epamail.epa.gov.* Comments in electronic format should also be identified by the docket number RCRA –2002–0021. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit any confidential business information (CBI) electronically. An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. This document and the supporting documents that detail the Notification of Regulated Waste Activity ICR are also electronically available. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT:

RCRA Hotline

For general information, contact the RCRA Hotline at (8000 424–9346, or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810, or TDD (703) 412–3233.

Notification ICR Details

For more detailed information on specific aspects of the Notification information collection request, contact David Eberly by mail at the Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by phone at (703) 308–8645, or by e-mail at: *eberly.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

Internet Availability

Today's document and the supporting documents that detail the Notification of Regulated Waste Activity ICR are available on the Internet at: *http://www.epa.gov/epaoswer/hazwaste/notify/index.htm.*

Note: The official record for this action will be kept in paper form and maintained at the address in the **ADDRESSES** section above.

Affected Entities: Entities potentially affected by this action are generators, transporters and owners and operators of hazardous waste management facilities.

Title: Notification of Regulated Waste Activity, EPA ICR #261.14, OMB No. 2050–0028, expires on October 31, 2002.

Abstract: Section 3010 of Subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal (TSD) of regulated waste to notify EPA of their activities, including the location and general description of activities and the regulated wastes handled. The facility is then issued an EPA Identification number. The facilites are required to use the Notification Form (EPA Form 8700–12) to notify EPA of their hazardous waste activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The Agency today begins an effort to examine the notification forms and consider options for reducing their burden and increasing the usefulness of the information these forms collect. The Agency would appreciate any information on the users of this information, how they use this information, how the information could be improved, and how the burden for these forms can be reduced.

Therefore, the EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Burden Statement: The estimated average burden for renewing the existing notification ICR is 4.25 hours per respondent for initial notifications and 1.84 hours per respondent for subsequent notifications. This estimates for the notification ICR includes all aspects of the information collection including time for reviewing instructions, searching existing data sources, gathering data, and completing and reviewing the form.

EPA estimates that the number of respondents per year for notifications is 31,125 (16,174 initial notifications and 14,951 subsequent notifications). For this ICR, collection occurs one time per respondent, unless regulations are revised and promulgated. Timing of the submission of the notification is variable depending on the status of the respondent and the timing of the promulgation of the regulations. The estimated total annual burden on respondents for initial and subsequent notifications is 96,250 hours. These estimates of total annual burden reflect a decrease in burden of 3.9% for all notifications when compared with the previously approved ICR (1999).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: June 7, 2002.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 02–16464 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–10016; FRL–6723–9]

Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on Renewal Information Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.06, OMB No. 2070–0143). This ICR covers the reporting and recordkeeping requirements associated with reporting under the alternate threshold for reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments, identified by the docket control number OEI–10016, must be submitted on or before August 30, 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** section of this notice.

FOR FURTHER INFORMATION: For general information, contact The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800)553–7672, *http://www.epa.gov/epaoswer/hotline/.* For technical information about this ICR renewal, contact: Judith Kendall, Toxics Release Inventory Program Division, OEI (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Telephone: 202–566–0750; Fax: 202–566–0727; email: *kendall.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

A. Affected Entities: Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

- 20–39, manufacturing sector
- 10, metal mining (except for SIC codes 1011, 1081, and 1094)
- 12, coal mining (except for SIC code 1241 and extraction activities)
- 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
- 4953, RCRA Subtitle C hazardous waste treatment and disposal facilities
- 5169, chemicals and allied products wholesale distributors
- 5171, petroleum bulk plants and terminals
- 7389, solvent recovery services, and
- federal facilities in any SIC code

To determine whether you or your business is affected by this action, you should carefully examine the

applicability provisions at 40 CFR part 372 and section 4(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document and Other Support Documents:

A. Electronic Availability

Internet

Electronic copies of the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/*). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms.*

In Person

The Agency has established an official record for this action under docket control number OEI–10016. 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 of the Center is (202) 260–7099.

III. How Can I Respond to This Notice?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OEI–10016'') in your correspondence.

1. By mail. All comments should be sent in triplicate to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Ariel Rios Building, Washington, DC 20460.

2. In person or by courier. Comments may be delivered in person or by courier to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., 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) 260–7093.

3. Electronically. Submit your comments electronically by e-mail to: ''*oppt.ncic@epa.gov.*'' Please note that you should 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 computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–10016. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want To Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

C. 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:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In addition, EPA is requesting comment on a minor change to Certification Form A in this ICR. Facilities will be required to supply an e-mail address on the Form A that will help to facilitate better lines of communication between EPA and facilities reporting to TRI.

IV. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on January 31, 2003.

Title: Alternate Threshold for Low Annual Reportable Amounts.

ICR numbers: EPA ICR No. 1704.06, OMB No. 2070–0143.

Abstract: EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such chemicals annually. Each such facility must file a separate report for each such chemical.

In accordance with the authority in EPCRA, EPA has established an alternate threshold for those facilities with low amounts of a listed toxic chemical in wastes. A facility that otherwise meets the current reporting thresholds, but estimates that the total amount of the chemical in waste does not exceed 500 pounds per year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the revised threshold must file the Form A Certification Statement (EPA Form 9350–2) in lieu of a complete TRI reporting Form R (EPA Form 9350–1). In submitting the Form A certification statement, the facility certifies that the sum of the amount of

the EPCRA section 313 chemical in wastes did not exceed 500 pounds for the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the Form A certification represents a substantial savings to respondents, both in burden hours and in labor costs.

The Form A certification statement provides communities with information that the chemical is being manufactured, processed or otherwise used at facilities. Additionally, the Form A certification provides compliance monitoring and enforcement programs and other interested parties with a means to track chemical management activities and verify overall compliance with the rule. Responses to this collection of information are mandatory (see 40 CFR part 372) and facilities subject to reporting must submit either a Form A certification or a Form R.

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 annual public burden for this collection of information, which is approved under OMB Control No. 2070–0143, is estimated to average 13.7 hours for facilities submitting a Form A certification statement for a single listed chemical. By comparison, the average time required for calculations, form completion and record keeping/mailing for Form R is estimated to average 19.5 hours per form. Thus, for a facility filing a Form A certification for a single chemical, the alternate threshold yields an average savings of 5.8 hours.

The ICR supporting statement provides a detailed explanation of the burden estimates that are summarized in this notice. The following is a summary of the estimates taken from the ICR supporting statement:

Estimated No. of Respondents: 5,451 respondents.

Frequency of Responses: Annual.

Estimated Total Annual Burden Hours: 145,534 burden hours.

Estimated Total Annual Burden Costs: $6.35 million.

VI. Are There Changes in the Estimates From the Last Approval?

The estimated burden described above differs from what is currently in OMB's inventory for alternate threshold reporting: 14,793 responses (chemicals) and 644,761 burden hours. The burden estimated in this supporting statement differs from OMB's inventory as a result of adjustments to estimates of the number of responses (from 14,793 responses (chemicals) to 5,121 responses (Form As)), changes to unit reporting burden estimates (from 30.2 to 9.2 burden hours per chemical certified on a Form A), and an adjustment for use of TRI–ME, EPA's intelligent report software (an additional burden reduction of 3.1 hours per chemical certified on a Form A) for those forms completed using TRI–ME. These changes are described in greater detail in the supporting statement for this ICR, available in the public version of the official record.

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 person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

List of Subjects in 40 CFR Part 372

Environmental protection, Information collection requests, Reporting and record keeping requirements.

Dated: June 24, 2002.

Ramona Trovato,

Acting Assistant Administrator and Chief Information Officer, Office of Environmental Information.

[FR Doc. 02–16479 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7239–6]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, P.L. 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy and management issues.

NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing.

NACEPT will discuss a number of issues, including emerging trends facing the agency, environmental technology, and other program office initiatives. In addition, NACEPT will report on the work and status of subcommittees and workgroups.

DATES: NACEPT will hold a two-day public meeting on Thursday, July 18, 2002, from 8:30 a.m to 5 p.m., and Friday, July 19, 2002, from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Hotel Washington at 515 15th Street NW., Washington, DC. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, at (202) 564–9802.

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Mark Joyce at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 21, 2002.

Mark Joyce,

Designated Federal Officer.

[FR Doc. 02–16462 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7239–5]

Notice of Scientific and Technological Achievement Awards Subcommittee—Closed Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: An ad hoc Subcommittee of the EPA Science Advisory Board will meet at the U.S. Environmental Protection Agency (EPA), Washington, DC, on July 10–12, 2002. Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) EPA has determined that the meeting will be closed to the public. The purpose of the meeting is to recommend to the Assistant Administrator of the Office of Research and Development (ORD) the recipients of the Agency's 2000 Scientific and Technological Achievement Cash Awards. These awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer reviewed journals. In making these recommendations, including the actual cash amount of each award, the Agency requires full and frank advice from the EPA Science Advisory Board. This advice will involve professional judgments on the relative merits of various employees and their respective work. Such personnel issues, where disclosure of information of a personal nature would constitute an unwarranted invasion of personal privacy, are protected from disclosure by section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6). In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Flaak, Acting Deputy Staff Director, US EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460, telephone: (202) 564–4546 or e-mail at: *flaak.robert@epa.gov.*

Dated: June 25, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–16459 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7240–2]

Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency.

ACTION: Notice of fifteenth update of the Federal Agency Hazardous Waste Compliance Docket, pursuant to CERCLA section 120(c).

SUMMARY: Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires the Environmental Protection Agency (EPA) to establish a Federal Agency Hazardous Waste Compliance Docket. The docket is to contain certain information about Federal facilities that manage hazardous waste or from which hazardous substances have been or may be released. (As defined by CERCLA section 101(22), a release is any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.) CERCLA requires that the docket be updated every six months, as new facilities are reported to EPA by Federal agencies. The following list identifies the Federal facilities to be included in this fifteenth update of the docket and includes facilities not previously listed on the docket and reported to EPA since the last update of the docket, 66 FR 50185, October 2, 2001, which was current as of May 1, 2001. SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule. Such site evaluation activities will help determine whether the facility should be included on the National Priorities List (NPL) and will provide EPA and the public with valuable information about the facility. In addition to the list of additions to the docket, this notice includes a section that comprises revisions (that is, corrections and deletions) of the previous docket list. This update contains thirty additions and thirteen deletions since the previous update, as well as numerous other corrections to the docket list. At the time of publication of this notice, the new total number of Federal facilities listed on the docket is 2,231.

DATES: This list is current as of January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the docket may be obtained at *http://www.epa.gov/oeca/fedfac/oversight/oversight.html.*

SUPPLEMENTARY INFORMATION:

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1.0 Introduction

Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 United States Code (U.S.C.) 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), required the establishment of the Federal Agency Hazardous Waste Compliance Docket. The docket contains information on Federal facilities that is submitted by Federal agencies to the U.S. Environmental Protection Agency (EPA) under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937, and under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste generators and transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of hazardous waste sites that the Federal agencies own or operate. CERCLA section 103(a) requires that the National Response Center (NRC) be notified of a release. CERCLA section 103(c) requires reporting to EPA the existence of a facility at which hazardous substances are or have been stored, treated, or disposed of and the existence of known or suspected releases of hazardous substances at such facilities.

The docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the docket was published on February 12, 1988 (53 FR 4280). Updates of the docket have been published on November 16, 1988 (54 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); November 23, 1998 (63 FR 64806); June 12, 2000 (65 FR 36994); December 29, 2000 (65 FR 83222), and October 2, 2001 (66 FR 50185). This notice constitutes the fifteenth update of the docket.

Today's notice is divided into three sections: (1) Additions, (2) deletions, and (3) corrections. The additions section lists newly identified facilities that have been reported to EPA since the last update and that now are being included on the docket. The deletions section lists facilities that EPA is deleting from the docket. The corrections section lists changes in information about facilities already listed on the docket.

The information submitted to EPA on each Federal facility is maintained in the docket repository located in the EPA Regional office of the Region in which the facility is located (see 53 FR 4280 (February 12, 1988)) for a description of the information required under those provisions). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each facility. Contact the following docket coordinators for information on Regional docket repositories:

Gerardo Mill(á)n-Ramos (HBS), US EPA Region 1 #1 Congress St., Suite 1100, Boston, MA 02114–2023 (617) 918–1377.

Philip Ofosu (6SF–RA), US EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.

Helen Shannon (ERRD), US EPA Region 2, 290 Broadway, 18th Floor, New York, NY 10007–1866, (212) 637–4260.

D. Karla Asberry (FFSC), US EPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7595.

Alida Karas (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4276.

Stan Zawistowski (EPR–F), US EPA Region 8, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6255.

Cesar Lee (3HS50), US EPA Region 3, 841 Chestnut Bg., Philadelphia, PA 19107 (215) 814–3205.

Philip Armstrong (SFD–9–1), US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–3520.

Gena Townsend (4WD–FFB), US EPA Region 4, 61 Forsyth St., SW, Atlanta, GA 30303, (404) 562–8538.

Deborah Leblang (ECL–115), US EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–0115.

Laura Ripley (SE–5J), US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–6040.

Monica Lindeman (ECL, SACU2), US EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–5113.

2.0 Revisions of the Previous Docket

Following is a discussion of the revisions of the previous docket, including additions, deletions, and corrections.

2.1 Additions

Today, thirty facilities are being added to the docket, primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule.

Of the thirty facilities being added to the docket, none are facilities that have reported to the NRC the release of a reportable quantity (RQ) of a hazardous substance. Under section 103(a) of CERCLA, a facility is required to report to the NRC the release of a hazardous substance in a quantity that equals or exceeds the established RQ. Reports of releases received by the NRC, the U.S. Coast Guard (USCG), and EPA are transmitted electronically to the Transportation Systems Center at the U.S. Department of Transportation (DOT), where they become part of the Emergency Response Notification System (ERNS) database. ERNS is a national computer database and retrieval system that stores information on releases of oil and hazardous substances. Facilities being added to the docket and facilities already listed on the docket for which an ERNS report has been filed are identified by the notation ''103(a)'' in the ''Reporting Mechanism'' column.

It is EPA's policy generally not to list on the docket facilities that are small-quantity generators (SQG) and that have never generated more than 1,000 kilograms (kg) of hazardous waste in any single month. If a facility has generated more than 1,000 kg of hazardous waste in any single month (that is, if the facility is an episodic generator), it will be added to the docket. In addition, facilities that are SQGs and have reported releases under CERCLA section 103 or hazardous waste activities pursuant to RCRA section 3016 will be listed on the docket and will undergo site evaluation activities, such as a PA and, when appropriate, an SI. All such facilities will be listed on the docket, whether or not they are SQGs pursuant to RCRA. As a result, some of the facilities that EPA is adding to the docket today are SQGs that had not been listed on the docket but that have reported releases or hazardous waste activities to EPA under another reporting provision.

In the process of compiling the documents for the Regional repositories, EPA identified a number of facilities that had previously submitted PA reports, SI reports, Department of Defense (DoD) Installation Restoration Program (IRP) reports, or reports under another Federal agency environmental restoration program, but do not appear to have notified EPA under CERCLA section 103. Section 120(c)(3) of CERCLA requires that EPA include on the docket, among other things, information submitted under section 103. In general, section 103 requires persons in charge of a facility to provide notice of certain releases of hazardous substances. The reports under various Federal agency environmental restoration programs may contain information regarding releases of hazardous substances similar to that provided pursuant to section 103. EPA believes that CERCLA section 120(c) authorizes the agency to include on the docket a facility that has provided information to EPA through documents such as a report under a Federal agency environmental restoration program, regardless of the absence of section 103 reporting. Therefore, some of the facilities that EPA is adding today are being placed on the docket because they have submitted the documents described above that contain reports of releases of hazardous substances.

EPA also includes privately owned, government-operated (POGO) facilities on the docket. CERCLA section 120(c) requires that the docket contain information submitted under RCRA sections 3005, 3010, and 3016 and CERCLA section 103, all of which impose duties on operators as well as owners of facilities. In addition, other subsections of CERCLA section 120 refer to facilities ''owned or operated'' by an

agency or other instrumentality of the Federal government. That terminology clearly includes facilities that are operated by the Federal government, even if they are not owned by it. Specifically, CERCLA section 120(e), which sets forth the duties of the Federal agencies after a facility has been listed on the NPL, refers to the Federal agency that ''owns or operates'' the facility. In addition, the primary basis for assigning responsibility for conducting PAs and SIs, as required when a facility is listed on the docket, is Executive Order 12580, which assigns that responsibility to the Federal agency having ''jurisdiction, custody, or control'' over a facility.

2.2 Deletions

Today, thirteen facilities are being deleted from the docket for various reasons, such as incorrect reporting of hazardous waste activity, change in ownership, and exemption as an SQG under RCRA (40 CFR 262.44). Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d).

2.3 Corrections

Changes necessary to correct the previous docket were identified by both EPA and Federal agencies. The changes needed varied from simple changes in addresses or spelling to corrections of the recorded name and ownership of a facility. In addition, some changes in the names of facilities were made to establish consistency in the docket. Many new entries are simply corrections of typographical errors. For each facility for which a correction has been entered, the original entry (designated by an ''O''), as it appeared in the February 12, 1988 notice or subsequent updates, is shown directly below the corrected entry (designated by a ''C'') for easy comparison.

3.0 Process for Compiling the Updated Docket

In compiling the newly reported facilities for the update being published today, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—ERNS, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Information System (RCRIS), and the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

Extensive computer checks compared the current docket list with the information obtained from the databases identified above to determine which facilities were, in fact, newly reported and qualified for inclusion on the update. In spite of the quality assurance efforts EPA has undertaken, state-owned or privately owned facilities that are not operated by the Federal government may have been included. Such problems are caused by procedures historically used to report and track data on Federal facilities; EPA is working to resolve them. Representatives of Federal agencies are asked to write to EPA's docket coordinator at the following address if revisions of this update information are necessary: Augusta K. Wills, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Enforcement Office (Mail Code 2261A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20004.

4.0 Facilities Not Included

As explained in the preamble to the original docket (53 FR 4280), the docket does not include the following categories of facilities (note, however, that any of these types of facilities may, when appropriate, be listed on the NPL):

- Facilities formerly owned by a Federal agency and now privately owned will not be listed on the docket. However, facilities that are now owned by another Federal agency will remain on the docket and the responsibility for conducting PAs and SIs will rest with the current owner.
- SQGs that have never produced more than 1,000 kg of hazardous waste in any single month and that have not reported releases under CERCLA section 103 or hazardous waste activities under RCRA section 3016 will not be listed on the docket.
- Facilities that are solely transporters, as reported under RCRA section 3010, will not be listed on the docket.

5.0 Facility Status Reporting

EPA has expanded the docket database to include information on the NFRAP status of listed facilities. Indicating NFRAP status allows easy identification of facilities that, after submitting all necessary site assessment information, were found to warrant no further involvement on the part of EPA at the time of the status change. Accordingly, the docket database includes the following facility status codes:

U=Undetermined
N=No further remedial action planned (NFRAP)

NFRAP is a term used in the Superfund site assessment program to identify facilities for which EPA has found that currently available information indicates that listing on the NPL is not likely and further assessment is not appropriate at the time. NFRAP status does not represent an EPA determination that no environmental threats are present at the facility or that no further environmental response action of any kind is necessary. NFRAP status means only that the facility does not appear, from the information available to EPA at this time, to warrant listing on the NPL and that, therefore, EPA anticipates no further involvement by EPA in site assessment or cleanup at the facility. However, additional CERCLA response actions by the Federal agency that owns or operates the facility, whether remedial or removal actions, may be necessary at a facility that has NFRAP status. The status information contained in the docket database is the result of Regional evaluation of information taken directly from CERCLIS. (CERCLIS is a database that helps EPA Headquarters and Regional personnel manage sites, programs, and projects. It contains the official inventory of all CERCLA (NPL and non-NPL) sites and supports all site planning and tracking functions. It also integrates financial data from preremedial, remedial, removal and enforcement programs.) The status information was taken from CERCLIS and sent to the Regional docket coordinators for review. The results of those reviews were incorporated into the status field in the docket database. Subsequently, an updated list of facilities having NFRAP status (those for which an ''N'' appears in the status field) was generated; the list of updates since the previous publication of the docket is being published today.

Important limitations apply to the list of facilities that have NFRAP status. First, the information is accurate only as of January 31, 2002. Second, a facility's status may change at any time because of any number of factors, including new site information or changing EPA policies. Finally, the list of facilities that have NFRAP status is based on Regional review of CERCLIS data, is provided for information purposes only, and should not be considered binding upon either the Federal agency responsible for the facility or EPA.

The status information in the docket database will be reviewed and a new list of facilities classified as NFRAP will be published at each docket update.

6.0 Information Contained on Docket Listing

As discussed above, the update information below is divided into three separate sections. The first section is a list of new facilities that are being added to the docket. The second section is a list of facilities that are being deleted from the docket. The third section comprises corrections of information included on the docket. Each facility listed for the update has been assigned a code(s) that indicates a more specific reason(s) for the addition, deletion, or correction. The code key precedes the lists.

SARA, as amended by the Defense Authorization Act of 1997, specifies that, for each Federal facility that is included on the docket during an update, evaluation shall be completed in accordance with a reasonable schedule. Therefore, all facilities on the additions list to this fifteenth docket update must submit a PA and, if warranted, an SI to EPA. The PA must include existing information about a site and its surrounding environment, including a thorough examination of human, food-chain, and environmental targets, potential waste sources, and migration pathways. From information in the PA or other information coming to EPA's attention, EPA will determine whether a follow-up SI is required. An SI augments the data collected in a PA. An SI may reflect sampling and other field data that are used to determine whether further action or investigation is appropriate. This policy includes any facility for which there is a change in the identity of the responsible Federal agency. The reports should be submitted to the Federal facilities coordinator in the appropriate EPA Regional office.

The facilities listed in each section are organized by state and then grouped alphabetically within each state by the Federal agency responsible for the facility. Under each state heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and the correction code(s).

The statutory provisions under which a facility reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each facility: for example 3010, 3016, and 103(c).

The complete list of Federal facilities that now make up the docket and the complete list of facilities classified as no further remedial action planned (NFRAP) are not being published today. However, the lists are available to interested parties and can be obtained at *http://www.epa.gov/oeca/fedfac/oversight/oversight.html* or by calling the HQ Docket Coordinator at (202) 564–2468. As of today, the total number of Federal facilities that appear on the docket is 2,231.

Dated: June 24, 2002.

Elliott J. Gilberg,

Associate Director, Federal Facilities Enforcement Office.

Docket Revisions

Categories of Revisions for Docket Update by Correction Code

Categories for Deletion of Facilities

(1) Small-Quantity Generator
(2) Not Federally Owned
(3) Formerly Federally Owned
(4) No Hazardous Waste Generated
(5) (This correction code is no longer used.)
(6) Redundant Listing/Site on Facility
(7) Combining Sites Into One Facility/Entries Combined
(8) Does Not Fit Facility Definition
(9) (This correction code is no longer used.)
(10) (This correction code is no longer used.)
(11) (This correction code is no longer used.)
(12) (This correction code is no longer used.)
(13) (This correction code is no longer used.)
(14) (This correction code is no longer used.)

Categories for Addition of Facilities

(15) Small-Quantity Generator With Either a RCRA 3016 or CERCLA 103 Reporting Mechanism
(16) One Entry Being Split Into Two/Federal Agency Responsibility Being Split
(17) New Information Obtained Showing That Facility Should Be Included
(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility
(19) Sites Were Combined Into One Facility
(19A) New Facility

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change
(20A) Typo Correction/Name Change/Address Change
(21) Changing Responsible Federal Agency (New Responsible Federal Agency Must Submit proof of previously performed PA, which is subject to approval by EPA)
(22) Changing Responsible Federal Agency and Facility Name (New Responsible Must Submit proof of previously performed PA, which is subject to approval by EPA)
(23) New Reporting Mechanism Added at Update
(24) Reporting Mechanism Determined to Be Not Applicable After Review of Regional Files

Note: Further information on definitions of categories can be obtained by calling Augusta K. Wills, the HQ Docket Coordinator at (202) 564–2468.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 ADDITIONS

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
FS–TONGASS NF: EAST 12 MILE SITE.	W SIDE OF FS RD 1220, 35 MI SE OF CRAIG, T75S R83E S13, COPPER RIVER MERIDIAN.	CRAIG	AK	99927	AGRICULTURE	103C	19A
US ARMY AVIATION CENTER CAIRNS.	ALABAMA HIGHWAY 85	DALEVILLE	AL	36322–5000	ARMY	3010	19A
USPS HILLCREST STATION.	300 E HILLCREST BLVD	INGLEWOOD.	CA	90301–9998	POSTAL SERVICE	3010	19A
NATIONAL WIND TECHNOLOGY CENTER.	18200 STATE HIGHWAY 128.	GOLDEN	CO	80403	ENERGY	3016	19A
US NATIONAL PHOTO INTERPRETATION CENTER.	1ST & M STREET, SE	WASHINGTON.	DC	20374	NATIONAL IMAGERY AND MAPPING AGENCY.	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 ADDITIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
AMES LAB #1	1915 N. SCHOLL ROAD, IOWA STATE UNIVERSITY.	AMES	IA	50011–3020	ENERGY	3016	19A
LEWIS UNIVERSITY CORRECTIONAL CENTER.	1125 N COLLINS	JOLIET	IL	60436	JUSTICE	3010	19A
US GOVERNMENT DEA	1716 W PERISHING RD	CHICAGO	IL	60609	JUSTICE	3010	19A
FORT SHERIDAN NAVAL PROPERTY.	FORT SHERIDAN NAVAL PROPERTY.	FORT SHERIDAN.	IL	60037	NAVY	3010	19A
ARMED FORCES INSTITUTE OF PATHOLOGY.	16050 INDUSTRIAL DRIVE, STE 100.	GAITHERSBURG.	MD	20877	ARMY	3010	19A
GASCONADE (EX) BOAT YARD.	CONFLUENCE OF GASCONADE AND MISSOURI RIVER.	GASCONADE.	MO	65036	CORPS OF ENGINEERS, CIVIL.	103c	19A
US MEDICAL CENTER FEDERAL PRISON SPRINGFIELD.	1900 W SUNSHINE	SPRINGFIELD.	MO	65801	JUSTICE	103c	19A
KIRKSVILLE (EX) AFS P–64.	6 MILES NORTH OF KIRKSVILLE, WEST.	KIRKSVILLE	MO	63501	TRANSPORTATION	103c	19A
STANLEY R MICKELSEN SAFEGUARD COMPLEX–(RSL–4) REMOTE SPRINT LA.	1 MILE SOUTHWEST OF FAIRDALE.	FAIRDALE	ND	58205	AIR FORCE	103c	19A
STANLEY R MICKELSEN SAFEGUARD COMPLEX—(RSL–1) REMOTE SPRING LA.	3 MILES EAST OF HAMPDEN.	HAMPDEN	ND	58338	AIR FORCE	103c	19A
STANLEY R MICKELSEN SAFEGUARD COMPLEX—(RSL–2) REMOTE SPRINT LA.	6 MILES NORTH OF LANGDON.	LANGDON	ND	58249	AIR FORCE	103c	19A
STANLEY R MICKELSEN SAFEGUARD COMPLEX—(RSL–3) REMOTE SPRINT LA.	19 MILES EAST OF LANGDON.	LANGDON	ND	58249	AIR FORCE	103c	19A
HALLAM NUCLEAR POWER FACILITY.	NE ¼ SEC 19 T7N R6E	HALLAM	NE	68368	ENERGY	103c	19A
NEW JERSEY AIR NATIONAL GUARD 177FW.	400 LANGLEY RD	EGG HARBOR TWP.	NJ	08234–9500	AIR FORCE	3010	19A
MAJ J O'DONOVAN AFR CENTER.	90 N MAIN AVE	ALBANY	NY	12203	ARMY	3010	19A
USCG—STATION JONES BEACH.	WESTEND BOAT BASIN OFF OCEAN.	FREEPORT	NY	11520–5001	TRANSPORTATION	3010	19A
BLM-BALM CREEK—POORMAN MINE COMPLEX.	E SIDE OF MOTHERLOAD RD, 6 MI NE OF KEATING, T7S R43E S32, W.M., +44°55′01″ N, −117° 29′25″ W.	BAKER CITY	OR	97814	INTERIOR	103c	19A
FORT DIX TACONY WAREHOUSE.	1500 PRINCETON AVE	PHILADELPHIA.	PA	19124	ARMY	103c	19A
NATIONAL ENERGY TECHNOLOGY LABORATORY—PITTSBURGH.	POB 10940	PITTSBURGH.	PA	15236	ENERGY	3016	19A
APPALACHIAN SMELTING AND REFINERY.	SOUTH HOLSTON LAKE	BRISTOL	TN	37620	TENNESSEE VALLEY AUTHORITY.	103c	19A
TENNESSEE VALLEY AUTHORITY.	HIGHWAY 69A	BIG SANDY	TN	38221	TENNESSEE VALLEY AUTHORITY.	3010	19A
TVA WILSON 500 KV SUBSTATION.	2280 BECKWITH ROAD	MOUNT JULIET.	TN	37122	TENNESSEE VALLEY AUTHORITY.	3010	19A
US COAST GUARD (OUACHITA) SHORESIDE.	3551 OLD HARRISON PIKE.	CHATTANOOGA.	TN	37416–2825	TRANSPORTATION	3010	19A
TOOELE ARMY DEPOT (NORTH AREA).	3 MI S OF TOOELE ON HWY 36.	TOOELE	UT	84074	ARMY	103c	16

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 ADDITIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
NAVAL SECURITY GROUP ACTIVITY SUGAR GROVE—OPERATIONAL AREA.	RANDALL ROAD, OFF STATE ROAD 21.	SUGAR GROVE.	WV	26815	NAVY	103c	16

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 DELETIONS

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
BRUNSWICK FACILITY.	ROUTE 11	BRUNSWICK	GA	30365	EPA	103a	2
CHICAGO SITE	CALUMET HARBOR	CHICAGO	IL	60606	CORPS OF ENGINEERS, CIVIL.	3010	4
FS-ROBINS DISPOSAL AREA.		WATERSMEET	MI		AGRICULTURE	103a	6
FAA-PECK VOR	2250 E PECK RD	CROSWELL	MI	48422	TRANSPORTATION	3010	4
USEDA CO USACE	812 FIRST AVE	TWO HARBORS	MN	55616	ARMY	3010	3
BRAINERD FOUNDRY	801 SOUTH 10TH STREET.	BRAINERD	MN	56401	COMMERCE	3010 3016 103c	3
OTTATI & GOSS SUPERFUND SITE.	ROUTE 125	KINGSTON	NH	03848	EPA	3010	2
7TH BATTALION HAWK.	204 FRONTAGE RD	RIO RANCHO	NM	87124	ARMY	3010	3
FORMER LORDSTOWN ORDNANCE DEPOT.	5232 TOD WS NO 11	WARREN	OH	44481	GENERAL SERVICES ADMINISTRATION.	3010	3
NPS-CUYAHOGA VALLEY NATIONAL RECREATION AREA.	15610 VAUGHN ROAD.	BRECKSVILLE	OH	44141	INTERIOR	3010 3016 103c	7
AEROQUIP INOAC	1410 MOTOR DR	FREMONT	OH	43420		3010	2
ADMIRAL OLIN E TEAGUE CENTER.	1901 S 1ST ST	TEMPLE	TX	76504	VETERANS AFFAIRS	3010	1
RUSK COUNTY VETERANS MEMORIAL ARMY RESERVE CENTER.	819 W SUMMIT AVENUE.	LADY SMITH	WI	54848	ARMY	3010	1

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
c ALASKA TOK FUEL TERMINAL.	7 MI W OF TOK, ALASKA HWY 2.	TOK	AK	99780	ARMY	3010	20A
o ALASKA TOK FUEL TERMINAL.	7 MI W OF TAK ALASKA HWY 2 5TH ST BLDG. 790.	TOK	AK	99780	ARMY	3010	
c BLM–BOSTIK INC HOOSIER CREEK.	80 MI NW OF FAIRBANKS, 65°26′54″ N, 150°04′31″ W.	RAMPART	AK	99767	INTERIOR	3010 103c	20A, 23
o BLM–BOSTIK INC HOOSIER CREEK.	65D26M54SN, 150D04M31SW.	RAMPART	AK	99767	INTERIOR	3010	
c BLM–ICY CAPE DEW LINE SITE.	50 MI SW OF WAINWRIGHT 70°18′00″ N, 161°55′00″ W.	WAINWRIGHT.	AK	99782	INTERIOR	103c 3010	20A
o BLM–ICY CAPE DEW LINE SITE.	50 MI SW OF WAINWRIGHT.	WAINWRIGHT.	AK	99782	INTERIOR	103c 3010	
c BLM–SOURDOUGH LITTLE BEAR CAMP AKA SOURDOUGH ARMY CAMP.	35 MI N OF GLENNALLEN, W OF RICHARDSON HWY.	GLENNALLEN.	AK	99588	INTERIOR	103c	20A
o BLM–SOURDOUGH LITTLE BEAR CAMP.	RICHARDSON HWY 35 MI N OF GLENNALLEN.	GLENALLEN.	AK	99588	INTERIOR	103c	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
c FWS–ALASKA MARITIME NWR: TIGALDA ISLAND AWS.	30 MI E OF AKUTAN, 54°04′48″ N, 165° 03′27″ W.	AKUTAN	AK	99553	INTERIOR	103c	20A
o FWS–ALASKA MARITIME NWR: TIGALDA ISLAND AWS.	30 MI E OF AKUTAN, 54°04′48″ N, 165°03′27″ W.	AKUTAN	AK	99553	INTERIOR	103c	
c NPS–KATMAI NP: BROOKS CAMP.	32 MI E OF KING SALMON, NAKNEK LAKE, 55°33′17″ N, 155°46′38″ W.	KING SALMON.	AK	99613	INTERIOR	103c 3016	20A
o NPS–KATMAI NP: BROOKS CAMP.	30 MI W OF CY, NAKNEK LAKE.	KING SALMON.	AK		INTERIOR	103c 3016	
c NPS–WRANGELL ST ELIAS NP&P: MALASPINA DRILLING MUD SITE.	T24S R32E S31, 59°42′30″ N, 140°37′30″ W.	GLENNALLEN.	AK	99588	INTERIOR	103c 3016	20A
o NPS–WRANGELL ST ELIAS NP&P: MALASPINA DRILLING MUD SITE.	T24S R32E S31	GLENALLEN.	AK	99588	INTERIOR	103c 3016	
c FAA–BIG DELTA STATION.	FORT GREELY AIRPORT, 63°59′40″ N, 145°43′17″ W.	DELTA JUNCTION.	AK	99737	TRANSPORTATION	103c 3016	20A
o FAA–BIG DELTA STATION.	FORT GREELY AIRPORT.	DELTA JUNCTION.	AK	99737	TRANSPORTATION	103c 3016	
c U.S. ARMY AVIATION CENTER.	114 NOVOSEL STREET BETWEEN HIGHWAYS 134 AND 51.	FORT RUCKER.	AL	36362–5000	ARMY	3005 3010 3016 103c.	20A
o AVIATION CENTER AND FORT RUCKER.	BLDG 1404	FORT RUCKER.	AL	36362–5000	ARMY	3005 3010 3016 103c.	
c LITTLE ROCK AIR FORCE BASE.	4001 THOMAS AVE	LITTLE ROCK AFB.	AR	72099–5005	AIR FORCE	3005 3010 3016 103c 103a.	20A
o LITTLE ROCK AIR FORCE BASE.	314 CSG/CC	LITTLE ROCK AFB AR.	AR	72099	AIR FORCE	3005 3010 3016 103c 103a.	
c ARIZONA ARMY NATIONAL GUARD FLORENCE RANGE.	1001 N FLORENCE BLVD.	FLORENCE	AZ	85232	ARMY	103c	20A
o FLORENCE RANGE		FLORENCE	AZ		ARMY	103c	
c LAAFB-FORT MACARTHUR ANNEX.	2400 PACIFIC AVENUE	SAN PEDRO.	CA	90731	AIR FORCE	3016 103c	23
o LAAFB-FORT MACARTHUR ANNEX.	2400 PACIFIC AVENUE	SAN PEDRO.	CA	90731		3016	
c SAN PEDRO DEFENSE FUEL SUPPLY CENTER.	3171 N. GAFFEY STREET.	SAN PEDRO.	CA	90731	DEFENSE LOGISTICS AGENCY.	3010 3016 103c 103a.	23
o SAN PEDRO DEFENSE FUEL SUPPLY CENTER.	3171 N. GAFFEY STREET.	SAN PEDRO.	CA	90731	DEFENSE LOGISTICS AGENCY.	3010 3016 103c.	
c LAWRENCE LIVERMORE NATIONAL LABORATORY-SITE 300.	CORRAL HOLLOW ROAD.	TRACY	CA	95376	ENERGY	3005 3010 3016 103c.	20A
o LAWRENCE LIVERMORE NATIONAL LABORATORY-SITE 300.	CORRAL HOLLOW ROAD.	TRACY	CA	94550	ENERGY	3005 3010 3016 103c.	
c STANFORD LINEAR ACCELERATOR CENTER.	2575 SAND HILL ROAD	MENLO PARK.	CA	94025	ENERGY	3010 3016 103c 103a.	20A
o STANFORD LINEAR ACCELERATOR CENTER.	2575 SANDHILL ROAD.	MENLO PARK.	CA	94305	ENERGY	3010 3016 103c 103a.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
c FORMER LOWRY AFB TITAN MISSILE SITE 1 COMPLEX 2A.	5 MILES SOUTH OF EAST QUINCY AV AND BRICK CENTER ROAD.	AURORA	CO	80137	AIR FORCE	103c	20A
o FORMER LOWRY AFB TITAN MISSILE SITE 1 COMPLEX 2A.	5 MILES SOUTH OF EAST QUINCY AV AND BRICK CENTER ROAD.	AURORA	CO	80137	AIR FORCE	103c	
c NATIONAL RENEWABLE ENERGY LABORATORY.	1617 COLE BLVD.	GOLDEN	CO	80401	ENERGY	3005 3010 3016 103c.	20A
o SOLAR ENERGY RESEARCH INSTITUTE.	1617 COLE BLVD.	GOLDEN	CO	80401	ENERGY	3005 3010 3016 103c.	
c ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.	1808 HIGHWAY 93, UNIT A.	GOLDEN	CO	80403	ENERGY	3005 3010 3016 103c 103a.	20A
o ROCKY FLATS PLANT.	HWY. 93 BETWEEN GOLDEN & BOULDER.	GOLDEN	CO	80402	ENERGY	3005 3010 3016 103c 103a.	
c WAPA-MONTROSE POWER OPERATIONS CENTER.	1800 S. RIO GRANDE AVE..	MONTROSE.	CO	81401	ENERGY	103c 3010 3016.	20A, 23
o WAPA-POWER OPERATIONS.	1800 S. RIO GRANDE AVE.	MONTROSE.	CO	81401	ENERGY	103c 3010	
c HUBERT H. HUMPHREY BUILDING.	200 INDEPENDENCE AVENUE, SW.	WASHINGTON.	DC	20201	GENERAL SERVICES ADMINISTRATION.	3016 103c	20A, 21
o HUBERT HUMPHREY BUILDING.	200 INDEPENDENCE AVENUE, S.W..	WASHINGTON.	DC	20024	HEALTH AND HUMAN SERVICES.	3016 103c	
c ANACOSTIA NAVAL STATION.	2701 SOUTH CAPITOL STREET SW.	WASHINGTON.	DC	20374	NAVY	3010 103c 3016.	20A
o ANACOSTIA NAVAL STATION.	SOUTH CAPITAL ST/ ANACOSTIA DR.	WASHINGTON.	DC	20374	NAVY	3010 103c 3016.	
c FORT GILLEM	4653 N SECOND ST	FOREST PARK.	GA	30297–5000	ARMY	3005 3010 3016 103c.	20A
o FORT GILLEM	ATTN AFZK–EH–C	FOREST PARK.	GA	30330	ARMY	3005 3010 3016 103c.	
c FORT STEWART	24TH INFANTRY DIV AFZP–DEN–E.	FORT STEWART.	GA	31314	ARMY	3005 3010 3016 103c 103a.	23
o FORT STEWART	24TH INFANTRY DIV AFZP–DEN–E.	FORT STEWART.	GA	31314	ARMY	3005 3010 3016 103c.	
c NAVACTS ORDNANCE ANNEX GUAM.	APRA HBR HTS AREA BY FENA RESV.	APRA HARBOR.	GU	96910	NAVY	103c	20A
o GUAM NAVAL MAGAZINE.	APRA HBR HTS AREA BY FENA RESV.	APRA HARBOR.	AQ	96910	NAVY	103c	
c AMES LAB #2	SPEDDING HALL, METALS DEVELOPMENT, WILHELM HALL & TASF.	AMES	IA	50011–3400	ENERGY	103c 3016 3005 3010.	20A
o AMES LABORATORY-APPLIED SCIENCE CENTER.	109 OFFICE & LAB, ISU	AMES	IA	50011	ENERGY	103c 3016 3005 3010.	
c IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY (INEEL).	US HWY 20/26, 40 MI WEST OF IDAHO FALLS.	IDAHO FALLS.	ID	83401	ENERGY	3005 3010 3016 103c 103a.	20a
o IDAHO NATIONAL ENGINEERING AND ENVIRONMENTAL LABORATORY.	US HWY 20/26, 40 MI WEST OF IDAHO FALLS.	SCOVILLE	ID	83401	ENERGY	3005 3010 3016 103c 103a.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
c CHANUTE AIR FORCE BASE.	3345 CES AFB	RANTOUL	IL	61868	AIR FORCE	3005 3010 3016 103c.	20A
o CHANUTE AIR FORCE BASE.	OL–B AFBCA 1 AVIATION CENTER DRIVE, SUTE 101.	RANTOUL	IL	61868	AIR FORCE	3005 3010 3016 103c.	
c ROCK ISLAND ARSENAL.	RODMAN AVE	ROCK ISLAND.	IL	61299–5000	ARMY	3005 1010 3016 103c.	20A
o ROCK ISLAND ARSENAL.	ARSENAL ISLAND ROCK ISLAND COUNTY.	ROCK ISLAND.	IL	61201	ARMY	3005 3010 3016 103c.	
c NAVAL TRAINING CENTER GREAT LAKES.	PUBLIC WORKS CENTER BUILDING 1A.	GREAT LAKES.	IL	60088–5600	NAVY	3005 3010 3016 103c 103a.	20A, 23
o NAVAL TRAINING CENTER GREAT LAKES.	2601 PAUL JONES STREET.	GREAT LAKES.	IL	60008	NAVY	3005 3010 3016 103c.	
c MCCONNELL AIR FORCE BASE.	53000 HUTCHINSON STE 109.	WICHITA	KS	67221–3617	AIR FORCE	3005 3010 3016 103c.	20A
o MCCONNELL AIR FORCE BASE.	2801 S ROCK RD	WICHITA	KS	67210	AIR FORCE	3005 3010 3016 103c.	
c PADUCAH GASEOUS DIFFUSION PLANT.	5600 HOBBS ROAD	WEST PADUCAH.	KY	42086	ENERGY	3005 3010 3016 103a 103c.	20A
o PADUCAH GASEOUS DIFFUSION PLANT.	PO BOX 1410 HOBBS ROAD.	PADUCAH	KY	42001	ENERGY	3005 3010 3016 103a 103c.	
c FORT HOLABIRD CRIME RECORDS CENTER.	CORNER OF OAKLAND AND DETROIT AVENUE.	BALTIMORE.	MD	21222	ARMY	103c	20A
o FORT HOLABIRD CRIME RECORDS CENTER.	CORNER OF OAKLAND AND DETROIT AVENUE.	BALTIMORE.	MD	21222		103c	
c FORT LEONARD WOOD, U.S. ARMY MANEUVER SUPPORT CENTER.	DIRECTORATE OF PUBLIC WORKS, 1334 FIRST STREET.	FORT LEONARD WOOD.	MO	65473–8944	ARMY	3005 3010 3016 103c.	20A
o AIR TRAINING COMMAND-ENGINEER & FORT LEONARD WOOD.	T44, PULASKI COUNTY	FORT LEONARD WOOD.	MO	65473	ARMY	3005 3010 3016 103c.	
c NIKE BATTERY KANSAS CITY–30 INACTIVE.	ROUTE KK	LONE JACK	MO	64070	ARMY	103c 3016	20A, 21, 23
o NIKE BATTERY KANSAS CITY–30 INACTIVE.	2.5 MI S OF LONE JACK.	PLEASANT HILL.	MO	64080	DEFENSE	103c	
c NAVAL AIR STATION MERIDIAN.	1155 ROSENBAUM AVENUE, STE 13.	MERIDIAN	MS	39309–5003	NAVY	3010 103c	20A
o MERIDIAN NAVAL AIR STATION.	PUBLIC WORKS DEPARTMENT.	MERIDIAN	MS	39309	NAVY	3010 103c	
c FWS-GREAT SWAMP NATIONAL WILDLIFE REFUGE.	152 PLEASANT PLAINS ROAD.	BASKING RIDGE.	NJ	07920–9615	INTERIOR	3016 103c 3010.	20A
o FWS-GREAT SWAMP NATIONAL WILDLIFE REFUGE.	RD 1, BOX 152	BASKING RIDGE.	NJ	07920	INTERIOR	3016 103c 3010.	
c PLUM ISLAND ANIMAL DISEASE CENTER.	ROUTE 25	ORIENT POINT.	NY	11957	AGRICULTURE	3016 103c 3010.	20A
o PLUM ISLAND ANIMAL DISEASE CENTER.	PLUM ISLAND	ORIENT POINT.	NY	11957	AGRICULTURE	3016 103c 3010.	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
c PORTSMOUTH GASEOUS DIFFUSION PLANT.	3930 U.S. ROUTE 23 SOUTH.	PIKETON	OH	45661	ENERGY	3005 3010 3016 103c 103a.	20A
o PORTSMOUTH GASEOUS DIFFUSION PLANT.	US RTE 235	PIKETON	OH	45661	ENERGY	3005 3010 3016 103c 103a.	
c KREJCI DUMP SITE	814 W HINES HILL RD	BOSTON HEIGHTS.	OH	44264	INTERIOR	3010 3016 103c.	20, 20A
o KREJCI DUMP SITE	814 HINES HILL RD	BOSTON HEIGHTS.	OH	44236		3010	
c JOHN GLENN RESEARCH CENTER.	21000 BROOKPARK ROAD.	CLEVELAND.	OH	44135	NASA	3010 3016 103a 103c.	20A
o GLENN RESEARCH CENTER AT LEWIS FIELD.	6100 BROOKPARK ROAD.	CLEVELAND.	OH	44135	NASA	3010 3016 103a 103c.	
c MCALESTER ARMY AMMUNITION PLANT.	1 C TREE ROAD	MCALESTER.	OK	74501–9002	ARMY	3005 3010 3016 103c 103a.	23
o MCALESTER ARMY AMMUNITION PLANT.	1 C TREE ROAD	MCALESTER.	OK	74501–9002	ARMY	3005 3010 3016 103c.	
c THE DALLES DAM	RIVER MI 192, EXIT 88, I–84 4 MI E OF THE DALLES.	THE DALLES.	OR	97058	CORPS OF ENGINEERS, CIVIL.	3010 103c	20A
o THE DALLES DAM	EXIT 88	THE DALLES.	OR	97058	CORPS OF ENGINEERS, CIVIL.	3010 103c	
c EASTERN REGIONAL RESEARCH CENTER.	600 EAST MERMAID LANE.	WYNDMOOR.	PA	19038	AGRICULTURE	3010 103c 3016.	20A
o WYNDMOOR	600 E MERMAID LN	WYNDMOOR.	PA	19118	AGRICULTURE	3010 103c 3016.	
c CARLISLE ARMY BARRACKS.	U.S. HIGHWAY 11 AND ASHBURN DRIVE.	CARLISLE	PA	17013	ARMY	103c 103a 3016.	20A, 23
o CARLISLE ARMY BARRACKS.	CARLISLE BARRACKS	CARLISLE	PA	17013	ARMY	103c 103a	
c BETTIS ATOMIC POWER LABORATORY.	814 PITTSBURGH MCKEESPORT BLVD.	WEST MIFFLIN.	PA	15122–0109	ENERGY	3005 3010 3016 103c.	20A
o BETTIS ATOMIC POWER LABORATORY.	PO BOX 109 BETTIS RD.	WEST MIFFLIN BOROUGH.	PA	15122–0109	ENERGY	3005 3010 3016 103c.	
c PUERTO RICO ARMY NATIONAL GUARD—CAMP SANTIAGO.	RD 1 KM 3.6—TRAINING SITE.	SALINAS	PR	00751	ARMY	103c 3010 3016.	20A
o CAMP SANTIAGO	ROUTE 1	SALINAS	PR	00751	ARMY	103c 3010 3016.	
c SHAW AFB POINSETT RANGE.	SC HWY 261 4 MILES OF.	WEDGEFIELD.	SC	29168	AIR FORCE	3016 103c	20A, 23
o POINSETT WEAPONS RANGE.	4 MILES S OF WEDGEFIELD SC.	WEDGEFIELD.	SC	29152	AIR FORCE	3016	
c WAPA-WATERTOWN SUBSTATION.	1 MI. E. OF I–29	WATERTOWN.	SD	57201	ENERGY	3010 103c 3016.	23
o WAPA-WATERTOWN SUBSTATION.	1 MI. E. OF I–29	WATERTOWN.	SD	57201	ENERGY	3010 103c	
c MOORE AIR BASE	6 MILES NORTH OF ALTON TEXAS, ROUTE 6017.	EDINBURG	TX	78539	AGRICULTURE	103c 3016	20A, 23
o MOORE AIR BASE	RTE 3, BOX 1004, RM 55.	MCALLEN	TX	78539	AGRICULTURE	103c	
c TOOELE ARMY DEPOT (SOUTH AREA).	HIGHWAY 36, 12 MI S OF TEAD-N.	TOOELE	UT	84074	ARMY	3005 3010 3016 103c 103a.	20A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
o TOOELE ARMY DEPOT.	STATE HWY. 36	TOOELE	UT	84074	ARMY	3005 3010 3016 103c 103a.	
c FORT MONROE	318 CORNOG LANE	FORT MONROE.	VA	23651–1110	ARMY	3010 3016 103c 103a.	20A, 23
o FORT MONROE	1 POINT COMFORT	HAMPTON	VA	23364	ARMY	3010 3016 103c.	
c FORT MYER	204 LEE AVE	FORT MYER.	VA	22211–1199	ARMY	3010 103c 3016.	20A
o FORT MYER	US ARMY FT MYER	FORT MYER.	VA	22211	ARMY	3010 103c 3016.	
c U.S. ARMY COMBINED ARMS SUPPORT COMMAND AND FORT LEE.	1816 SHOP ROAD	FORT LEE	VA	23801	ARMY	3005 3010 3016 103c.	20A
o FORT LEE	BLDG 6205 SHOP RD	FORT LEE	VA	23875	ARMY	3005 3010 3016 103c.	
c FS-OKANOGAN-WENATCHEE NF: LOWER WINTHROP COMPOUND.	19284 HWY 20, 300 W OF DOWNTOWN CY, +48.481111° N, -120.186668° W.	WINTHROP	WA	98862	AGRICULTURE	103c	20A
o FS-OKANOGAN-WENATCHEE NF: WINTHROP LOWER COMPOUND.	19284 HWY 20, 300 FT W OF DOWNTOWN WINTHROP.	WINTHROP	WA	98862	AGRICULTURE	103c	
c FS-OKANOGAN-WENATCHEE NF: NORTH CASCADES SMOKE JUMPER BASE.	23 INTERCITY AIRPORT RD, 3 MI SE OF CY, +48.4206667° N,—120.1470000° W.	WINTHROP	WA	98862	AGRICULTURE	103c	20A
o FS-OKANOGAN-WENATCHEE NF: NORTH CASCADES SMOKE JUMPER BASE.	23 INTERCITY AIRPORT RD, 3 MI SE OF WINTHROP.	WINTHROP	WA	98862	AGRICULTURE	103c	
c HANFORD SITE	HANFORD SITE	RICHLAND	WA	99352	ENERGY	3005 3010 3016 103c 103a.	23
o HANFORD SITE	HANFORD SITE	RICHLAND	WA	99352	ENERGY	3005 3010 3016 103c.	
c VOLK FIELD	HWY 94 JUNEAU COUNTY.	CAMP DOUGLAS.	WI	54618	AIR FORCE	3016 3010 103c.	20A
o CAMP DOUGLASS AIR NATIONAL GUARD BASE–OMS1.	HWY 94 JUNEAU COUNTY.	CAMP DOUGLAS.	WI	54618	AIR FORCE	3016 3010 103c.	
c NATIONAL ENERGY TECHNOLOGY LABORATORY—MORGANTOWN.	3610 COLLINS FERRY ROAD.	MORGANTOWN.	WV	26507	ENERGY	3010 103c 3016.	20A, 23
o MORGANTOWN ENERGY TECHNOLOGY CENTER.	3610 COLLINS FERRY RD.	MORGANTOWN.	WV	26505	ENERGY	3010 103c	
c NAVAL SECURITY GROUP ACTIVITY SUGAR GROVE—MAIN BASE.	63 HEDRICK DR	SUGAR GROVE.	WV	26815–5000	NAVY	3010 3016 103c.	20A
o SUGAR GROVE NAVAL SECURITY GROUP ACTIVITY, LF #1.	10 MI OFF RTE 33	SUGAR GROVE.	WV	26815–0001	NAVY	3010 3016 103c.	
c HIGH PLAINS GRASSLANDS RESEARCH STATION.	8404 HILDRETH ROAD	CHEYENNE	WY	82009–8899	AGRICULTURE	3016 103c	20A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #15 CORRECTIONS—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism	Code
o HIGH PLAINS GRASSLANDS RESEARCH STATION.	8408 HILDRETH ROAD	CHEYENNE	WY	82009	AGRICULTURE	3016 103c	
c HOE CREEK UNDERGROUND COAL GASIFICATION PROJECT.	531 HOE CREEK ROAD	GILLETTE	WY	82717	ENERGY	103c 3016	20A, 23
o HOE CREEK		GILLETTE	WY		ENERGY	103c	
c ROCK SPRINGS OIL SHALE RETORT PROJECT.	392 PURPLE SAGE ROAD.	ROCK SPRINGS.	WY	82901	ENERGY	103c 3016	20A, 23
o ROCK SPRINGS OIL SHALE RETORT PROJECT.	7 MI W OF ROCK SPRINGS.	ROCK SPRINGS.	WY	82902	ENERGY	103c	
c WAPA–CASPER FIELD BRANCH.	5600 W. POISON SPIDER ROAD.	MILLS	WY	82644	ENERGY	103c 3016	20A, 23
o WAPA–CASPER FIELD BR.	W OF MT VIEW ON SPIDER RD.	MILLS	WY	82644	ENERGY	103c	
c BLM–RAWLINS LANDFILL.	P.O. BOX 953	RAWLINS	WY	82301	INTERIOR	103c	20A
o BLM–RAWLINGS LANDFILL.	P.O. BOX 953	RAWLINS	WY	82301	INTERIOR	103c	

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET NFRAP STATUS FACILITIES UPDATE

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism
BLM-BOSTIK INC HOOSIER CREEK.	80 MI NW OF FAIRBANKS, 65° 26′ 54″ N, 150° 04′ 31″ W.	RAMPART	AK	99767	INTERIOR	3010 103c
BLM-ICY CAPE DEW LINE SITE.	50 MI SW OF WAINWRIGHT, 70° 18′ 00″ N, 161° 55′ 00″ W.	WAINWRIGHT.	AK	99782	INTERIOR	103c 3010
BLM-SOURDOUGH LITTLE BEAR CAMP AKA SOURDOUGH ARMY CAMP SITE.	35 MI N OF GLENNALLEN, W OF RICHARDSON HWY.	GLENNALLEN.	AK	99588	INTERIOR	103c
FWS-ALASKA MARITIME NWR: TIGALDA ISLAND AWS.	30 MI E OF AKUTAN, 54° 04′ 48″ N, 165° 03′ 27″ W.	AKUTAN	AK	99553	INTERIOR	103c
NPS-KATMAI NP: BROOKS CAMP.	32 MI E OF KING SALMON, NAKNEK LAKE, 55° 33′ 17″ N, 155° 46′ 38″ W.	KING SALMON.	AK	99613	INTERIOR	103c 3016
NPS-WRANGELL ST ELIAS NP&P: MALASPINA DRILLING MUD SITE.	T24S R32E S31, 59° 42′ 30″ N, 140° 37′ 30″ W.	GLENNALLEN.	AK	99588	INTERIOR	3016 103c
FAA-BIG DELTA STATION	FORT GREELY AIRPORT, 63° 59′ 40″ N, 145° 43″ 17″ W.	DELTA JUNCTION.	AK	99737	TRANSPORTATION	3016 103c
MARTIN-GADSDEN AIR NATIONAL GUARD STATION.	GADSDEN MUNICIPAL AIRPORT.	GADSDEN	AL		AIR FORCE	103c 3010
SHAVER LAKE LANDFILL	DINKEY CREEK ROAD	SHAVER LAKE.	CA	93664	AGRICULTURE	103c
BP-LITTLETON FEDERAL CORRECTION INSTITUTE.	9595 WEST QUINCY AVENUE.	LITTLETON	CO	80123	JUSTICE	103c
LONG ISLAND SOUND COAST GUARD GROUP.	120 WOODWARD AVE	NEW HAVEN	CT	06512	TRANSPORTATION	3010 103c
OSCEOLA NATIONAL FOREST SITE 1.	HIGHWAY 100	LAKE CITY	FL	32055	AGRICULTURE	3016 103c
RUSSELL RESEARCH CENTER.	950 COLLEGE STATION ROAD.	ATHENS	GA	30613	AGRICULTURE	3016 3010
ARMY RESERVE PERSONNEL COMMAND WAREHOUSE.	RTE 3 & NEIDRINGHAUS	GRANITE CITY.	IL	62040	ARMY	3010
WATERTOWN DAIRY	6 MOORE RD	WAYLAND	MA	01778	AGRICULTURE	3016 103c

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET NFRAP STATUS FACILITIES UPDATE—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism
WESTOVER AIR FORCE BASE.	439 CSG/DE	CHICOPEE	MA	01022	AIR FORCE	3005 3010 3016 103c
NPS-PROVINCETOWN SANITARY LANDFILL.	W OFF OF RACE POINT RD.	PROVINCETOWN.	MA	02657	INTERIOR	103c
NPS-SEPTAGE TREATMENT FACILITY/OLD CAMP WELLFLEET.	EAST OFF ROUTE 6	WELLFLEET	MA	02667	INTERIOR	3016 103c
SOUTH PORTLAND COAST GUARD BASE.	259 HIGH ST	SOUTH PORTLAND.	ME	04106	TRANSPORTATION	3010 103c
KEWEENAW FIELD STATION.	KEWEENAW FIELD	KEWEENAW BAY.	MI		ARMY	103c
PONTIAC STORAGE FACILITY.	871 SOUTH BOULEVARD	PONTIAC	MI	48503	ARMY	103c
ESCANABA DEFENSE FUEL SUPPORT POINT.	US HIGHWAY 41 DELTA COUNTY.	GLADSTONE	MI	49387	DEFENSE LOGISTICS AGENCY.	3010 3016 103c
ATKINS FARM	1.5 MI W ON HWY 16 THEN S 3/4 MI.	CANTON	MO	63435	AGRICULTURE	103c 3016
MARK TWAIN NATIONAL FOREST.	401 FAIRGROUNDS ROAD	ROLLA	MO	65401	AGRICULTURE	103c 3010
STANLEY R MICKELSEN SAFEGUARD COMPLES-(RSL–4) REMOTE SPRINT LA.	1 MILE SOUTHWEST OF FAIRDALE.	FAIRDALE	ND	58205	AIR FORCE	103c
STANLEY R MICKELSEN SAFEGUARD COMPLEX-(RSL–1) REMOTE SPRINT LA.	3 MILES EAST OF HAMPDEN.	HAMPDEN	ND	58338	AIR FORCE	103c
STANLEY R MICKELSEN SAFEGUARD COMPLEX-(RSL–2) REMOTE SPRINT LA.	6 MILES NORTH OF LANGDON.	LANGDON	ND	58249	AIR FORCE	103c
STANLEY R MICKELSEN SAFEGUARD COMPLEX-(RSL–3) REMOTE SPRINT LA.	19 MILES EAST OF LANGDON.	LANGDON	ND	58249	AIR FORCE	103c
STANLEY R. MICKELSON SAFEGUARD COMPLEX.		NEKOMA	ND		AIR FORCE	103c
NEWINGTON DEFENSE FUEL SUPPORT POINT.	PATTERSON LANE	NEWINGTON	NH	03801	DEFENSE LOGISTICS AGENCY.	3010 3016 103c
BOMARC/MCGUIRE MSL	RT 539	NEW EGYPT	NJ	08533	AIR FORCE	103c
GNOME-COACH	T23S,R30E, SECC 34; 31 MI SE OF CARLSBAD.	CARLSBAD	NM		ENERGY	103c
GUS KEFURT ARMY RESERVE CENTER.	399 MILLER STREET	YOUNGSTOWN.	OH	44507	ARMY	3010
KREJCI DUMP SITE	814 HINES HILL RD	BOSTON HEIGHTS.	OH	44236	INTERIOR	3010
NORTH SMITHFIELD NIKE LAUNCHER AREA.	POUNDHILL ROAD	NORTH SMITHFIELD.	RI	02857	ARMY	103c
POINSETT WEAPONS RANGE.	4 MILES S OF WEDGEFIELD, SC.	WEDGEFIELD.	SC	29152	AIR FORCE	3016
CHARLESTON COAST GUARD GROUP.	196 TRADD ST	CHARLESTON.	SC	29401	TRANSPORTATION	3010
NPS-GREAT SMOKEY MOUNTAINS NATIONAL PARK.	USNPS RT 2	GATLINBURG	TN	37738	INTERIOR	3005 3010 103c
APPALACHIAN SMELTING AND REFINERY.	SOUTH HOLSTON LAKE	BRISTOL	TN	37620	TENNESSEE VALLEY AUTHORITY.	103c
JOHNSONVILLE FOSSIL PLANT.	US HWY 70 E	NEW JOHNSONVILLE.	TN	37134	TENNESSEE VALLEY AUTHORITY.	103c 3010 103a 3005
TENNESSEE VALLEY AUTHORITY.	HIGHWAY 69A	BIG SANDY	TN	38221	TENNESSEE VALLEY AUTHORITY.	3010
TVA WILSON 500 KV SUBSTATION.	2280 BECKWITH ROAD	MOUNT JULIET.	TN	37122	TENNESSEE VALLEY AUTHORITY.	3010
VERMONT AIR NATIONAL GUARD.	10 FALCON STREET, SUITE A.	SOUTH BURLINGTON.	VT	05403–5873	AIR FORCE	3010 103c 3016
ETHAN ALLEN FIRING RANGE.	LEE RIVER ROAD	JERICHO	VT	05465	ARMY	3010 103c

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET NFRAP STATUS FACILITIES UPDATE—Continued

Facility name	Address	City	State	Zip Code	Agency	Reporting mechanism
FS-OKANOGAN-WENATCHEE NF: LOWER WINTHROP COMPOUND.	19284 HWY 20, 300 FT W OF DOWNTOWN CY, +48.481111° N, −120.186668° W.	WINTHROP ..	WA ..	98862	AGRICULTURE	103c
FS-OKANOGAN-WENATCHEE NF: NORTH CASCADES SMOKEJUMPER BASE.	23 INTERCITY AIRPORT RD, 3 MI SE OF CY, +48.4206667° N, −120.1470000° W.	WINTHROP ..	WA ..	98862	AGRICULTURE	103c
FS-NORTH CENTRAL FOREST EXPERIMENTS STATION.	5985 COUNTY HIGHWAY K	RHINELANDER.	WI ...	54501	AGRICULTURE	103a 3010
VOLK FIELD	HWY 94 JUNEAU COUNTY	CAMP DOUGLAS.	WI ...	54618	AIR FORCE	3016 3010 103c
BLM-RAWLINS LANDFILL ...	P.O. BOX 953	RAWLINS	WY ..	82301	INTERIOR	103c

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–10015; FRL–6723–8]

Toxic Chemical Release Reporting; Request for Comment on Renewal Information Collection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to procedures described in 5 CFR 1320.12: Toxic Chemical Release Reporting (EPA ICR No. 1363.12, OMB No. 2070–0093). This ICR involves a collection activity that is currently approved and scheduled to expire on January 31, 2003. 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 as described below.

DATES: Comments, identified by the docket control number OEI–10015, must be submitted on or before August 30, 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** section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information contact: The Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/*.

For technical information about this ICR renewal contact: Judith Kendall, Toxics Release Inventory Program Division, OEI, Environmental Protection Agency (2844T), 1200 Pennsylvania Ave. NW., Washington, DC 20460, Telephone: 202–566–0750; Fax: 202–566–0727; e-mail: *kendall.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

A. Affected Entities: Entities that will be affected by this action are those facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) to report annually to EPA their environmental releases and other waste management activities involving such chemicals.

Currently, those industries with the following SIC code designations (that meet all other threshold criteria for TRI reporting) must report toxic chemical releases and other waste management activities:

► 20–39, manufacturing

► 10, metal mining (except for SIC codes 1011, 1081, and 1094)

► 12, coal mining (except for SIC code 1241 and extraction activities)

► 4911, 4931 and 4939, electrical utilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.

► 4953, RCRA Subtitle C hazardous waste treatment and disposal facilities

► 5169, chemicals and allied products wholesale distributors

► 5171, petroleum bulk plants and terminals

► 7389, solvent recovery services, and

► federal facilities in any SIC code

To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR part 372 and section 3(a) of the Supporting Statement of the information collection. If you have any questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. Electronic Availability

Internet

Electronic copies of the ICR are available from the EPA home page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (*http://www.epa.gov/fedrgstr/*). An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at *http://www.epa.gov/triinter/#forms.*

In Person

The Agency has established an official record for this action under docket control number OEI–10015. 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 of the Center is (202) 260–7099.

III. How Can I Respond to This Notice?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (*i.e.,* ''OEI–10015'') in your correspondence.

1. By mail

All comments should be sent in triplicate to : Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Ariel Rios Building, Washington, DC 20460.

2. In person or by courier

Comments may be delivered in person or by courier to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., 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) 260–7093.

3. Electronically

Submit your comments electronically by e-mail to: ''*oppt.ncic@epa.gov.*'' Please note that you should 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 computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI–10015. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want to Submit to the Agency?

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information, any portion of which they believe is entitled to treatment as CBI by EPA, must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

C. 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:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In addition, EPA is requesting comment on a minor change to Reporting Form R in this ICR. Facilities will be required to supply an e-mail address on the Form R that will help to facilitate better lines of communication between EPA and facilities reporting to TRI.

IV. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on January 31, 2003.

Title: Toxic Chemical Release Reporting.

ICR numbers: EPA ICR No. 1363.12, OMB No. 2070–0093.

Abstract: EPCRA section 313 requires owners and operators of certain facilities that manufacture, process, or otherwise use any of over 650 listed toxic chemicals and chemical categories in excess of applicable threshold quantities to report annually to the Environmental Protection Agency and to the states in which such facilities are located on their environmental releases and transfers of and other waste management activities for such chemicals. In addition, section 6607 of the Pollution Prevention Act (PPA) requires that facilities provide information on the quantities of the toxic chemicals in waste streams and the efforts made to reduce or eliminate those quantities.

Annual reporting under EPCRA section 313 of toxic chemical releases and other waste management information provides citizens with a more complete picture of the total disposition of chemicals in their communities and helps focus industries' attention on pollution prevention and source reduction opportunities. EPA believes that the public has a right to know about the disposition of chemicals within communities and the management of such chemicals by facilities in industries subject to EPCRA section 313 reporting. This reporting has been successful in providing communities with important information regarding the disposition of toxic chemicals and other waste management information of toxic chemicals from manufacturing facilities in their areas.

EPA collects, processes, and makes available to the public all of the information collected. The information gathered under these authorities is stored in a database maintained at EPA and is available through the Internet. This information, commonly known as the Toxics Release Inventory (TRI), is used extensively by both EPA and the public sector. Program offices within EPA use TRI data, along with other sources of data, to establish priorities, evaluate potential exposure scenarios, and undertake enforcement activities. Environmental and public interest groups use the data in studies and reports, making the public more aware of releases of chemicals in their communities.

Comprehensive publicly-available data about releases, transfers, and other

waste management activities of toxic chemicals at the community level are generally not available, other than under the reporting requirements of EPCRA section 313. Permit data are often difficult to obtain, are not cross-media and present only a limited perspective on a facility's overall performance. With TRI, and the real gains in understanding it has produced, communities and governments know what toxic chemicals industrial facilities in their area release, transfer, or otherwise manage as waste. In addition, industries have an additional tool for evaluating efficiency and progress on their pollution prevention goals.

Responses to the collection of information are mandatory (see 40 CFR part 372). 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

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 supporting statement 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 19.5 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Entities potentially affected by this action are owners or operators of certain facilities that manufacture, process, or otherwise use certain specified toxic chemicals and chemical categories and are required to report annually on the environmental releases and transfers of waste management activities for such chemicals.

Estimated total number of potential responses: 88,117.

Frequency of response: Annual.

Estimated total annual burden hours: 2,356,900.

Estimated total annual burden costs: $101.9 million.

VI. Are There Changes in the Estimates from the Last Approval?

As a result of OMB's March 7, 2002 approval of an information correction worksheet, OMB's inventory reflects 145,972 responses and 9,612,104 hours for this information collection. This ICR is for 88,117 responses and 2,356,900 hours. The reduction in burden of 7.26 million hours is the result of five adjustments.

The first adjustment is to the number of responses. The estimate of 145,972 responses in the existing OMB approval incorporated predicted reporting increases from economic analyses for several final rules. In all cases, these predictions overestimated actual reporting levels, resulting in a cumulative overestimate of the number of responses. For example, the 1997 program change for industry expansion estimated 39,033 responses would be submitted, but only 12,567 responses were actually submitted. Likewise, the 1999 program change for PBT chemical thresholds estimated 19,990 responses would be submitted, but only about 7,000 responses were actually submitted. The number of responses in this ICR have been adjusted to accurately reflect actual reporting levels, with the exception of predicted additional responses from the rule lowering reporting thresholds for lead and lead compounds. The prediction of 9,813 additional reports for lead and lead compounds may prove to be an overestimate, as with EPA predictions for past rules. This adjustment results in a decrease of 57,855 responses and approximately 3 million burden hours (at 52.1 hours per response).

The second adjustment is to the unit burden hours. EPA has revised the estimate of unit burden hours for Form R completion from 47.1 hours to 14.5 hours based on feedback from TRI reporting facilities. This reduction in the burden estimate accounts for increased familiarity with the program, improved guidance, and computerization/automation at reporting facilities. The adjustment to unit burden hours does not affect the number of responses, but reduces total burden by approximately 2.9 million burden hours (using the number of responses for this ICR).

The third adjustment relates to first-year reporting burden. In previous ICRs, the renewal period has coincided with programmatic changes in one or more years. Previous ICRs have been based on annualized estimates of burden (including time for rule familiarization and higher first year reporting burdens). Since there are no final rules pending at this time, this ICR renewal does not require annualized burden estimates that account for first-year reporting burden. This accounts for a reduction of about 1.1 million burden hours.

The fourth adjustment relates to the adoption of TRI–ME, an automated reporting software package. EPA has reduced the burden estimates related to Form R completion and record keeping/mailing by an additional 25 percent for the reports filed using TRI–ME based on respondent experience. On an annualized basis, an estimated 60 percent of reports are expected to be filed using TRI–ME over the three years of the ICR. This results in a reduction of approximately 260,000 hours.

The fifth adjustment relates to the number of petitions. In previous ICRs, EPA has estimated 11 petitions per year. Since the actual number has been 1 to 2 per year, this ICR has reduced the expected number of petitions to 5. This adjustment has a very minor impact on total burden.

These adjustments are described in further detail in the supporting statement for this ICR, available in the public version of the official record. The sum of these adjustments is a decrease of 57,855 responses and 7,255,204 burden hours from the current approved total.

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 person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

List of Subjects in 40 CFR Part 372

Environmental protection, Information collection requests, Reporting and record keeping requirements.

Dated: June 24, 2002.

Ramona Trovato,

Acting Assistant Administrator and Chief Information Officer, Office of Environmental Information.

[FR Doc. 02–16466 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 21, 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 31, 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.: 3060–0556.

Title: Section 80.1061, Special Requirements for 406.025 MHz EPIRB's.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other-for-profit.

Number of Respondents: 9,500.

Estimated Time Per Response: .084 hours (5 minutes).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 798 hours.

Total Annual Cost: N/A.

Needs and Uses: Section 80.1061 requires owners of 406.025 MHz Emergency Position Indicating Radio Beacons (EPIRBs) to register information such as name, address, and type of vessel with the National Oceanic and Atmospheric Administration (NOAA). Additionally, the radio beacon must be certified by a test facility recognized by the U.S. Coast Guard to certify that the equipment complies with the U.S. Coast Guard environmental and operational requirements associated with the test procedures described in Appendix A of the RTCM Recommended Standards. If the collection of information were not conducted, NOAA would not have access to this information, which would increase the time needed to complete a search and rescue operation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–16445 Filed 6–28–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 4:33 p.m. on Wednesday, June 26, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director John M. Reich (Appointive), seconded by James E. Gilleran (Director, Office of Thrift Supervision), and concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 55sb(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: June 27, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–16672 Filed 6–27–02; 3:52 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Cerro Grande Fire Assistance

AGENCY: Office of Cerro Grande Fire Claims (OCGFC), Federal Emergency Management Agency (FEMA).

ACTION: Notice of deadline for reopening a claim.

SUMMARY: This notice establishes the deadline by which claimants must submit requests to reopen closed claims under the Cerro Grande Fire Assistance Act.

Dates for Reopening Claims: The deadline to request that FEMA reopen a claim is August 28, 2002, except for requests to reopen a claim for mitigation assistance. The deadline to request that a claim be reopened for mitigation assistance is August 28, 2003.

All requests to reopen a claim for any reason other than to request mitigation assistance must meet the requirements of 44 CFR 295.34 and be received by OCGFC on or before August 28, 2002. A claim that has been approved for reopening after August 28, 2002 to receive mitigation assistance will not be reopened again.

Requests to reopen claims that have been administratively closed under 44 CFR 295.30(b) for failure to submit a proof of loss or under 44 CFR 295.32(b) for failure to timely submit a release and certification form must include a proof of loss or release and certification form, whichever is applicable, signed by all

adult claimants who signed the notice of loss form, and OCGFC must receive the requests within the deadlines specified above. We expect a claimant to act in a timely fashion to provide all documentation required for OCGFC to evaluate a request for additional compensation or mitigation assistance. A claimant will have 30 days from the date the claim is reopened to submit all additional documentation required for OCGFC to evaluate the claim for additional compensation or mitigation assistance.

FOR FURTHER INFORMATION CONTACT: Robert Diaz, Staff Attorney, Office of Cerro Grande Fire Claims, P.O. Box 1480, Los Alamos, NM 87544, (505) 424–5900.

SUPPLEMENTARY INFORMATION: FEMA published final regulations in the **Federal Register** implementing the Cerro Grande Fire Assistance Act (Pub. L. 106–246) on March 21, 2001 as 44 CFR part 295. The rule sets out in 44 CFR 295.34(b) criteria for reopening a closed claim, authorizes the Director, Office of Cerro Grande Fire Claims to establish a deadline by which a claimant must submit a request to reopen, and provides that once FEMA establishes the deadline is established, FEMA must publish a notice in the **Federal Register**. This constitutes the **Federal Register** publication of that notice.

Under 44 CFR 295.34, ''Reopening a Claim,'' and implementing OCGFC policy, the Director may reopen a claim upon written request from the claimant if:

1. Claimant is eligible for mitigation under section 295.21(d)(3) or (h); or
2. Claimant has closed on the sale of real property not later than August 28, 2002 and desires to file a diminution claim under 44 CFR 295.21(e); or
3. Claimant's actual replacement costs for the destroyed home exceed those awarded under Option I ''Other Costs'' or Option II of the Home Replacement Policy; or
4. The Director determines that claimant has demonstrated good cause; or
5. Claimant has begun rebuilding a replacement home and has incurred additional, unforeseen alternative living expenses (ALE) (also known as loss of use compensation) beyond those for which advance ALE was paid; or
6. Claimant has discovered additional items of personal property that were not included in the original Proof of Loss.
7. Claimant has incurred or will incur costs associated with additional and/or specific site work under the Home Replacement Policy.

Requests to reopen claims that have been administratively closed under 44 CFR 295.30(b) for failure to submit a proof of loss or under 44 CFR 295.32(b) for failure to timely submit a release and certification form must include a proof of loss or release and certification form, whichever is applicable, signed by all adult claimants who signed the notice of loss form. OCGFC must receive the requests within the deadlines specified above.

We expect a claimant to act in a timely fashion to provide all documentation required for OCGFC to evaluate a request for additional compensation or mitigation assistance. A claimant will have 30 days from the date the claim is reopened to submit all additional documentation required for OCGFC to evaluate the claim for additional compensation or mitigation assistance.

Claimants who seek to reopen a claim for good cause must provide sufficiently detailed written information to permit OCGFC to evaluate whether good cause exists to reopen the claim. OCGFC has published and made available to the public policy guidelines explaining the criteria used to evaluate requests for reopen for good cause.

Such requests are determined on a case-by-case basis through application of the policy criteria.

Dated: June 21, 2002.

Mark D. Wallace,

Deputy General Counsel.

[FR Doc. 02–16423 Filed 6–28–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on July 30, 2002 in Washington, DC.

DATES: The meeting will be held on July 30, 2002, at 9 a.m.

ADDRESSES: The meeting will be held at FEMA's Lobby Conference Center, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, FEMA, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–4321; or e-mail *pat.tenorio@fema.gov.*

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) reports from FRPCC subcommittees, (3) old and new business, and (4) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provision will be made, if time permits, for oral statements from the public of not more than five minutes in length. Any member of the public who wishes to make an oral statement at the July 30, 2002, FRPCC meeting should request time, in writing, from W. Craig Conklin, FRPCC Chair, FEMA, 500 C Street, SW, Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenorio, FEMA, 500 C Street, SW, Washington, DC 20472.

Dated: June 21, 2002.

W. Craig Conklin,

Director, Technological Services Division, Office of National Preparedness, Federal Emergency Management Agency, Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 02–16425 Filed 6–28–02; 8:45 am]

BILLING CODE 6718–06–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the

proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 25, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Randolph Bancorp, Stoughton, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Randolph Savings Bank, Randolph, Massachusetts.

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Southwest Florida Community Bancorp, Inc., Fort Myers, Florida; to acquire 50 percent of the voting shares of Sanibel Captiva Community Bank, Sanibel, Florida (in organization).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. FCB Financial Services, Inc., Marion, Arkansas; to become a bank holding company by acquiring 100 percent of First Community Bank of Eastern Arkansas, Marion, Arkansas.

Board of Governors of the Federal Reserve System, June 25, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–16415 Filed 6–28–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Planning, Research and Evaluation

Grants to the University of Louisville

AGENCY: Office of Planning, Research and Evaluation, Administration of Children and Families, Department of Health and Human Services.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the University of Louisville to establish a National Resource Center on Child Welfare Training and Evaluation to provide technical assistance to any State, tribe or agency needing help in the development of a comprehensive training evaluation system.

As a Congressional set-aside, this one-year project is being funded noncompetitively. The University of Louisville has qualified staff and multi-disciplinary resources to establish a national resource center. The cost of this one-year project is $250,000.

FOR FURTHER INFORMATION CONTACT: K.A. Jagannathan, Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW, Washington, DC 20447, Phone: 202–205–4829.

Dated: June 18, 2002.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 02–16419 Filed 6–28–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the President's Council on Bioethics on July 11–12, 2002

AGENCY: The President's Council on Bioethics, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Bioethics will hold its fifth meeting, at which it will discuss human cloning, stem cell research, the patentability of human organisms, and other issues.

DATES: The meeting will take place Thursday, July 11, 2002, from 8:30 a.m. to 4:45 p.m. ET, and Friday, July 12, 2002, from 8:30 a.m. to 12:15 p.m. ET.

ADDRESSES: Ritz-Carlton Washington, DC, 1150 22nd Street, NW, Washington, DC 20037.

PUBLIC COMMENTS: The meeting agenda will be posted at *http://www.bioethics.gov.* Written statements may be submitted by members of the public for the Council's records. Please submit statements to Ms. Diane Gianelli, Director of Communications, (tel. 202/296–4669 or E-mail *info@bioethics.gov*). Persons wishing to comment in person may do so during the hour set aside for this purpose beginning at 3:00 p.m. ET, on Thursday, July 11, 2002. Comments will be limited to no more than five minutes per speaker or organization. Please give advance notice of such statements to Ms. Gianelli at the phone number given above, and be sure to include name, affiliation, and a brief description of the topic or nature of the statement.

FOR FURTHER INFORMATION CONTACT: Diane Gianelli, 202/296–4669, or visit *http://www.bioethics.gov.*

Dated: June 19, 2002.

Dean Clancy,

Executive Director, the President's Council on Bioethics.

[FR Doc. 02–16480 Filed 6–28–02; 8:45 am]

BILLING CODE 4110–60–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0519]

Medical Devices; Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Guidance for Industry.'' This document encourages manufacturers of approved conventional cardiac ablation catheters to submit supplements to broaden their labeling from arrhythmia-specific indications to a generic arrhythmic treatment indication. The Center for Devices and Radiological Health (CDRH) is issuing this guidance document to allow companies to label these products for a broader indication without submitting additional clinical information. This recommendation is based on a comprehensive search of the medical literature.

DATES: Submit written or electronic comments on the guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance entitled ''Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Guidance for Industry'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Lesley L. Ewing, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320.

SUPPLEMENTARY INFORMATION:

I. Background

This final guidance entitled ''Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Guidance for Industry'' recommends that manufacturers of approved conventional cardiac radiofrequency ablation catheters submit a premarket approval supplement to obtain a generic indication for creating endocardial lesions to treat arrhythmias. The guidance document provides evidence from the medical literature to support this broadening of indications from arrhythmia-specific indications to a generic arrhythmia treating indication.

The guidance was made available as a draft for comment on December 7, 2001 (66 FR 63546). The comment period closed March 7, 2002. FDA received two comments, both agreeing with FDA's recommendation. One of these comments also asked that FDA expand the definition of conventional cardiac catheter. FDA disagrees and is issuing the guidance with no changes.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on generic indications for cardiac ablation catheters. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

III. Electronic Access

In order to receive the guidance entitled ''Cardiac Ablation Catheters Generic Arrhythmia Indications for Use; Guidance for Industry'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1382) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. A search capability for all CDRH guidance documents is available at http://www.fda.gov/cdrh/guidance.html. Guidance documents are also available at http://www.fda.gov/ohrms/dockets.

IV. Paperwork Reduction Act of 1995

This guidance 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 collection of information in the section on Generic Arrhythmia Indications in the guidance was approved under OMB control number 0910–0231.

V. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this guidance 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 draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 21, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–16449 Filed 6–28–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Responsibility of Applicants for Promoting Objectivity in Research for Which Public Health Service Funding is Sought and Responsible Prospective Contractors—42 CFR Part 50, Subpart F

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director (OD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 9, 2001, pages 51440–51441 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Responsibility of Applicants for Promoting Objectivity in Research for Which Public Health Service Funding is Sought and Responsible Prospective Contractors—42 CFR part 50, subpart F, *Type of Information Collection Request:* Revision of OMB No. 0925–0417, expiration date 4/30/02. *Need and Use of Information Collections:* This is a request for OMB approval for the information collection and recordkeeping requirements contained in the final rule 42 CFR part 50 subpart F and Responsible Prospective Contractors: 45 CFR part 94. The purpose of the regulations is to promote objectivity in research by requiring institutions to establish standards which ensure that there is no reasonable expection that the design, conduct, or reporting of research will be biased by a conflicting financial interest of an investigator. *Frequency of Response:* On occasion. *Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government. *Type of Respondent:* Any public or private entity or organization. The annual reporting burden is as follows;

Estimated Number of Respondents: 42,800; *Estimated Number of Responses per Respondent:* 1.60; *Average Burden Hours per Response:* 3.40; and *Estimated Total Annual Burden Hours Requested:* 232, 080. The annualized costs to respondents is estimated at: $8,120,000. Operating costs and/or Maintenance Costs are $4,633.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Charles MacKay, Ph.D., Chief, Project Clearance Branch, Office of Extramural Research (OER), Office of Policy for Extramural Research Administration (OPERA), 6705 Rockledge Drive, Room 3509, Bethesda, MD 20892–7974 or call non-toll-free number (301) 435–0978 or E-mail your request including your address to: *MACKAY@OD.NIH.GOV.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 20, 2002.

Regina H. White,

Director, Office of Policy for Extramural Research Administration, OER, NIH.

[FR Doc. 02–16429 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee 2—Basic Sciences.

Date: July 22, 2002.

Time: 8:30 a.m. to 7 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute, Building 31, C Wing, 6th Floor, Conference Rooms 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Florence E. Farber, Ph.D., Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2115, Rockville, MD 20852. (301) 496–7628.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer control, National Institutes of Health, HHS)

Dated: June 20, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16430 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given on a meeting of the Board of Scientific Counselors, National Cancer Institute. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualification and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee 1—Clinical Sciences and Epidemiology.

Date: July 22–23, 2002.

Time: 6 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Holiday Inn—Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Abby B Sandler, PhD, Scientific Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2114, Rockville, MD 20852, (301) 496–7628.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without

a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 20, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16431 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(40 and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer.

Date: July 11–12, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20878.

Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, 6116 Executive Boulevard, Room 8068, Bethesda, MD 20892, (301) 435–1822.

Name of Committee: National Cancer Institute Special Emphasis Panel, Disseminating Evidence Based Intervention Resource Products.

Date: July 18, 2002.

Time: 11:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza North, 6130 Executive Boulevard, Conference Room E, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892, 301/594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 20, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16432 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, Human Haplotype Review Committee.

Date: August 6, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814. (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892. 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16426 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, Database Review Panel.

Date: July 22, 2002.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 31 Center Drive, Conference Rm. B2B32, NHGRI, MD 20892.

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892. 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16427 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, Sample Collection Review Panel.

Date: July 19, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 31 Center Drive, Conference Rm. B2B32, NHGRI, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16428 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Spinal Cord Injury.

Date: July 18, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Marriott Marina-San Diego, 333 West Harbor Drive, San Diego, CA 92101–7700.

Contact Person: Andrea Sawczuk, DDS, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 20, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16433 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Services Research Statistical Methods.

Date: July 9, 2002.

Time: 8:30 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02– 16434 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Research in Austism Multisite.

Date: July 11, 2002.

Time: 11:30 a.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center,

6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102, *jsherril@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16435 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Extramural Associates Research Development Award.

Date: July 25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5e03, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16436 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Child Development Review.

Date: July 29–30, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marita R. Hopmann, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892. (301) 435–6911. *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16440 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Translational Research for the Prevention and Control of Diabetes.

Date: July 309, 2002.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20814.

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Training Programs in Diabetes Research For Pediatric Endocrinologist.

Date: July 31, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20814.

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–8898.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16441 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VISA (01).

Date: June 28, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892. (301) 435–1164. *custerm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research , 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16437 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 27, 2002, 8:30 a.m. to June 28, 2002, 5 p.m., Radisson Barcelo, 2121 P Street, NW, Washington, DC, 20037 which was published in the **Federal Register** on June 12, 2002, 67 FR 40326–40329.

The starting time of the meeting has been changed to 1 p.m. on June 27, 2002. The meeting dates and location remain the same. The meeting is closed to the public.

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16438 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1–DMG (04) Member Conflict.

Date: July 3, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Lee Rosen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116k, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16439 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ELSI–2 (01) Research Review Panel.

Date: July 10–11, 2002.

Time: 8 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Administrator, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, Building 31, Room B2B37, Bethesda, MD 20892–2032, 301 402–0838, *pozzattr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 EDC–1 (02).

Date: July 10, 2002.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: J. Scott Osborne, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rocklege Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–4 (04) Neurosciences-.

Date: July 10, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rocklege Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ET–2 (01) Bioengineering Computational Modeling.

Date: July 11, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marchia Litwack, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ELSI–2 (02) Conflict of Interest SEP.

Date: July 11, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, Building 31, Room B2B37, Bethesda, MD 20892–2032, 301 402–0838, *pozzattr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–F (03).

Date: July 15, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Calbert A. Laing, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301–435–1221, *laingc@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS and Related Research 5.

Date: July 16–17, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

Contact Person: Abraham P. Bautista, PhD., Scientist Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506, *bautista@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VACC (10).

Date: July 16, 2002.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 F08 (20).

Date: July 16–17, 2002.

Time: 9 a.m. 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary P. McCormick, PhD. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1047, *mccormim@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 El (04).

Date: July 16, 2002.

Time: 11 a.m. to 12 p.m..

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, 301–435–3566, *cooperc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CPA (02) Myeloid Diseases.

Date: July 16, 2002.

Time: 1 p.m. to 3 p.m..

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victor A. Fung, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *fungv@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHB (02) Chemoprevention.

Date: July 16, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–C (03).

Date: July 16, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902, *krausem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VACC (02).

Date: July 17, 2002.

Time: 8:30 a.m. to 9:45 a.m.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 AARR–8 (10) HIV/AIDS & Contraceptive Development SBIR Proposals.

Date: July 17, 2002.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–C (29) Minority/Disability Predoctoral Fellowship Reviews–DCPS,

Date: July 17–18, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902. *krausem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VACC (01).
Date: July 17–18, 2002.
Time: 10 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RPHB–1 (02).
Date: July 17, 2002.
Time: 11 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, *levinv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PC (02).
Date: July 17, 2002.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Richard Panniers, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHB 01 M (Genetic Instability).
Date: July 17, 2002.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 AARR–8 (03) HIV/AIDS Psychoimmunology Studies.
Date: July 17, 2002.
Time: 2:30 p.m. to 3:10 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AARR–8 Member Conflicts.
Date: July 17, 2002.
Time: 3:15 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS and Related Research 2.
Date: July 18–19, 2002.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.
Contact Person: Abraham P. Bautista, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AARR–8 (01) HIV/AIDS Intervention Research.
Date: July 18–19, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MDCN–3 (10) Neuro SBIR.
Date: July 18, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036–3305.
Contact Person: Michael A. Lang, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BDCN–2 (10) SBIR Study Section.
Date: July 18–19, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: William C. Benzing, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, (301) 435–1254, *benzingw@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SRG1 SSS–N (01).
Date: July 18–19, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday In—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.
Contact Person: Mariela Shirley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7848, Bethesda, MD 20892, (301) 435–3554, *shirelym@csr.nih.gov.*

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.
Date: July 18–29, 2002.
Time: 8:30 a.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

Name of Committee: Center for Scientific Review Special Emphasis panel, ZRG1 BBBP–1 (10) Psychopathology and Adult Disorders.
Date: July 18, 2002.
Time: 9 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Mayflower Renaissance Hotel, 1127 Connecticut Ave. NW., Washington, DC 20036.
Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for the Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692.

Name of Committee: Center for Scientific Review Special Emphasis panel, ZRG1 SSS–5 (15) SBIR/STTR Orthopedic Medicine.
Date: July 18–19, 2002.
Time: 10 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173. *shinowan@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CPA (03) Tumor Metastasis.
Date: July 18, 2002.
Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *fungv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SNEM–2 (02).

Date: July 18, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yvette M. Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 REB (29).

Date: July 19, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: American Inn of Bethesda, 8130 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Dennis Leszczynski, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VACC (03).

Date: July 19, 2002.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16442 Filed 6–28–02; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS O (11).

Date: July 22, 2002.

Time: 8 a.m. to 11 a.m.

Agenda: to review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, Washington, D.C., 2007.

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS F (02) Sensor Development and Validation (RFA EB–02–002)

Date: July 22–23, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Monarch Hotel, 2400 M Street, N.W., Washington, DC 20037.

Contact Person: Marjam G. Behar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7812, Bethesda, MD 20892, 610–825–0349, *mgbehar@aol.com.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ARG1 SSS X (30) Bioengineering

Date: July 22–23, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: to review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: AIDS and Related Research Integrated Review Group AIDS and Related Research 6

Date: July 22–23, 2002.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue NW., Washington, DC 20036.

Contact Person: Ranga V. Srinivas, PhD, Scientific Review, Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel AARR–7 (02) Member Conflict Applications

Date: July 22, 2002.

Time: 8:30 a.m. to 9:59 a.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Bal Harbour Hotel, 9701 Collins Avenue, Bal Harbour, FL 33154.

Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS–4 (01) Shared Instrumentation Grants-Surface Plasmon Resonance Instruments

Date: July 22, 2002.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th St N.W., Washington, DC 20037.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 AARR–7 (03) Sexual Risk Assessment

Date: July 22, 2002.

Time: 10 a.m. to 10:29 a.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Bal Harbour Hotel, 9701 Collins Avenue, Bal Harbour, FL 33514.

Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG! AARR–& (01)

Date: July 22–24, 2002.

Time: 10:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Bal Harbour Hotel, 9701 Collins Avenue, Bal Harbour, FL 33154.

Contact Person: Angela M Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS 0 (10)
Date: July 22, 2002.
Time: 11 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, Washington, DC 20007.
Contact Persons: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 PTHB 04 M
Date: July 22, 2002.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 CAMP (04) Colon and Liver Carcinogenesis
Date: July 22, 2002.
Time: 1:30 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverse@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 BBBP–2, (10) Developmental Disabilities, Communications, and Science Education
Date: July 22–23, 2002.
Time: 9 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Thomas A. Tatham, PhD, Scientific review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7848, Bethesda, MD 20892, (301) 594–6836, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS O (12)
Date: July 23, 2002.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, Washington, DC, 20007.
Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov.*

Name of Committee: Center for Scientific Review and Special Emphasis Panel BBBP–2 SBIR member conflict reviews in Developmental Disabilities
Date: July 23, 2002.
Time: 9 a.m. to 10 a.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS–1 (01) M: Member Conflict: Cellular Proliferation and Repair
Date: July 23, 2002.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Shen K. Yang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, (301) 435–1213, *yangsh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel CAMP (03) DNA Damage and Repair in Oncogenesis
Date: July 23, 2002.
Time: 2 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892, (301) 435–1779, *riverse@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 AARR–6 (51) SEP to review RFA DK–02–006
Date: July 23–24, 2002.
Time: 12:30 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue NW., Washington, DC 20036.
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 BBBP–4 (03) Member Conflict: Attention Deficit Hyperactivity Disorder
Date: July 24, 2002.
Time: 10:30 a.m. to 11:30 a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 CVA (01) BRP: 3D Imaging
Date: July 24, 2002.
Time: 11 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 SSS–6(11)
Date: July 24, 2002.
Time: 11 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–IFCN–5–03: Member Conflict Panel: Visual and Vestibular Systems
Date: July 24, 2002.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 IFCN1 (04) Behavioral Neuroendocrinology
Date: July 24, 2002.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1247, *eskayr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–CDF–5–01: Nitric Oxide/apoptosis
Date: July 24, 2002.
Time: 3:30 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–16443 Filed 6–28–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR4739N19]

Notice of Proposed Information Collection: Comment Request; Master Appraisal Reports

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, 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: *Comments Due Date:* August 30, 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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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).

This 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 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 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: Master Appraisal Reports.

OMB Control Number, if applicable: 2502–0493.

Description of the need for the information and proposed use: HUD's collection of this information permits the listing of models covering types of individual homes proposed for construction. It also sets forth the general and specific conditions, which must be met before a property can be endorsed. This information collection is prepared by participating lenders working with developers.

Agency form numbers, if applicable: HUD–91322, HUD–91322.1, HUD–91322.2, & HUD–91322.3.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 3,500 generating 14,000 annual responses, frequency of responses is on occasion, the estimated time per response varies from 30 minutes to 45 minutes, and the estimated annual burden hours requested is 7,875.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 25, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–16517 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–20]

Notice of Proposed Information Collection: Comment Request; Multifamily Financial Management Template

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commission, 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: *Comments Due Date:* August 30, 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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3730 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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).

This 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 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 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: Multifamily Financial Management Template.

OMB Control Number, if applicable: 2502-New (formerly 2535–0107).

Description of the need for the information and proposed use: The Uniform Financial Reporting Standards (UFRS) for HUD Housing Programs requires HUD multifamily housing program participants to submit financial data electronically, using General Accepted Accounting Principles (GAAP), in a prescribed format. Electronic submission of this data requires the use of a template. The Multifamily Financial Management template includes updates that increase the efficiency of the data collection and reduces the burden hours for the respondents. HUD will continue to use the financial information collected from multifamily property owners to evaluate their financial condition. Requiring multifamily property owners to report electronically has enabled HUD to provide a more comprehensive financial assessment of the multifamily property owners receiving Federal funds.

Agency form numbers, if applicable: None.

Estimated of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours off response: The estimated total number of annual hours needed to prepare the information collection is 53,784; the number of respondents is 20,774 generating 20,774 annual responses; the frequency of response is annually; and the number of hours per response is approximately 2.50 hours.

Status of the proposed information collection: Revision of a currently approved collection. (This collection was transferred from the Real Estate Assessment Center to the Assistant Secretary for Housing-Federal Housing Commission.)

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 25, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–16518 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–21]

Notice of Proposed Information Collection: Comment Request; Subterranean Termite Treatment Builder's Certification and Guarantee, and the New Construction Subterranean Termite Soil Treatment Record

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, 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: Comments Due: August 30, 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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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).

This 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 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 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: Subterranean Termite Treatment Builder's Certification and Guarantee, and the New Construction Subterranean Termite Soil Treatment Record.

OMB Control Number, if applicable: 2502–02525.

Description of the need for the information and proposed use: HUD's collection of this information permits the NPCA–99a to establish the builder's warranty against termites for a period of one year bringing it into conformance with other builder warranties HUD requires for newly constructed housing. The NPCA–99b is submitted to the builder of new homes when the soil treatment method is used for termite prevention.

Agencies form numbers, if applicable: NPCA–99a and NPCA–99b.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 54,000 generating 54,000 annual response, frequency of response is on occasion, the estimated time per response varies from approximately 5 minutes to 15 minutes, and the estimated annual burden hours requested is 8,964.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 25, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–16519 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–28]

Notice of Submission of Proposed Information Collection to OMB Section 8 Fair Market Rent Random Digit Dialing Surveys

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 31, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2528–0142) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Office for the Department.

This Notice also lists the following information:

Title of Proposal: Section 8 Random Digit Dialing Fair Market Rent Surveys.

OMB Approval Number: 2528–0142.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Information collected through the survey will augment the Consumer Price Index (CPI) data and the American Housing Survey (AHS) data in determining Section 8 Fair Market Rents (FMRs) for the Certificate and Voucher programs.

Respondents: Individuals or households.

Frequency of Submission: On occasion.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
46,000	1		0.249		11,454

Total Estimated Burden Hours: 11,454.

Status: Extension of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 25, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–16520 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–10]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, this document provides notice of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: Phillip A. Murray, Director, Office of Lender Activities and Program Compliance, Room B–133–3214 L'Enfant Plaza, 451 Seventh Street, SW, Washington, DC 20410, telephone: (202) 708–1515. (This is not a toll-free number.) A Telecommunications Device for Hearing and Speech-Impaired Individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101–235, approved December 15, 1989) requires that HUD publish a description of and the cause for administrative actions against a HUD-approved mortgagee by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), this document gives notice of administrative actions that have been taken by the Mortgagee Review Board from October 1, 2001 through March 31, 2002, for failure to submit the required annual audit statement, an acceptable annual audited financial statement, and/or the required annual recertification fee.

Title I Lenders and Title II Mortgagees That Failed To Comply With HUD/FHA Requirements for the Submission of an Audited Annual Financial Statement and/or Payment of the Annual Recertification Fee

Action: Withdrawal of HUD/FHA Title I lender approval and Title II mortgagee approval.

Cause: Failure to submit to the Department the required annual audited financial statement, an acceptable annual audited financial statement, and/or remit the required annual recertification fee.

66 TITLE I LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN OCTOBER 1, 2001 AND MARCH 31, 2002

Lender name	City	State
A S H ELITE FUNDING CORP	LOS ANGELES	CA
AEGIS SECURITIZED ASSETS INC	MARIETTA	GA

66 TITLE I LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN OCTOBER 1, 2001 AND MARCH 31, 2002—Continued

Lender name	City	State
ALAMOGORDO FEDERAL S–L ASSN	ALAMOGORDO	NM
ALL PACIFIC FINANCIAL INC	ENCINO	CA
ALLIED LENDING CORPORATION	TUSTIN	CA
ANCHORBANC MORTGAGE CORPORATION WEST	CONVINA	CA
APEX MORTGAGE CORPORATION	STANTON	CA
ARBOR LENDING CORP	MIAMI	FL
BANKERS MORTGAGE GROUP	WOODLAND HILLS	CA
CALIF CHARTERED GROUP FINANCIAL CORP	DIAMOND BAR	CA
CAPITAL ACCEPTANCE CORPORATION	INDIANAPOLIS	IN
CITYWIDE BANKS	AURORA	CO
CONSORCIO LENDING INC	FONTANA	CA
COOP AHY CR EMPL PUEBLO INC	CAROLINA	PR
CRUSADER BANK	PHILADELPHIA	PA
DARWAL CORPORATION	OXNARD	CA
EAGLE FUNDING CORPORATION RANCHO	CORDOVA	CA
EAST WEST FINANCIAL CORP	MARGATE	FL
EXPRESS FINANCIAL CORP BOCA	RATON	FL
F AND M BANK	WATERTOWN	SD
FIRST CALIFORNIA LENDING SERV	COVINA	CA
FIRST CHOICE LOANS INC	COVINA	CA
FIRST FREEDOM FINANCIAL INC RANCHO	CUCAMONGA	CA
FIRST NATIONAL BANK	TONKAWA	OK
FIRST SECURITY STATE BANK	DETROIT LAKES	MN
FIRST SUBURBAN CORP MTG BANKERS	SANTA ANA HEIGHTS	CA
FUNDING CENTRE INC	FAIR OAKS	CA
GIBRALTAR SAVINGS BANK SLA	NEWARK	NJ
HEARTLAND COMMUNITY BANK	CAMDEN	AR
HERITAGE PLAZA MORTGAGE INC	STOCKTON	CA
HILTON FINANCIAL GROUP	VICTORVILLE	CA
INTERBANK FUNDING GROUP	SAN DIEGO	CA
INTERSTATE MORTGAGE ALLIANCE CORP	RANCHO CUCAMONGA	CA
LAMAS LOANS INC	PLEASANTON	CA
LEGEND FINANCIAL GROUP INC	POWAY	CA
LENDERS SPECTRUM MORTGAGE CORP	LAKE ELSINORE	CA
M AND I LAKEVIEW BANK	SHEBOYGAN	WI
MAINSTREET MORTGAGE MAKERS INC	ROSWELL	GA
MERIT MORTGAGE INC	PLANO	TX
MORTGAGE MAX INC	POWAY	CA
MORTGAGE ONE CORPORATION	HESPERIA	CA
N I PACIFICA INC	COSTA MESA	CA
NATIONAL EXPRESS MORTGAGE CORP	LA PALMA	CA
NATIONS MORTGAGE CORPORATION	WINTER SPRINGS	FL
NEWWEST MORTGAGE CO	DOWNEY	CA
NTM INC	TURLOCK	CA
OLYMPIAN MORTGAGE CORP	TAMPA	FL
PAVON FINANCIAL CORPORATION	DOWNEY	CA
PENINSULA COMMUNITY FED CU	SHELTON	WA
PEOPLES BANK	MARION	KY
POWER FUNDING GROUP INC	WILLIAMSVILLE	NY
QUEST HOME LOANS INC	OXNARD	CA
RAVENNA SAVINGS BANK	RAVENNA	OH
SALIDA BUILDING AND LOAN ASSOCIATION	SALIDA	CO
SEASONS MORTGAGE GROUP INC	RICHMOND	VA
SECURITY SAVINGS ASSN	HAZELTON	PA
SMC LENDING INC	TEMECULA	CA
SOUTHERN CAPITAL RESOURCES	BIRMINGHAM	AL
SOUTHERN MORTGAGE INVESTMENT CORP	MARIETTA	GA
SUPERIOR BANK FSB OAKBROOK	TERRACE	IL
TUCKER FEDERAL BANK	AUGUSTA	GA
U S MORTGAGE AND ACCEPTANCE CORP	TUSTIN	CA
ULTIMATE FUNDING CORP	TUSTIN	CA
VPM FUNDING COMPANY	DENVER	CO
WESTLEND FINANCING INC	LOS ANGELES	CA

94 TITLE II MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN OCTOBER 1, 2001 AND MARCH 31, 2002

Mortgagee name	City	State
ACCESS FINANCIAL GROUP	FOUNTAIN VALLEY	CA
ALAMOGORDO FEDERAL SAVINGS AND LN ASSN	ALAMOGORDO	NM

94 TITLE II MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN OCTOBER 1, 2001 AND MARCH 31, 2002—Continued

Mortgagee name	City	State
AMERICAN CHARTER MORTGAGE	DOWNEY	CA
AMERICAN HOMEBUYING CENTER INC	LA PALMA	CA
AMERIPRIDE MORTGAGE INC	CORAL SPRINGS	FL
ARBOR LENDING CORP	MIAMI	FL
BAYPORT MORTGAGE LP	LAKEWOOD	WA
BELL MORTGAGE CORP	CHINO	CA
BINH DINH TRAN	HUNTINGTON BEACH	CA
BLAIR MORTGAGE COMPANY INCORP	DANVILLE	CA
BUILDERS MORTGAGE SERVICES LP	ALTAMONTE SPRINGS	FL
CALIFORNIA CHARTERED GROUP FIN	DIAMOND BAR	CA
CALIFORNIA WHOLESALE LENDERS INC	NEW HALL	CA
COMMERCE BANK OF AURORA	AURORA	CO
COMMUNITY MORTGAGE CORP	HAGATNA	GU
COUNTY BANK	FOREST LAKE	MN
CRB TRUST MORTGAGE LTD	MIAMI	FL
DACKO FINANCIAL INC	PAHRUMP	NV
DICKINSON LOGAN TODD BARBER	RALEIGH	NC
EAGLE FUNDING CORPORATION	RANCHO CORDOVA	CA
EDGR FINANCIAL INC	OFALLON	MO
FAMILY HOME MORTGAGE CO INC	DANBURY	CT
FEDERAL MORTGAGE FUNDING INC	LEMON GROVE	CA
FIDELITY FINANCIAL MORTGAGE CORP	NORCROSS	GA
FINANCE PLUS REAL ESTATE	CHULA VISTA	CA
FIRESIDE MORTGAGE CO	ENGLEWOOD	CO
FIRST AMERICANS MORTGAGE CORP	OVERLAND PARK	KS
FIRST CHOICE LOANS INC	COVINA	CA
FIRST FEDERAL SAVINGS AND LOAN	GALION	OH
FIRSTLINE MORTGAGE INC	LONG BEACH	CA
FREESTATE MORTGAGE COMPANY INC	TOWSON	MD
GENESIS MORTGAGE CORPORATION	EVANSTON	IL
GLOBAL HOLDINGS II LLC	KIRKLAND	WA
GRAFTON SUBURBAN CREDIT UNION	NORTH GRAFTON	MA
GUARDIAN SAVINGS AND LOAN ASSOCIATION	HOUSTON	TX
HARRIS-CHAMBERLAIN COMPANY	FORT WORTH	TX
HILTON FINANCIAL GROUP	VICTORVILLE	CA
HOME FUNDING GROUP INC	WALNUT	CA
HOMEQUEST MORTGAGE CORPORATION	NEWPORT BEACH	CA
HOMESTEAD SAVINGS BANK FSB	ALBION	MI
HUDSON RIVER MORTGAGE CORPORATION	ALBANY	NY
IAG MORTGAGE SERVICES	TEMPLE	TX
INDEPENDENT ADVISORS MTG CORP	BLOOMINGDALE	IL
INTERBANK FUNDING GROUP	SAN DIEGO	CA
INTERNATIONAL BROTHERHOOD WKRS	WASHINGTON	DC
IROQUOIS FEDERAL SAVINGS AND LOAN ASSN	WATSEKA	IL
K AND R FINANCIAL INC	LARGO	FL
KATY FINANCIAL SERVICES LP	KATY	TX
KINGWAY CAPITAL INC	WESTLAKE VILLAGE	CA
LAMAS LOANS INC	PLEASANTON	CA
LAUREL SAVINGS BANK	ALLISON PARK	PA
LENDERS SPECTRUM MORTGAGE	LAKE ELSINORE	CA
LIBERTY FEDERAL BANK S B	EUGENE	OR
LILAC CITY MORTGAGE INC	SPOKANE	WA
LOANCOR INC	CARLSBAD	CA
LOANGENIE-COM INC	IRVINE	CA
MCA MORTGAGE CORPORATION	SOUTHFIELD	MI
MEMBERS LOAN SERVICES	SAN DIEGO	CA
MERIT FINANCIAL CORPORATION	PARSIPPANY	NJ
MIDWEST MORTGAGE CONNECTION INC	LAKE IN THE HILLS	IL
MILE HIGH MORTGAGE SERVICES LLLP	DENVER	CO
MORNING STAR REAL EST AND MTG FIN CORP	MASSAPEQUA	NY
MORTGAGE CLIK INC	ALBUQUERQUE	NM
OLYMPIAN MORTGAGE CORPORATION	TAMPA	FL
PAVON FINANCIAL CORPORATION	DOWNEY	CA
PEOPLES MORTGAGE COMPANY LP	LAREDO	TX
PERMANENT FEDERAL SAVINGS BANK	EVANSVILLE	IN
PLUM CREEK FINANCIAL CORP	CASTLE ROCK	CO
PONCE DE LEON FEDERAL SAVINGS AND LOAN	CORAL GABLES	FL
PRESTAR FINANCIAL CORPORATION	SANTA ANA	CA
PRIME TIME LENDING INC	CARLSBAD	CA
PROGRESSIVE MORTGAGE CORP	ELK GROVE	CA
ROYAL MORTGAGE PARTNERS LP	ORANGE	CA

94 TITLE II MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN OCTOBER 1, 2001 AND MARCH 31, 2002—Continued

Mortgagee name	City	State
SALCORP MORTGAGAE	LAGUNA HILLS	CA
SALIDA BUILDING AND LOAN ASSOCIATION	SALIDA	CO
SAMMELMAN MORTGAGE INC	WES COVINA	CA
SIMPLIFIED MORTGAGE GROUP INC	TROY	MI
SMC LENDING INC	TEMECULA	CA
SOMMERS FINANCIAL INC	LONG BEACH	CA
SOUTHERN FIRST MORTGAGE CORP	DURHAM	NC
STARNET MORTGAGE	DALLAS	TX
SUGAR BEACH LLC	MEMPHIS	TN
SUPERIOR BANK FSB	OAKBROOK TERRACE	IL
TAYLOR COUNTY BANK	CAMPBELLSVILLE	KY
TDC MORTGAGE CORP	LAS VEGAS	NV
TRINITY MORTGAGE CO OF DALLAS	LAFAYETTE	IN
ULTIMATE FUNDING CORP	TUSTIN	CA
UNI-STATE FUNDING INC	BIG BEAR LAKE	CA
US MORTGAGE CAPITAL INC	ROCKVILLE	MD
WALDOBORO BANK FSB	WALDOBORO	ME
WASHINGTON MORTGAGE INVESTMENT CORP	ROCKVILLE	MD
WASHINGTON SAVINGS ASSOCIATION	PHILADELPHIA	PA
WENTWORTH ENTERPRISES INC	FREMONT	CA
WESTERN HILLS MORTGAGE CORP	GARDEN GROVE	CA

Dated: June 26, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner, Chairman, Mortgagee Review Board.

[FR Doc. 02–16515 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4752–D–01]

Redelegation of Fair Housing Act Authority from the General Counsel of Housing and Urban Development

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice of redelegation of Fair Housing Act Authority.

SUMMARY: The General Counsel of the Department of Housing and Urban Development revokes all redelegations of his authority from the Secretary under the Fair Housing Act and redelegates his authority for Fair Housing Act case processing to his field and headquarters staff.

EFFECTIVE DATE: June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Harry L. Carey, Associate General Counsel for Fair Housing, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0570. This is not a toll-free number. This number may be accessed via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On March 30, 1989, the Secretary of Housing and Urban Development delegated his authority to enforce the Fair Housing Act to the General Counsel and the Deputy General Counsel (54 FR 13121). The General Counsel redelegated his authority to his field and headquarters staff on January 12, 1990 (55 FR 1286) and to the Assistant Secretary for Fair Housing and Equal Opportunity on October 24, 1994 (59 FR 53552). In 1994, HUD amended its Fair Housing Act case processing regulations, 24 CFR 103.400, and, in 1996, promulgated Consolidated HUD Hearing Procedures for Civil Rights matters, 24 CFR part 180. The General Counsel hereby revokes the January 12, 1990, the October 24, 1994, and any other redelegations of his authority under the Fair Housing Act. Accordingly, the General Counsel redelegates his authority as set forth in this notice.

Section A. Authority Redelegated

The General Counsel redelegates the authority under the Fair Housing Act for case processing as set forth in 24 CFR part 103 and 24 CFR part 180, with the exception of 24 CFR 180.675 (Petitions for Review), to the Associate General Counsel for Fair Housing and to the Regional Counsel. The Associate General Counsel for Fair Housing retains this authority and further redelegates it to the Assistant General Counsel for Fair Housing Enforcement and the Assistant General Counsel for Fair Housing Compliance.

The General Counsel redelegates his authority under 24 CFR 180.675 (Petitions for Review) to the Associate General Counsel for Fair Housing who retains this authority and further redelegates it to the Assistant General Counsel for Fair Housing Enforcement.

Section B. Further Redelegation of Authority

The Regional Counsel, the Associate General Counsel for Fair Housing, the Assistant General Counsel for Fair Housing Enforcement and the Assistant General Counsel for Fair Housing Compliance may not redelegate the authority set forth in Section A.

Section C. Delegations of Authority Superseded and Revoked

This Delegation of Authority supersedes and revokes all redelegations of the General Counsel's authority for Fair Housing Act case processing.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 3, 2002.

Richard A. Hauser,

General Counsel.

[FR Doc. 02–16516 Filed 6–28–02; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination To Acknowledge the Historical Eastern Pequot Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Assistant Secretary acknowledges that the historical Eastern Pequot tribe, represented by two petitioners, the Eastern Pequot Indians of Connecticut and the Paucatuck Eastern Pequot Indians of Connecticut, satisfies all seven criteria for acknowledgment as a tribe in 25 CFR 83.7. This notice covers the final determination concerning both petitioners.

DATES: This determination is final and is effective 90 days from the date of publication of this notice, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

This notice is based on a determination that the historical Eastern Pequot tribe, represented by two petitioners, the Eastern Pequot Indians of Connecticut and the Paucatuck Eastern Pequot Indians of Connecticut, satisfies the seven criteria for acknowledgment in 25 CFR 83.7.

A notice of the proposed finding to acknowledge the Eastern Pequot Indians of Connecticut (EP) was published in the **Federal Register** on March 31, 2000, simultaneously with a notice of the proposed finding to acknowledge the Paucatuck Eastern Pequot of Connecticut (PEP) (65 FR 17294–17304). The original 180 day comment period on these proposed findings, which would have ended September 27, 2000, was extended at the request of the State of Connecticut to March 26, 2001, and a second extension was made at the request of the State until June 1, 2001. The actual closing of the comment period, August 2, 2001, was established as part of a scheduling order entered by the Federal District Court for Connecticut in *Connecticut* v. *Dept. of the Interior*, (D. Conn. 2001) (No. 3:01–CV–88–AVC).

The proposed findings to acknowledge both petitioners concluded that both of the petitioners before the Department, the EP (petitioner #35) and the PEP (petitioner #113), had derived in recent times from the historical Eastern Pequot tribe which had existed continuously since first sustained contact with Europeans. However, for the period from 1973 to the present, with regard to criteria 83.7(b) and 83.7(c), the Department found that the petitioners and third parties had not provided sufficient information and analysis to enable the Department to determine whether there was only one tribe with political factions or two tribes and provided that this question would be resolved after receipt of comment on the proposed findings. The proposed finding stated that a specific finding concerning whether one tribe or two tribes, as successors to the historical Eastern Pequot tribe, have occupied the reservation since 1973 would be made as part of the final determination, after receipt of comment on the proposed findings.

This determination is made following a review of the responses to the proposed findings on both petitioners, the public comments on the proposed findings and the EP and PEP responses to the public comments. This final determination has reviewed the evidence considered for the proposed findings, and evaluated that evidence in the light of the new documentation and argument received from third parties and the petitioners.

This final determination concludes that the evidence shows the existence of only a single tribe, the historical Eastern Pequot tribe, including the ancestors of both petitioners. This tribe was continuously recognized as a single tribe by the State of Connecticut since early colonial times and occupied a single state reservation. Although there are internal conflicts, and divisions which date from as early as the beginning of the 20th century, there is only one tribe within the meaning of the regulations. This final determination rejects the arguments presented by the PEP petitioner that it was not and had never historically been part of the same tribe as the families included in the present EP petitioner.

The evidence in the record for the final determinations demonstrates that the two petitioners comprise a single tribe and together meet the requirements for Federal acknowledgment as the historical Eastern Pequot tribe from first sustained contact with Europeans until the present. This final determination therefore acknowledges that the historical Eastern Pequot tribe comprising the membership of the two petitioners, the EP (petitioner #35) and the PEP (petitioner #113), exists as a tribe entitled to a government-to-government relationship with the United States.

Although the two petitioners represent portions of the historical tribe which have grown somewhat separate socially in recent decades, this partial separation resulted from political conflicts which provided some of the strongest evidence in much of the 20th century that the group as a whole continued to have significant political processes which concerned issues of great importance to the entire body of Eastern Pequots.

This determination acknowledges the Eastern Pequot tribe, which has existed continuously since first sustained contact with non-Indians. The Department takes this action of acknowledging two petitioners as a single tribe because that is what the evidence demonstrates concerning the circumstances of these petitioners. This determination does not merge two tribes, but determines that only a single tribe exists which is represented by two petitioners.

The petitioners are two organizations which were established in recent times from the membership of a single historically and continuously existing state recognized tribe resident on a state reservation which it has occupied since 1683. Although the regulations call for the presentation of petitions from groups seeking acknowledgment as a tribe, and for the Department to evaluate those petitions, the fundamental purpose of the regulations is to acknowledge the existence of tribes. The Secretary does not have the authority to acknowledge portions of tribes, where that portion does not substantially encompass the body of the tribe. The Secretary does have the authority to recognize a single tribe in the circumstance where the tribe is represented by more than one petitioner.

The State of Connecticut has since early colonial times continuously recognized the Eastern Pequot as a distinct tribe with a separate land base provided by and maintained by the State. The continuous State relationship manifested itself in the distinct, non-citizen status of the tribe's members until 1973. There is implicit in the relationship between the State and the historical Eastern Pequot a recognition of a distinct political body, in part because the relationship originates with and derives from the Colony's relationship with a distinct political body at the time the relationship was first established. Colony and State laws and policies directly reflected this political relationship until the early 1800's. The distinct political underpinning of the laws is less explicit from the early 1800's until the 1970's, but the Eastern Pequot remained non-citizens of the State until 1973. The State continued the main elements of the earlier relationship (legislation that determined oversight, established and protected land holdings, and exempted

tribal lands from taxation) essentially without change or substantial questioning throughout this time period.

The historically continuous State relationship provides additional evidence which exists throughout the time span but is most important during specific periods where the other evidence in the record concerning community and political influence would be insufficient by itself. The continuous State relationship, although its nature varied from time to time, provides additional evidence in part because of its continuity throughout the entire history of the Eastern Pequot tribe. The continuous State relationship with a reservation is not evidence sufficient in itself to meet the criteria and is not a substitute for direct evidence at a given point in time or over a period of time. Instead this longstanding State relationship and reservation are additional evidence which, when added to the existing evidence, demonstrates that the criteria are met at specific periods in time.

Criterion 83.7(a): External identifications by the State of Connecticut and others have identified a single Eastern Pequot tribe from 1900 until the present. There are no identifications of a separate EP or PEP entity until the creation of the now-existing organizations during the 1970's. Before 1973, the antecedents of the current petitioners were mentioned, if they were distinguished at all, as subgroups, with conflicts, within the Eastern Pequot tribe. Since the 1973–1976 period, the majority of external identifications, particularly by the State of Connecticut, have continued to be identifications of a single Eastern Pequot tribe, with internal conflicts. Therefore the historical Eastern Pequot tribe, comprising both petitioners, meets the requirements of criterion 83.7(a).

Criterion 83.7(b): The proposed finding concluded that the historical Eastern Pequot tribe met criterion 83.7(b) from the colonial period through 1873. No significant new evidence or arguments were submitted in regard to the nature of the historical Eastern Pequot community in the colonial period or from the era of the American revolution into the third quarter of the 19th century. Throughout this time period there remained a reservation community with a majority of the tribal members resident in it, if not continuously, at least regularly, with the remainder of the group maintaining contact. Such evidence is sufficient under § 83.7(b)(2)(i). There is additional evidence, specifically petitions and overseers' reports, that the direct antecedents of both petitioners were a part of that single historical community in the 19th century. The proposed finding for this period is affirmed.

From the assignment of Harmon Garrett in 1654 as governor of the Pequots who were removed from Ninigret's responsibility to the present, the Eastern Pequot tribe as a whole has maintained a named, collective Indian identity continuously over periods of more than 50 years, notwithstanding changes in name (83.7(b)(1)(viii)). This form of evidence is used throughout the evaluation under criterion 83.7(b) in combination with the evidence of community analyzed for each period from colonial times until the present.

The proposed findings concluded that evidence demonstrated that the Eastern Pequot existed as a tribe for the period between 1873 and 1920 and had demonstrated community for that period. Significant new evidence was submitted for the final determination to affirm this conclusion. The new data included a better copy of a June 26, 1873, petition in which the ''members of the Pequot tribe of Indians of North Stonington'' remonstrated against sale of lands and requested removal of Leonard C. Williams as overseer. The list of signers shows a connection between Tamar (Brushell) Sebastian and her children and other members of the historical Eastern Pequot tribe. Additional overseers' reports were submitted which further filled in the time span from the 1880's through the early 20th century with evidence that there was a distinct Eastern Pequot community and that this included the antecedent families of both petitioners.

This final determination affirms the conclusions of the proposed finding that there was a high degree of marriage among the Eastern Pequot and in culturally patterned marriages of Eastern Pequots with Narragansetts, Western Pequots, and other local Indians during this time period, which provided substantial evidence of community. The resulting kinship ties linked all of the component family lines which are represented in the current membership today. Additional data submitted in response to the proposed finding confirmed the conclusion that the geographical concentration of the membership during this time period was close enough to facilitate social interaction.

Substantial evidence showing patterns of social association within the Eastern Pequot was presented in new analyses submitted in response to the proposed finding. New evidence in the form of data from personal journals was submitted which provided contemporary data concerning social interactions which supported and was consistent with data from interviews. The evidence submitted in response to the proposed findings confirmed that the social alignment of the various families antecedent to the formation of the current petitioners was not strictly divided in the pattern that the current petitions indicate.

In the following period, from 1920 to 1940, there continued to be strong evidence of community, with additional evidence submitted. The high degree of marriage among the Eastern Pequot and in culturally patterned marriages between other Indians in the region provided strong evidence of community in this period. Additional evidence was submitted to demonstrate visiting patterns among the Sebastians during this time period, which confirms the existence of social cohesion among that portion of the Eastern Pequot tribe. A review of documentary and interview evidence also clearly indicates social ties between the Sebastians and other major family lines, the Jacksons and the Fagins/Randall lines, during this period.

Substantial additional evidence concerning Fourth Sunday meetings, prayer and social gatherings, was submitted in response to the proposed findings. This evidence demonstrated that the meetings occurred regularly and involved a cross section of the Eastern Pequot tribe. The Fourth Sunday meetings were held from the mid 1910's through at least the later 1930's. They are probably a continuance of religious meetings of a similar character which had been held for some time previously, organized by leader Calvin Williams who died in 1913. Although these meetings were not strictly limited to Eastern Pequot tribal members, they were essentially meetings of Eastern Pequot, and Western Pequot and Narragansett to whom they were related or otherwise socially affiliated. The Eastern Pequots who attended included Sebastians, Randalls, and to some extent Jacksons, though by all evidence not the other major family line, the Gardners. Thus, the proposed finding's conclusion that Fourth Sunday meetings were evidence of community is affirmed.

Community from 1940 to 1973 is demonstrated more strongly than for the proposed findings because of the submission of new evidence. There was a strong demonstration of social cohesion among the families antecedent to the EP petitioner because substantial new data was presented which demonstrates visiting patterns and small scale gatherings which crossed family sublines. Interview and documentary data demonstrate that social interaction occurred between the 1920's and on into

the 1960's which drew in and occurred between residents of the reservation and those within the orbit defined by New London, Norwich, Mystic and Westerly around the Lantern Hill reservation, with substantial long term connections with Hartford and Providence.

The main antecedent family of the PEP petitioner, the Gardners, was a very small social unit during this time period, and closely related enough to assume social cohesion among them, In addition, gatherings among the Gardners, organized by Atwood I. Williams, Sr., and Helen LeGault, were also shown for this small kinship group.

In the 1970's, because there was still a body of adult Jacksons in the tribe, there was not the same separation within the Eastern Pequot tribe that the present division into two petitioners suggests. The Jackson line, as it had since at least the early 1900's, played the role of bridge or connector between the two lines that today are numerically predominant in the two petitioners, the Sebastians (for EP) and Gardners (for PEP). The evidence reviewed for this final determination demonstrated substantial social links between the Sebastians and the Jacksons, and for the Jacksons with the Gardners continuing from the beginning of the 20th century into the 1970's, indicating one community.

Better and more detailed geographical data on residence patterns confirmed the patterns identified in the proposed finding as providing supporting evidence for community among the EP and PEP memberships individually and thus for the Eastern Pequot as a whole. Additional evidence for community before 1973 is found in the political events of the subsequent decade. These events, in reaction to the formation of the Connecticut Indian Affairs Commission (CIAC) and changes in Connecticut policies beginning in 1973, provide substantial evidence that community existed before that time. The social connections, social distinctions, and political issues, shown by events from 1973 through 1983, are of a strength and character that indicate they were already in existence before that time.

From 1973 to the present, the evidence as presented to the Department by the two petitioners reflects increasing polarization of social ties. However, the overall picture demonstrated by the evidence is that there continues to be one tribe, albeit now with two demarcated subgroups.

The geographic pattern of residence past and present among the EP petitioner's portion of the tribe is sufficiently close to be supporting evidence of more direct evidence of social connections. This determination also concludes that the evidence of control and allocation of the Lantern Hill reservation resources by the EP and the PEP organizations among their respective memberships is evidence for the existence of political processes and therefore strong supporting evidence for the existence of community. The PEP membership is small and fairly closely related, with 90 percent drawn from the two Gardner family sublines. There is direct evidence that kinship relations are recognized within and between its two main subdivisions, the Gardner/Edwards and the Gardner/Williams. The present geographic pattern of residence of the PEP portion of the Eastern Pequot, the Gardner family lines, is close enough that significant social interaction is feasible but is not so concentrated as to provide supporting evidence of community in itself. The interview evidence for the proposed finding indicated that there were social contacts maintained between the most socially connected portion of the PEP membership and those living at a distance. PEP also presented an analysis of relationships within the overall Gardner line, based on defining a core social group with which approximately 90 percent had demonstrable close kinship ties and/or social contacts. This analysis was generally consistent with available interview information about social contacts.

Because the political processes of the entire Eastern Pequot bridge the two petitioning groups in that their crucial focus is on controlling and maintaining access rights to a single historical reservation established for a single historical tribe, this final determination concludes that there is one group encompassing both current petitioners. The evidence presented is sufficient to meet the requirements for demonstrating social community from 1973 to the present, even though, from 1973 to the present, the petitioners have developed into increasingly separate social segments. Each of the major segments, EP and PEP, has significant internal social cohesion. The segments are united by the overall political processes, even when these are illustrated primarily by political disagreements over the Lantern Hill reservation. There is no requirement in the regulations that social relationships be distributed uniformly throughout a community nor that they be amicable. Rather, community is to be interpreted in accord with the history and culture of a particular group (25 CFR 83.1).

The evidence demonstrates that the historical Eastern Pequot tribe maintained a distinct social community within which significant social ties existed historically since first sustained contact with non-Indians and which has continued through the present. These ties within the membership encompass the members of both petitioning groups, even after the development of their separate formal organizations. The historical Eastern Pequot tribe, comprising both current petitioners, meets the requirements of criterion 83.7(b).

Criterion 83.7(c): The proposed findings' conclusion that the historical Eastern Pequot tribe, which included the antecedents of both current petitioners, met criterion 83.7(c) from the colonial period through 1873 is affirmed. No significant new evidence or arguments in regard to this early period was presented for the final determination by either petitioner or by the third parties.

Political influence from 1873 to 1920 was shown in part by a sequence of Eastern Pequot petitions from June 1873 through 1883 which were presented to the Superior Court by the ''members of the Pequot tribe of Indians of North Stonington.'' In petitions in 1874 and 1883, the Gardner and Jackson families (antecedent to PEP) appear in common with Calvin Williams and the members of the Fagins/Randall and Fagins/Watson families (antecedent to EP), signing the same document for the same purpose. The Sebastians appear in another petition in this decade, together with the Jacksons and Fagins/Randalls and Fagins/Watsons.

The proposed finding noted that there was no clear evidence of political processes or leadership between 1880 and 1920, although the evidence of community was strong enough to be good supporting evidence. New evidence submitted for the final determination shows that during the first decade of the 20th century Calvin Williams functioned as a leader who was dealt with by the overseer, represented the Eastern Pequots to the overseer, and consulted with the membership on decisions. Supporting evidence of his leadership came from an analysis of kinship patterns which showed that Williams was related by marriage and through collateral links to many of the Eastern Pequot families.

The strong character of the community, especially based on intermarriage ties, provides strong supporting evidence for the existence of significant political processes during the period from 1913 to 1940.

Atwood I. Williams, Sr. was the state-recognized leader for all of the Eastern Pequots from 1933 until his death in

1955. There is limited evidence, from documents and interviews, that he was elected, by a portion of the membership at least, and that the State took notice of this election. Even though Williams took a stance against the membership of the Brushell/Sebastian portion of the Eastern Pequots, he was recognized by and dealt with by the State as leader of the entire group. He continued to be consulted by State representatives of the Park and Forest Commission, which at that point had responsibility for dealing with the Connecticut tribes, on matters concerning the tribe and its reservation through the late 1930's.

For the time period between 1913 and 1940, particularly from 1913 to 1929, between the death of Calvin Williams and the appearance of Atwood I. Williams, Sr., as an influential leader, the continuous State relationship with the Eastern Pequot as an Indian tribe provides additional evidence which, in combination with the limited direct evidence, demonstrates continuity of political processes throughout periods in which there is not sufficient positive evidence by itself, but in which positive evidence exists. That evidence includes the role of Tamar Emeline (Sebastian) Swan Williams, the widow of Calvin Williams. Although this final determination does not affirm the proposed finding's conclusion that she was an informal political leader for the EP antecedent families, the evidence supports a conclusion that she was a social leader whose religious activities were well-known and that these activities, especially hosting the Fourth Sunday meetings, provided a focal point for the tribe's members to interact with one another (see criterion 83.7(b)). The few pieces of evidence that might directly indicate the exercise of political influence on her part are not present in sufficient numbers to show that this was the case.

The evidence for political influence between 1940 and 1973 includes the continuance of Atwood Williams, Sr., as the state-recognized leader for all of the Eastern Pequots until his death in 1955, although there was no documentation of his activity between 1941 and 1947. Even though Williams took a position against a portion of the Eastern Pequots, he was recognized by and dealt with by the State as leader of the entire tribe. Although State implementation of his status was inconsistent and varied, it existed throughout the time span from 1933 to 1955.

Additional evidence of political processes in this period is provided by a 1953 expedition of Eastern Pequots, mainly Lantern Hill reservation residents, to Hartford to oppose a bill to ''detribalize'' Connecticut's Indians. This group was led by Catherine (Sebastian) Carpenter Harris and included Jacksons as well as Sebastians.

The evidence is not entirely clear whether the frequent actions by Helen LeGault (a Gardner) in complaining to the State authorities about the presence and activities of the Sebastians on the reservation during the 1950's and 1960's, and her appearance as a witness in 1961 State legislative hearings to seek amendments which would have limited their residence, represented only her opinions or also those of a body of public opinion among a portion of the Eastern Pequots. There is good evidence that she had the support of the Gardner/Edwards portion of the Gardners and there is some interview evidence to indicate that her opinions exerted influence on the other portion of the Gardners, among the children of the late Atwood I. Williams (the Gardner/Jackson subline). There is also some evidence of opposition to her by both Jacksons and Sebastians, evidence which shows political processes.

This final determination does not find sufficient evidence to support the EP and PEP proposed findings' conclusion that Alden Wilson, Roy Sebastian, Sr., Arthur Sebastian, Jr., Catherine Harris, and Atwood Williams, Jr., taken singly, were informal leaders of various portions of the Eastern Pequot tribe between 1940 and 1973. Neither is there clear indication that during this period Paul Spellman of the Hoxie/Jackson line served as an informal leader as asserted by PEP, although he was well known to outsiders and there is documentation of some limited communication between him and the State in regard to the management of the Lantern Hill reservation.

The political events of the subsequent era, from 1973 through the early 1980's, provide substantial evidence that political processes and community existed before that time. The form the political processes took in response to the State's legal and policy changes and the intensity of actions in response to these changes indicate preexisting political issues and opinions as well as preexisting social connections, distinctions, and alignments. Rather than being newly created, they indicate preexisting community and political processes.

For this time period, and particularly from 1955 to the early 1970's, compiled together, the whole complex of individual leaders' activities, sometimes formal, sometimes informal, coming from the antecedent family lines of both petitioners, with fluctuating alliances of the different family lines supporting them, provides some evidence to demonstrate political influence. The activities of Helen LeGault provide part of the thread connecting the 1970's and the immediately preceding period. There is no question that social community, in part defined by significant social divisions based on family lines and disputes with considerable historical depth, existed throughout the period from 1940 to 1973.

The continuous state relationship with the Eastern Pequot as an Indian tribe and continuing existence of the Lantern Hill reservation with tribal members resident on it under state supervision is additional evidence which, in combination with the other evidence, demonstrates continuity of political processes throughout the period, from 1940 to 1973, in which there is not otherwise sufficient positive evidence, but in which positive evidence does exist.

The political events of the 1970's clearly demonstrate that a single Eastern Pequot tribe with political processes existed. In the conflict from 1973 onward, three different subgroups sought to obtain official approval as representing the Eastern Pequot tribe, or as being the Eastern Pequot tribe. However, the alignments were not strictly along family lines, since the Jacksons had the support of Alton Smith, a leading Sebastian. At the same time, the conflicts of this period were a continuation of the distinctions and political issues that structured the tribe before 1973.

Because there was still a body of adult Jacksons in the tribe in the 1970's, there was not then the same separation that appears today. Instead, since this line played a bridge or connecting role between the two lines that today are numerically predominant in the two petitioners (Sebastian for EP and Gardner for PEP), and had done so since at least the early 1900's, their presence demonstrates that there was a single political field in the 1970's within which the conflict was played out, rather than a conflict between two completely separate groups. It was not until 1989 that PEP asked the Jacksons to join them. The recentness of this request indicates that the alignments among the Eastern Pequot subgroups were still being adjusted in 1989. At the same time, the Sebastians initially presented themselves as representing the interests of part of a tribe, the descendants of Tamar (Brushell) Sebastian, which was being threatened by the activities of Helen LeGault's Authentic Eastern Pequots organization in regard to CIAC representation, rather

than as a separate tribe. In the late 1970's, the antecedents of the two current organizations were in fact organizations of two of the family lines of the Eastern Pequot tribe (Gardner and Sebastian)—neither the Hoxie/Jacksons who were not also Gardner descendants nor the Fagins descendants were initially included in either one. The Sebastians in particular viewed the initial conflict as one in which they needed to have their own family's interests represented—demonstrating that the conflict was one of interest groups within a particular political system.

The events of the 1970's which led to the formation of the two organizations demonstrate a high level of political processes within the tribe which involved the main kinship segments, the Sebastians, Jacksons and Gardner/Edwards. The events reflect the on-going political issues of access to and control of the reservation lands and the internal dispute over the legitimacy of the Sebastians as members. The formation of the CIAC and the beginnings of transfer of power over the reservation to the Eastern Pequot tribe triggered this high level of political conflict because it provided an opportunity, not previously existent, for one of the contending Eastern Pequot subgroups to seek to obtain designation as the Eastern Pequot tribe or status as the Eastern Pequot tribe's sole representative. These events mobilized large portions of the relatively small number of adult individuals then alive. The events were clearly a contest for power, resting on the preexisting social context and conflicts, and by definition show political process.

Both EP and PEP, in the modern period since 1973, demonstrate substantial political processes within their own membership. Each deals with the same issues—control over portions of the reservation and whether the Sebastians are part of the tribe. These issues have existed as an unbroken continuity from at least as early as the 1920's, a point in time for which there is strong evidence for the existence of a single community. The division into two political organizations is a recent development, and the evidence demonstrates a single political entity with strong internal divisions. The alignment in its present form, which did not exist in the 1970's, represents the results of a historical political process which is not now complete.

The EP as a separate organization and PEP as a separate organization each demonstrates substantial political processes through dealing with political issues of importance to its own membership. Each petitioner has shown political involvement, beyond mere attendance at meetings, by a substantial portion of its adult membership, both by percentage and by distribution across family sublines, throughout the entire time period from 1973 to the present.

The importance of reservation access and residency rights to the membership of both EP and PEP is supported by the history of visiting with reservation residents and association with the reservation which was widespread among the non-resident Eastern Pequots (both EP and PEP) past and present and is not limited to a small group of reservation residents. These are issues of importance because they involve the loss or potential loss of significant resources, membership, and access to the reservation, which are current for the membership. There is more than sufficient evidence of visiting the reservation, residence there by close relatives, hunting, and social gatherings on the reservation in the lifetimes of the present membership to conclude these are political issues of importance.

In addition, the EP council has exercised effective control over much of the reservation, regulating residence and land use, from the early 1980's to the present. This function was exercised regularly and consistently, and was followed by the membership. There was evidence of political communication because of regular membership meetings which voted on key issues, rather such issues being simply voted on by the council group itself, although there was not strong evidence about communication from membership to the leadership except for the past several years. This is supporting evidence for political influence.

In the PEP, political processes were shown by dealing with the issues of importance to the membership—the same issues as in EP to a considerable extent, and also the issue of whether the two organizations should merge. There were also internal conflicts over other issues, specifically the method of governance, which mobilized political support and opposition along the lines of family subdivisions. The PEP organization also controls and allocates a portion of the reservation land, on a more limited basis than EP, among its membership.

Each petitioner has controlled allocation of reservation resources, among their respective memberships. This allocation is not sufficient evidence of political processes in itself under § 83.7(c)(2)(i), because the processes are parallel rather than a single process, but is strong evidence of political processes.

The Eastern Pequot tribe, comprising both petitioners, demonstrates political processes in which the same political issues and conflicts that occurred earlier continue today. In this context, the evidence for each petitioner, in combination, demonstrates that only a single tribe, a tribe with significant political processes, exists today, notwithstanding the present organization of those processes into two distinct segments. One petitioner, the EP, has supported the creation of a single tribal organization encompassing the membership of both. The PEP from time to time has negotiated with the EP on this issue, manifesting an internal division of political opinion within its own membership as to whether PEP should organize together with the EP as a single tribe.

The continuous historical State recognition and relationship are based on the existence of a single Eastern Pequot tribe, resident on a single land base which the tribe has occupied since colonial times and continues to occupy jointly. These facts provide added evidence that the petitioners meet the regulations as a single political body, notwithstanding current divisions and organization.

The Eastern Pequot have existed as a distinct community within which political influence has been exercised since first sustained contact with Europeans. The historical Eastern Pequot tribe, comprising both current petitioners, meets the requirements of criterion 83.7(c).

Criterion 83.7(d): Each petitioner met the requirements for criterion 83.7(d) separately by submitting a governing document which described its membership eligibility provisions. Given the present division into two organizations, the historical Eastern Pequot tribe does not presently have an overarching governing document, although all members are covered by the two documents presented. The presentation of two governing documents is sufficient to meet the requirements of this section of the regulations to submit copies of the governing documents of the group. The historical Eastern Pequot tribe meets the requirements of criterion 83.7(d).

Criterion 83.7(e): The proposed findings examined the evidence and concluded, on the basis of evidence acceptable to the Secretary, that the Brushell/Sebastian, Fagins/Watson, Hoxie/Jackson, and Gardner lines descend from the historical Eastern Pequot tribe within the meaning of the regulations. The EP proposed finding did not examine the evidence in regard to the Fagins/Randall line. The EP

identified such descendants on its revised membership list submitted for the final determination. Examination of the evidence in regard to Abby (Fagins) Randall and her sons leads to the conclusion that on the basis of evidence acceptable to the Secretary, the members of this family line descend from the historical Eastern Pequot tribe within the meaning of the regulations.

Therefore, this final determination concludes that all the current members of both petitioners descend from the historical Eastern Pequot tribe. The historical Eastern Pequot tribe, comprising the membership of both petitioners, meets criterion 83.7(e).

Criterion 83.7(f): The final determination affirms the proposed findings' conclusions that a predominant portion of neither petitioner's members were enrolled with any federally acknowledged tribe. The same conclusion is applicable to the Eastern Pequot tribe as a whole. Therefore, the historical Eastern Pequot tribe meets criterion 83.7(f).

Criterion 83.7(g): This final determination affirms the proposed findings' conclusion that neither petitioner had been the subject of legislation terminating a Federal relationship. The same conclusion is applicable to the Eastern Pequot tribe as a whole. Therefore, the historical Eastern Pequot tribe meets criterion 83.7(g).

The historical Eastern Pequot tribe, represented by two petitioners, EP and PEP, meets all of the criteria for Federal acknowledgment as a tribe stated in 25 CFR § 83.7 and therefore meets the requirements to be acknowledged as tribe with a government-to-government relationship with the United States.

Because this final determination recognizes a single historical tribe represented by two petitioners, the Assistant Secretary will deal with both petitioners in the process of developing a governing document for the historical Eastern Pequot tribe. Pursuant to 25 CFR 83.12(b), the base roll for determining future membership of the tribe shall consist of the combined membership lists of the two petitioners submitted for these final determinations.

This determination is final and will become effective 90 days from the date of publication, unless a request for reconsideration is filed pursuant to 25 CFR 83.11. The petitioners or any interested party may file a request for reconsideration of this determination with the Interior Board of Indian Appeals (83.11(a)(1)). A petitioner's or interested party's request must be received no later than 90 days after publication of this notice of the Assistant Secretary's determination in the **Federal Register** (83.11(a)(2)).

Dated: June 24, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–16625 Filed 6–28–02; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf Official Protraction Diagrams

AGENCY: Minerals Management Service, Interior.

ACTION: Status of Outer Continental Shelf Official Protraction Diagrams (OPDs).

SUMMARY: Notice is hereby given that effective with this publication, the following North American Datum of 1983 (NAD 83)-based Outer Continental Shelf OPDs last revised on the date indicated, are on file and available for information only in the Pacific OCS Regional Office, Camarillo, California. In accordance with Title 43, Code of Federal Regulations, these diagrams are the basic record for the description of mineral and oil and gas leases in the geographic areas they represent.

FOR FURTHER INFORMATION CONTACT: Copies of these OPDs may be purchased for $2.00 each from the Public Information Unit, Information Services Section, Pacific OCS Region, Minerals Management Service, 770 Paseo Camarillo, Camarillo, California 93010, Telephone (800) 672–2627.

SUPPLEMENTARY INFORMATION: In addition, OPDs may be obtained in two digital formats: .gra files for use in ARC/INFO and .pdf files for viewing and printing in Acrobat. Copies are also available for download at: *http://www.mms.gov/ld/leasing.htm.*

Description	Date
NH10–02 (Unnamed)	13–MAR–1997
NH10–03 Velero Basin ..	13–MAR–1997
NH10–05 Jasper Seamount.	31–JUL–1998
NH10–06 Westfall Seamount.	31–JUL–1998
NH11–01 Bushnell Knoll	01–JUN–2001
NH11–04 The Rampart ..	01–JUN–2001
NI09–03 (Unnamed)	13–MAR–1997
NI10–01 Monterey Fan ..	13–MAR–1997
NI10–02 Sur Canyon	13–MAR–1997
NI10–03 San Luis Obispo.	01–JUN–2001
NI10–04 (Unnamed)	13–MAR–1997
NI10–05 Arguello Fan	13–MAR–1997
NI10–06 Santa Maria	01–JUN–2001
NI10–07 (Unnamed)	13–MAR–1997
NI10–08 (Unnamed)	13–MAR–1997
NI10–09 Santa Rosa Island.	01–JUN–2001
NI10–10 (Unnamed)	13–MAR–1997
NI10–11 (Unnamed)	13–MAR–1997
NI10–12 Patton Ridge ...	13–MAR–1997
NI11–04 Los Angeles	01–JUN–2001
NI11–07 Long Beach	01–JUN–2001
NI11–08 Santa Ana	01–JUN–2001
NI11–10 San Clemente Island.	01–JUN–2001
NI11–11 San Diego	01–JUN–2001
NJ09–02 (Unnamed)	13–MAR–1997
NJ09–03 Delgada Fan ...	13–MAR–1997
NJ09–05 Pioneer Escarpment.	13–MAR–1997
NJ09–06 Pioneer Ridge	13–MAR–1997
NJ09–09 (Unnamed)	13–MAR–1997
NJ09–12 (Unnamed)	13–AUG–1997
NJ10–01 Noyo Canyon ..	01–JUN–2001
NJ10–02 Ukiah	01–JUN–2001
NJ10–04 Arena Canyon	13–MAR–1997
NJ10–05 Santa Rosa	01–JUN–2001
NJ10–07 Bodega Canyon.	13–MAR–1997
NJ10–08 San Francisco	01–JUN–2001
NJ10–10 Taney Seamount.	13–MAR–1997
NJ10–11 Santa Cruz	01–JUN–2001
NJ10–12 Monterey	01–JUN–2001
NK09–02 Cascadia Gap	13–MAR–1997
NK09–03 Heceta Bank ..	13–MAR–1997
NK09–05 President Jackson Seamount.	13–MAR–1997
NK09–06 Blanco Saddle	13–MAR–1997
NK09–08 Klamath Ridge	13–MAR–1997
NK09–09 Escanaba Ridge.	13–MAR–1997
NK09–11 Steel Vendor Seamount.	13–MAR–1997
NK09–12 Escanaba Trough.	13–MAR–1997
NK10–01 Coos Bay	31–JUL–1998
NK10–02 Roseburg	31–JUL–1998
NK10–04 Cape Blanco ..	01–JUN–2001
NK10–07 Crescent City	01–JUN–2001
NK10–08 Weed	01–JUN–2001
NK10–10 Eureka	01–JUN–2001
NK10–11 Redding	01–JUN–2001
NL09–02 Nitinat Fan	31–JUL–1998
NL09–03 Cascadia Basin.	31–JUL–1998
NL09–05 Thompson Seamount.	31–JUL–1998
NL09–06 Astoria Canyon	13–MAR–1997
NL09–08 Vance Seamount.	13–MAR–1997
NL09–09 Astoria Fan	13–MAR–1997
NL09–11 Parks Seamount.	13–MAR–1997
NL09–12 Daisy Bank	13–MAR–1997
NL10–01 Copalis Beach West.	31–JUL–1998
NL10–02 Seattle	31–JUL–1998
NL10–04 Cape Disappointment West.	31–JUL–1998
NL10–05 Hoquiam	31–JUL–1998
NL10–07 Tillamook Seachannel.	13–MAR–1997
NL10–08 Vancouver	31–JUL–1998
NL10–10 Newport Valley	31–JUL–1998
NL10–11 Salem	31–JUL–1998
NM09–08 Barkley Canyon.	31–JUL–1998
NM10–07 Cape Flattery	31–JUL–1998

Dated: June 11, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02–16448 Filed 6–28–02; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–459]

In the Matter of Certain Garage Door Operators Including Components Thereof; Notice of Commission Determination not to Review an Initial Determination Terminating the Investigation as to the Last Three Respondents on the Basis of Withdrawal of the Complaint; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 18) issued by the presiding administrative law judge (''ALJ'') terminating the above-captioned investigation as to respondents Lynx Industries, Inc., Napoleon Spring Works, Inc., and Guardian Access Corp. on the basis of withdrawal of the complaint. Since these three respondents are the only respondents remaining in the investigation, their termination terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3096. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) In the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol.public.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 19, 2001, based on a complaint filed by the Chamberlain Group, Inc. of Elmhurst, Illinois (''Chamberlain'') against six respondents, 66 FR 37704 (July 19, 2001). Two respondents and an intervenor were subsequently added to the investigation. The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain garage door operators including components thereof by reason of infringement of claims 1–8 of U.S. Letters Patent Re. 35,364 and claims 5–30 of U.S. Letters Patent Re. 36,703. On February 6, 2002, complainant Chamberlain filed a motion to terminate the investigation as to respondents Lynx Industries, Inc., Napoleon Spring Works, Inc., and Guardian Access Corp. on the basis of withdrawal of the complaint. The Commission investigative attorney supported the joint motion and the three respondents opposed it. On June 5, 2002, the ALJ issued an ID (Order No. 18) granting the motion.

No petitions for review of the ID were filed. This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42.

By order of the Commission.

Issued: June 25, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–16475 Filed 6–28–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0221 (2002)]

Crawler, Locomotive, and Truck Cranes Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comment concerning its proposal to extend OMB approval of the information-collection requirements specified by its Crawler, Locomotive, and Truck Cranes Standard (29 CFR 1910.180). The paperwork provisions of this Standard specify requirements for developing, maintaining, and disclosing inspection records for cranes and ropes, as well as disclosing written reports of rated load tests. The purpose of each of these requirements is to prevent employees from using unsafe cranes and ropes, thereby reducing their risk of death or serious injury caused by a crane or rope failure during material handling.

DATES: Submit written comments on or before August 30, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0221 (2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments on 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2044. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Crawler, Locomotive, and Truck Cranes Standard is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owens at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html,* and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The Crawler, Locomotive, and Truck Cranes Standard (*i.e.,* ''the Standard'') specifies several paperwork requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it.

• *Inspection Records (paragraph (d)(6)).* This paragraph specifies that employers must prepare a written

record to certify that the monthly inspection of critical items in use on cranes (such as brakes, crane hooks, and ropes) was performed. The certification record must include the inspection date, the signature of the person who conducted the inspection, and the serial number (or other identifier) of the inspected crane. Employers must keep the certificate readily available. The certification record provides employers, employees, and OSHA compliance officers with assurance that critical items on cranes regulated by the Standard have been inspected, given some assurance that the equipment is in good operating condition, thereby preventing crane or rope failure during material handling. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

• *Rated Load Tests (paragraph (e)(2)).* This provision requires employers to make available written reports of load-rating tests showing test procedures and confirming the adequacy of repairs or alterations, and to make readily available any rerating-test reports. These reports inform the employer, employees, and OSHA compliance officers of a crane's lifting limitations, and provide information to crane operators to prevent them from exceeding these limits and causing crane failure.

• *Rope Inspections (paragraph (g)).* Paragraph (g)(1) requires employers to thoroughly inspect any rope in use, and do so at least once a month. The authorized person conducting the inspection must observe any deterioration resulting in appreciable loss of original strength and determine whether or not the condition is hazardous. Before reusing a rope not in use for at least a month because the crane housing the rope is shutdown or in storage, paragraph (g)(2)(ii) specifies that employers must have an appointed or authorized person inspect the rope for all types of deterioration. Employers are to prepare a certification record for the inspections required by paragraph (g)(1) and (g)(2)(ii). These certification records are to include the inspection date, the signature of the person conducting the inspection, and the identifier for the inspected rope; paragraph (g)(1) states that employers must keep the certificates ''on file where readily available,'' while paragraph (g)(2)(ii) requires that certificates ''be * * * kept readily available.'' The certification records provide employers, employees, and OSHA compliance officers with assurance that the inspected ropes are in good condition.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

• Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;

• The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information requirements specified by its Crawler, Locomotive, and Truck Cranes Standard (29 CFR 1910.180). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently approved information-collection requirement.

Title: Crawler, Locomotive, and Truck Cranes Standard (29 CFR 1910.180).

OMB Number: 1218–0221.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 20,000 cranes.

Frequency of Recordkeeping: On occasion; monthly; annually.

Average Time per Response: Varies from 15 minutes (.25 hour) to perform a crane inspection and to prepare, maintain, and disclose a written certificate for the inspection, to 30 minutes (.50 hour) to inspect a rope and to develop, maintain, and disclose a written certificate for the inspection to 1 hour to rate the capacity of a crane and make the appropriate record.

Total Annual Hours Requested: 174,040.

Total Annual Costs (O&M): $0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on June 25, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–16469 Filed 6–28–02; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 070–7001, Certificates of Compliance, Paducah—GDP–1, EA–02–108]

In the Matter of United States Enrichment Corp., Paducah Gaseous Diffusion Plant, Paducah, KY, Order Modifying Certificate of Compliance (Effective Immediately)

I

United States Enrichment Corporation (USEC) holds Certificate of Compliance GDP–1, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing USEC to receive, possess and transfer byproduct, source material, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 76.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its certificate and license holders in order to strengthen certificate and license holders' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at regulated facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by USEC as prudent, interim measures to address the current

threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1[1] of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

The Commission recognizes that some of the requirements set forth in Attachment 1[2] to this Order may already have been initiated by USEC in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored specifically to accommodate the specific circumstances and characteristics existing at USEC's facilities to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although USEC's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that USEC is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Certificates of Compliance GDP–1 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202 and 76.70, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

[1] Attachment 1 contains classified information and will not be released to the public.

[2] To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to the USEC's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

III

Accordingly, pursuant to sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 76, *it is hereby ordered,* effective immediately, *that* Certificate of Compliance GDP–1 is *modified as follows:*

A. USEC shall, notwithstanding the provisions of any Commission regulation or certificate to the contrary, comply with the requirements described in Attachment 1 to this Order. USEC shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, unless otherwise specified in Attachment 1 to this order, no later than November 29, 2002.

B. 1. USEC shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause USEC to be in violation of the provisions of any Commission regulation or its facility certificates. The notification shall provide USEC's justification for seeking relief from or variation of any specific requirement.

2. If USEC considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facilities, USEC must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, USEC must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. USEC shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.

2. USEC shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

USEC's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 76.5. In addition, USEC's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR 95.39.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by USEC of good cause.

IV

In accordance with 10 CFR 2.202 and 76.70, USEC must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which USEC or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to USEC if the answer or hearing request is by a person other than USEC. If a person other than USEC requests a hearing, that person

shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by USEC or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i) and 76.70(c)(3), USEC, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 17th day of June, 2002.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–16452 Filed 6–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 070–7002, Certificates of Compliance, Portsmouth—GDP–2, EA–02–108]

Order Modifying Certificate of Compliance (Effective Immediately)

In the Matter of United States Enrichment Corp., Portsmouth Gaseous Diffusion Plant, Portsmouth Ohio.

I

United States Enrichment Corporation (USEC) holds Certificate of Compliance GDP–2, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing USEC to receive, possess and transfer byproduct, source material, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 76.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its certificate and license holders in order to strengthen certificate and license holders' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at regulated facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by USEC as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1 [1] of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

The Commission recognizes that some of the requirements set forth in Attachment 1[2] to this Order may already have been initiated by USEC in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored to specifically accommodate the specific circumstances and characteristics existing at USEC's facilities to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although USEC's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that USEC is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Certificates of Compliance GDP–2 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202 and 76.70, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

III

Accordingly, pursuant to sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 76, *it is hereby ordered,* effective immediately, *that* Certificate of Compliance GDP 2 is *modified as follows:*

A. USEC shall, notwithstanding the provisions of any Commission regulation or certificate to the contrary, comply with the requirements described in Attachment 1 to this Order. USEC shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, no later than November 29, 2002.

B. 1. USEC shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause USEC to be in violation of the provisions of any Commission regulation or its facility certificates. The notification shall provide USEC's justification for seeking

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[1] Attachment 1 contains classified information and will not be released to the public.

[2] To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to the USEC's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

relief from or variation of any specific requirement.

2. If USEC considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facilities, USEC must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, USEC must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. USEC shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.

2. USEC shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

USEC's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 76.5. In addition, USEC's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR 95.39.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by USEC of good cause.

IV

In accordance with 10 CFR 2.202 and 76.70, USEC must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which USEC or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to USEC if the answer or hearing request is by a person other than USEC. If a person other than USEC requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by USEC or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i) and 76.70(c)(3), USEC, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 17th day of June, 2002.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–16453 Filed 6–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 AND 50–278]

Exelon Generation Company, LLC; PSEG Nuclear, LLC; Notice of Availability of the Draft Supplement 10 to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of Peach Bottom Atomic Power Station, Units 2 and 3

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 DRP–44 and DRP–56 for an additional 20 years of operation at Peach Bottom Atomic Power Station, Units 2 and 3. Peach Bottom Atomic Power Station is located primarily in Peach Bottom Township, York County, Pennsylvania. 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 Collinsville Community Library in Brogue, Pennsylvania, the Quarryville Library in Quarryville, Pennsylvania and the Whiteford Branch Library in Whiteford, Maryland, have 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 September 18, 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 *Peach_Bottom_EIS@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 a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held at the Peach Bottom Inn, 6085 Delta Road, Delta, Pennsylvania, on July 31, 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 p.m. and will continue until 10 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 Peach Bottom Inn. No comments on the proposed 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 as discussed above. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Duke Wheeler by telephone at 1–800–368–5642, extension 1444, or by Internet to the NRC at *Peach_Bottom_EIS@nrc.gov* no later than July 24, 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. Wheeler's attention no later than July 24, 2002, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION, CONTACT: Mr. Duke Wheeler, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Wheeler may also be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 24th day of June 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–16451 Filed 6–28–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of July 1, 8, 15, 22, 29, and August 5, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED: Week of July 1, 2002

Monday, July 1, 2002

2:00 p.m. Discussion of International Safeguards Issues (Closed—Ex. 9)

Week of July 8, 2002—Tentative

Wednesday, July 10, 2002

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Briefing on License Renewal Program and Power Uprate Review Activities (Public Meeting) (Contacts: Noel Dudley, 301–415–1154, for license renewal program; Mohammed Shuaibi, 301–415–2859, for power uprate review activities)

This meeting will be webcast live at the Web address—

http://www.nrc.gov

2:00 p.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)

This meeting will be webcast live at the Web address–

http://www.nrc.gov

Week of July 15, 2002—Tentative

Thursday, July 18, 2002

1:55 p.m. Affirmation Session (Public Meeting) (If needed)

Week of July 22, 2002—Tentative

Week of July 29, 2002—Tentative

Week of August 5, 2002—Tentative

There are no meetings scheduled for the Week of August 5, 2002.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

Additional Information

By a vote of 5–0 on June 20 and 21, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Pacific Gas and Electric Co. (Diablo Canyon Power Plant, Units 1 and 2) Multiple Petitions to Intervene'' be held on June 25, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/what-we-do/policy-making/schedule.html

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: June 27, 2002.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 02–16626 Filed 6–27–02; 12:45 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982 (47 FR 596 and 47 FR 600), the Nuclear Regulatory Commission (NRC) published in the **Federal Register** final amendments to 10 CFR parts 71 and 73 (effective July 6, 1982), that require advance notification to Governors or their designees by NRC licensees prior to transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in Part 73 is for spent nuclear reactor fuel shipments and the notification for Part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR part 73).

The following list updates the names, addresses, and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the **Federal Register** on or about June 30 to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

State	Part 71	Part 73
Alabama	Col. James H. Alexander, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36102–1511, (334) 242–4394.	Same.
Alaska	Douglas Dasher, Alaska Department of Environmental Conservation, Northern Regional Office, 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2172.	Same.
Arizona	Aubrey V. Godwin, Director, Arizona Radiation Regulatory Agency, 4814 South 40th Street, Phoenix, AZ 85040, (602) 255–4845, ext. 222, 24 hours: (602) 223–2212.	Same.
Arkansas	Bernard Bevill, Division of Radiation Control and Emergency Management, Arkansas Department of Health, 4815 West Markham Street, Mail Slot #30, Little Rock, AR 72205–3867, (501) 661–2301, 24 hours: (501) 661–2136.	Same.
California	Captain Andrew R. Jones, California Highway Patrol, Enforcement Services Division, P.O. Box 942898, Sacramento, CA 94298–0001, (916) 445–1865, 24 hours: 1–(916) 861–1300.	Same.
Colorado	Captain Tommy Wilcoxen, Hazardous Materials Section, Colorado State Patrol, 700 Kipling Street, Suite 1000, Denver, CO 80215–5865, (303) 239–4546, 24 hours: (303) 239–4501.	Same.
Connecticut	Dr. Edward L. Wilds, Jr., Director, Division of Radiation, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106–5127, (860) 424–3029, 24 hours: (860) 424–3333.	Same.
Delaware	James L. Ford, Jr., Department of Public Safety, P.O. Box 818, Dover, DE 19903, (302) 744–2680, 24 hours: pager (302) 474–1030.	Same.
Florida	Harlan W. Keaton, Administrator, Bureau of Radiation Control, Environmental Radiation Program, Department of Health, P.O. Box 680069, Orlando, FL 32868–0069, (407) 297–2095.	Same.
Georgia	Captain Bruce Bugg, Special Projects Coordinator, Law Enforcement Division, Georgia Department of Motor Vehicle Safety, P.O. Box 80447, 2206 East View Parkway, Conyers, Georgia 30013, (678) 413–8825.	Same.
Hawaii	Mr. Gary Gill, Deputy Director for Environmental Health, State of Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96813, (808) 586–4424.	Same.
Idaho	Lieutenant Duane Sammons, Deputy Commander, Commercial Vehicle Safety, Idaho State Police, P.O. Box 700, Meridian, ID 83680–0700, (208) 884–7220, 24 hours: (208) 846–7500.	Same.
Illinois	Thomas W. Ortciger, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704, (217) 785–9868, 24 Hours: (217) 785–9900.	Same.
Indiana	Melvin J. Carraway, Superintendent, Indiana State Police, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, IN 46204, (317) 232–8248.	Same.
Iowa	Ellen M. Gordon, Administrator, Homeland Security Advisor, Iowa Emergency Management Division, Des Moines, IA 50319, (515) 281–3231.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
Kansas	Frank H. Moussa, M.S.A., Technological Hazards Administrator, Department of the Adjutant General, Division of Emergency Management, 2800 SW. Topeka Boulevard, Topeka, KS 66611–1287, (785) 274–1409, 24 hours: (785) 296–3176.	Same.
Kentucky	John A. Volpe, Ph.D., Manager, Radiation Health and Toxic Agents Branch, Cabinet for Health Services, 275 East Main Street, Frankfort, KY 40621–0001, (502) 564–7818 ext. 3692.	Same.
Louisiana	Major Joseph T. Booth, Louisiana State Police, 7901 Independence Boulevard, P.O. Box 66614 (#21), Baton Rouge, LA 70896–6614, (225) 925–6113 ext. 270, 24 hours: (877) 925–6252.	Same.
Maine	Colonel Michael R. Sperry, Chief of the State Police, Maine Department of Public Safety, 42 State House Station, Augusta, ME 04333, (207) 624–7000.	Same.
Maryland	First Sgt. Sylvia L. Wright, Maryland State Police, Electronic Systems Division, 1201 Reisterstown Road, Pikesville, MD 21208, (410) 653–4208, 24 hours: (410) 653–4200.	Same.
Massachusetts	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Public Health, 174 Portland Street, 5th Floor, Boston, MA 02114, (617) 727–6214.	Same.
Michigan	Captain Dan Smith, Commander, Special Operations Division, Michigan State Police ,714 South Harrison Road, East Lansing, MI 48823, (517) 336–6187, 24 hours: (517) 336–6100.	Same.
Minnesota	John R. Kerr, Assistant Director, Administration and Preparedness Branch, Department of Public Safety, Division of Emergency Management, 444 Cedar St., Suite 223, St. Paul, MN 55101–6223, (651) 296–0481, 24 hours: (651) 649–5451.	Same.
Mississippi	Robert R. Latham, Jr. Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39296–4501, (601) 960–9020.	Same.
Missouri	Jerry B. Uhlmann, Director, Emergency Management Agency, P.O. Box 116, Jefferson City, MO 65102, (573) 526–9101, 24 hours: (573) 751–2748.	Same.
Montana	Jim Greene, Administrator, Disaster & Emergency Service, P.O. Box 4789, Helena, MT 59604, (406) 841–3911.	Same.
Nebraska	Major Bryan J. Tuma, Nebraska State Patrol, P.O. Box 94907, Lincoln, NE 68509–4907, (402) 479–4950, 24 hours: (402) 471–4545.	Same.
Nevada	Stanley R. Marshall, Supervisor, Radiological Health Section, Health Division, Department of Human Resources, 1179 Fairview Drive, Suite 102, Carson City, NV 89701–5405, (775) 687–5394 x276, 24 hours: (775) 688–2830.	Same.
New Hampshire	Richard M. Flynn, Commissioner, New Hampshire Department of Safety, James H. Hayes Building, 10 Hazen Drive, Concord, NH 03305, (603) 271–2791, (603) 271–3636 (24 hours).	Same.
New Jersey	Kent Tosch, Chief, Bureau of Nuclear Engineering, Department of Environmental Protection, P.O. Box 415, Trenton, NJ 08625–0415, (609) 984–7701.	Same.
New Mexico	Ernesto Rodriguez, Section Chief, Emergency Management Section, DPS/OESS, P.O. Box 1628, Santa Fe, NM 87504–1628, (505) 479–9606, 24 hours: (505) 476–9680.	Same.
New York	Edward F. Jacoby, Jr., Director, State Emergency Management Office, 1220 Washington Avenue, Building 22—Suite 101, Albany, NY 12226–2251, (518) 457–2222.	Same.
North Carolina	Line Sgt. Mark Dalton, Hazardous Materials Coordinator, North Carolina Highway Patrol Headquarters, 4702 Mail Service Center, Raleigh, NC 27699–4702, (919) 733–5282, After hours: (919) 733–3861.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
North Dakota	Terry O'Clair, Director, Division of Air Quality, North Dakota Department of Health, 1200 Missouri Avenue, Box 5520, Bismarck, ND 58506–5520, (701) 328–5188, After hours: (701) 328–9921.	Same.
Ohio	Carol A. O'Claire, Supervisor, Ohio Emergency Management Agency, 2855 West Dublin Granville Road, Columbus, OH 43235–2206, (614) 799–3915, 24 hours: (614) 889–7150.	Same.
Oklahoma	Bob A. Ricks, Commissioner, Oklahoma Department of Public Safety, P.O. Box 11415, Oklahoma City, OK 73136–0145, (405) 425–2001, 24 hours: (405) 425–2424.	Same.
Oregon	David Stewart-Smith, Energy Resources Division, Oregon Office of Energy, 625 Marion Street, NE, Suite 1, Salem, OR 97301–3742, (503) 378–6469.	Same.
Pennsylvania	John Bahnweg, Director of Operations and Training, Pennsylvania Emergency Management Agency, 2605 Interstate Drive, Harrisburg, PA 17110–9364, (717) 651–2001.	Same.
Rhode Island	William A. Maloney, Associate Administrator, Motor Carriers Section, Division of Public Utilities and Carriers, 89 Jefferson Blvd., Warwick, RI 02888, (401) 941–4500; ext. 150.	Same.
South Carolina	Henry J. Porter, Assistant Director, Division of Waste Management, Bureau of Land and Waste Management, Department of Health & Environmental Control, 2600 Bull Street, Columbia, SC 29201, (803) 896–4245, Emergency: (803) 253–6488.	Same.
South Dakota	John A. Berheim, Director, Division of Emergency Management, 500 E. Capitol Avenue, Pierre, SD 57501–5070, (605) 773–3231.	Same.
Tennessee	John D. White, Jr., Director, Emergency Management Agency, 3041 Sidco Drive, Nashville,TN 37204–1504, (615) 741–0001, After hours: (Inside TN) 1–800–262–3400, (Outside TN) 1–800–258–3300.	Same.
Texas	Richard A. Ratliff, Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756, (512) 834–6679.	Col. Thomas A. Davis, Director, Texas Department of Public Safety. Attn: EMS Preparedness Sec., P.O. Box 4087, Austin, TX 78773–0223, (512) 424–2589, (512) 424–2277 (24 hrs).
Utah	William J. Sinclair, Director, Division of Radiation Control, Department of Environmental Quality, 168 North 1950 West, P.O. Box 144850, Salt Lake City, UT 84114–4850, (801) 536–4250, After hours: (801) 536–4123.	Same.
Vermont	Lieutenant Col. Thomas A. Powlovich, Director, Division of State Police, Department of Public Safety, 103 South Main Street, Waterbury, VT 05671–2101, (802) 244–7345.	Same.
Virginia	Brett A. Burdick, Director, Technological Hazards Division, Department of Emergency Management, Commonwealth of Virginia, 10501 Trade Court, Richmond, VA 23236, (804) 897–6500, ext. 6569, 24 hrs. (804) 674–2400.	Same.
Washington	Lieutenant Steven L. Kalmbach, Washington State Patrol, P.O. Box 42600, Olympia,WA 98504–2600, (360) 753–0565.	Same.
West Virginia	Colonel H. E. Hill, Jr., Superintendent, West Virginia State Police, 725 Jefferson Road, South Charleston, WV 25309, (304) 746–2111.	Same.
Wisconsin	Edward J. Gleason, Administrator, Wisconsin Division of Emergency Management, P.O. Box 7865, Madison, WI 53707–7865, (608) 242–3232.	Same.
Wyoming	Captain L. S. Gerard, Support Services Officer, Commercial Carrier, Wyoming Highway Patrol, 5300 Bishop Boulevard, Cheyenne, WY 82009–3340, (307) 777–4317, 24 hours: (307) 777–4321.	Same.
District of Columbia	Gregory B. Talley, Program Manager, Radiation Protection Division, Bureau of Food, Drug and Radiation Protection, Department of Health, 51 N Street, NE., Room 6006, Washington, DC 20002, (202) 535–2320, 24 hours: (202) 666–8001.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
Puerto Rico	Esteban Mujica, Chairman, Environmental Quality Board, P.O. Box 11488, San Juan, PR 00910, (787) 767–8056 or (787) 767–8181.	Same.
Guam	Jesus T. Salas, Administrator, Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921, (671) 475–1658.	Same.
Virgin Islands	Dean C. Plaskett, Esq., Commissioner, Department of Planning and Natural Resources, Cyril E. King Airport, Terminal Building—Second Floor, St. Thomas, Virgin Islands 00802, (340) 774–3320.	Same.
American Samoa	Pati Faiai, Government Ecologist, Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799, (684) 633–2304.	Same.
Commonwealth of the Northern Mariana Islands.	Thomas B. Pangelinan, Secretary, Department of Lands and Natural Resources, Commonwealth of Northern Mariana Islands Government, Caller Box 10007, Saipan, MP 96950, (670) 322–9830 or (670) 322–9834.	Same.

Questions regarding this matter should be directed to Spiros Droggitis, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (Internet Address: scd@nrc.gov) or at (301) 415–2367.

Dated at Rockville, Maryland, this 21st day of June, 2002.

For the Nuclear Regulatory Commission.

Paul H. Lohaus, Director,

Office of State and Tribal Programs.

[FR Doc. 02–16450 Filed 6–28–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Notice of amendment to this demonstration in order to list all organizations that are eligible to participate in the project and make the resulting adjustments to the table that describes the project's workforce demographics and union representation.

SUMMARY: The Department of Defense (DoD), with the approval of the Office of Personnel Management (OPM), may conduct a personnel demonstration project within DoD's civilian acquisition workforce and those supporting personnel assigned to work directly with it. (*See* Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106; 10 U.S.C.A. § 1701 note), as amended by section 845 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85)). This notice amends the project plan for this demonstration to list as eligible to participate (1) all organizations composed of civilian acquisition workforce members, that is, personnel in acquisition positions designated pursuant to 10 U.S.C. 1721 and (2) all organizations with teams of personnel in which more than half the team consists of members of the acquisition workforce and the remainder consists of supporting personnel assigned to work directly with the acquisition workforce. The notice also makes the resulting adjustments to the table that describes the project's demographics and union representation.

DATES: This amendment is effective July 1, 2002.

FOR FURTHER INFORMATION CONTACT: *DoD:* Anthony D. Echols, Civilian Acquisition Workforce Personnel Demonstration Project, 2001 North Beauregard Street, Suite 750, Alexandria, VA 22311, 703–681–3553. *OPM:* Mary Lamary, U.S. Office of Personnel Management, 1900 E Street NW., Room 7460, Washington, DC 20415, 202–606–2820.

SUPPLEMENTARY INFORMATION:

1. Background

OPM approved and published the project plan for the Civilian Acquisition Workforce Personnel Demonstration Project in the **Federal Register** on January 8, 1999 (Volume 64, Number 5, part VII). An amendment was published in the May 21, 2001, **Federal Register**, Volume 66, Number 98, to (1) correct discrepancies in the list of occupational series included in the project and (2) authorize managers to offer a buy-in to Federal employees entering the project after initial implementation. A second amendment was published in the April 24, 2002, **Federal Register**, Volume 67, Number 79 to (1) make employees in the top broadband level of their career path eligible to receive a ''very high'' overall contribution score (OCS) and (2) reduce the minimum rating period under the Contribution-based Compensation and Appraisal System (CCAS) to 90 consecutive calendar days. This demonstration project involves hiring and appointment authorities; broadbanding; simplified classification; a contribution-based compensation and appraisal system; revised reduction-in-force procedures; academic degree and certificate training; and sabbaticals.

2. Overview

This amendment will reduce the need for future **Federal Register** amendments regarding project coverage by listing all organizations that are eligible to participate in this demonstration. Further, this amendment makes the resulting adjustments to the project's demographics and union representation.

Dated: June 26, 2002.

Office of Personnel Management.

Kay Coles James,

Director.

I. Executive Summary

The project was designed by a Process Action Team (PAT) under the authority of the Under Secretary of Defense for Acquisition and Technology, with the participation of and review by DoD and OPM. The purpose of the project is to enhance the quality, professionalism, and management of the DoD acquisition workforce through improvements in the human resources management system.

II. Introduction

This demonstration project provides managers, at the lowest practical level, the authority, control, and flexibility they need to achieve quality acquisition processes and quality products. This project not only provides a system that retains, recognizes, and rewards employees for their contribution, but also supports their personal and professional growth.

A. Purpose

The purpose of this notice is to list all organizations that are eligible to participate in the Civilian Acquisition Workforce Personnel Demonstration Project. A comprehensive table will reduce the need for future **Federal Register** amendments. Other provisions of the approved plan are unchanged. Pursuant to 5 CFR 470.315, changes are hereby made to the **Federal Register**, Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense; Notice, Friday, January 8, 1999, Volume 64, Number 5, Part VII, pages 1432–7 and 1447.

B. Employee Notification and Collective Bargaining Requirements

The demonstration project program office shall notify employees of this amendment by posting it on demonstration's web site (http://*www.acq.osd.mil/acqdemo*/new_site). As stated in the existing demonstration project plan, ''Employees within a unit to which a labor organization is accorded exclusive recognition under Chapter 71 of title 5, United States Code, shall not be included as part of the demonstration project unless the exclusive representative and the agency have entered into a written agreement covering participation in and implementation of the project'' (Ibid., p. 1432, section II. D., first paragraph).

III. Personnel System Changes

1. Section II. E. Delete all of Section II. E. and replace it with the following:

E. Eligible Organizations

The DoD Civilian Acquisition Workforce Personnel Demonstration Project may include various organizational elements of the Departments of the Army, Navy, and Air Force, and the Office of the Secretary of Defense (Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics). Eligible organizations are shown in Table 1.

TABLE 1.—ELIGIBLE ORGANIZATIONS

DoD component/DoD component major organizational subdivision	Organization/office symbol	Locations
DEPARTMENT OF THE AIR FORCE		
Air Force Materiel Command (AFMC)	Aeronautical System Center (ASC)	Wright-Patterson AFB, OH and all other locations.
AFMC	Air Armament Center (AAC)(except comparison group at Eglin AFB, FL).	Eglin AFB, FL and all other locations.
AFMC	Air Force Flight Test Center (AFFTC)	Edwards AFB, CA and all other locations.
AFMC	Arnold Engineering Development Center (AEDC).	Arnold AFB, TN and all other locations.
AFMC	Electronic Systems Center (ESC)	Hanscom AFB, MA and all other locations.
AFMC	HQ AFMC	Wright-Patterson AFB, OH and all other locations.
AFMC	Ogden Air Logistics Center (OO–ALC)	Hill AFB, UT and all other locations.
AFMC	Oklahoma City Air Logistics Center (OC–ALC)	Tinker AFB, OK and all other locations.
AFMC	Warner Robins Air Logistics Center (WR–ALC).	Warner Robins AFB, GA and all other locations.
Air Force Space Command (AFSPC)	HQ AFSPC	Peterson AFB, CO and all other locations.
AFSPC	Space and Missile Center (SMC)	Los Angeles, CA and all other locations.
Miscellaneous Air Force	Contracting Organizations	All locations in the National Capital Region.
Secretary of the Air Force	Assistant Secretary of the Air Force (Acquisition) (SAF/AQ) and Space Acquisition Organization.	Pentagon, Arlington, VA and all other locations.
DEPARTMENT OF THE ARMY		
Army Acquisition Executive Support Agency (AAESA).	Headquarters, Research, Development, and Acquisition Information Systems Activity (RDAISA); Army Digitization Office (ADO); Acquisition Career Management Office; Contract Support Agency (CSA); Joint Simulations (JSIMS); Leavenworth Support; Management Support Pentagon Support; Training Group.	Orlando, FL; Alexandria, VA; Ft. Belvoir, VA; Falls Church, VA; Pentagon, Arlington, VA; Radford, VA; and all other locations.
AAESA	Program Executive Office (PEO) Air and Missile Defense (*See* Note 1).	Huntsville, AL; Pentagon, Arlington, VA; and all other locations.
AAESA	Program Executive Office Ammo (*See* Note 1)	All locations.
AAESA	Program Executive Office Aviation (AVN) (*See* Note 1).	Huntsville, AL; Pentagon, Arlington, VA; and all other locations.
AAESA	Program Executive Office Chemical/Biological Defense (*See* Note 1).	All locations.

TABLE 1.—ELIGIBLE ORGANIZATIONS—Continued

DoD component/DoD component major organizational subdivision	Organization/office symbol	Locations
AAESA	Program Executive Office Command, Control, and Communication Systems (C3S).	Huntsville, AL; El Segundo, CA; Tallahassee, FL; Ft. Wayne, IN; Ft. Leavenworth, KS; Seoul, Korea; Yong San, Korea; Ft. Monmouth, NJ; White Sands Missile Range, NM; Ft. Sill, OK; Ft. Hood, TX; Ft. Bliss, TX: Ft. Belvoir, VA; McLean, VA; Pentagon, Arlington, VA; and all other locations.
AAESA	Program Executive Office CS/CSS (*See* Note 1).	All locations.
AAESA	Program Executive Office Ground Combat Support Systems (GCSS) (*See* Note 1).	Picatinny Arsenal, NJ; Warren, MI; Pentagon, Arlington, VA; Washington, DC; and all other locations.
AAESA	Program Executive Officer Intelligence, Electronic Warfare, and Sensors (IEW&S) (*See* Notes 1 and 2).	Ft. Monmouth, NJ; Ft. Belvoir, VA; and all other locations.
AAESA	Program Executive Office/Program Management (PM) Joint Simulation System (*See* Note 1).	Orlando, FL; and all other locations.
AAESA	Program Executive Office National Missile Defense Joint Program Office (*See* Note 1).	All locations.
AAESA	Program Executive Office Soldier (*See* Note 1).	All locations.
AAESA	Program Executive Office Standard Army Management Information Systems (STAMIS) (*See* Note 1).	Ft. Knox, KY; Ft. Monmouth, NJ; Ft. Belvoir, VA; Ft. Lee, VA; Ft. Monroe, VA; and all other locations.
AAESA	Program Executive Officer Tactical Missiles (*See* Note 1).	Huntsville, AL; Pentagon, Arlington, VA; Washington, DC; and all other locations.
AAESA	Program Management (PM) Chemical Demilitarization.	Aberdeen Proving Ground, MD; Pentagon, Arlington, VA; Washington, DC; and all locations.
AAESA	Program Management (PM) Joint Program for Biological Defense.	Aberdeen Proving Ground, MD; Ft. Detrick, MD; Ft. Ritchie, MD; Falls Church, VA; and all locations.
Army Materiel Command (AMC)	Headquarters—Acquisition	Alexandra, VA and all locations.
AMC	AMC Headquarters Staff Support Activities	Nahbohnch, Germany; Rock Island, IL; Yong San, Korea; Aberdeen Proving Ground, MD; Alexandria, VA; and all other locations.
AMC	Installations and Services Activity; Intelligence and Technology Security Activity; International Cooperative Program Activity; Logistics Support Activity; Schools of Engineering and Logistics; Separate Reporting Activities: Field Assistance in Science and Technology; Surety Field Activity; Systems Analysis Activity (*See* Note 2).	All locations.
AMC	Aviation and Missile Command (AMCOM) (*See* Note 3).	All locations.
AMC	Communications-Electronics Command (CECOM) (*See* Note 3).	All locations.
AMC	Operations Support Command (*See* Note 3)	All locations.
AMC	Security Assistance Command (*See* Note 2)	All locations
AMC	Simulation, Training, and Instrumentation Command (STRICOM) (*See* Note 3).	All locations.
AMC	Soldier and Biological Chemical Command (SBCCOM) (*See* Note 3) All locations..	
AMC	Tank-Automotive and Armaments Command (TACOM) (*See* Note 3).	All locations.
Headquarters, Department of the Army (HQDA)	Office of the Auditor General; Office Surgeon General; G1; G2; G3; G4; G6; G8.	Pentagon, Arlington, VA.
HQDA	Army Contracting Agency	All locations.
Office of the Assistant Secretary of the Army (Financial Management and Comptroller).	Cost and Economic Analysis Center; SAFM–BUI.	Falls Church, VA; Pentagon, Arlington, VA; and all other locations.

TABLE 1.—ELIGIBLE ORGANIZATIONS—Continued

DoD component/DoD component major organizational subdivision	Organization/office symbol	Locations
Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology).	Director of Assessment and Evaluation (SARD–ZD); Deputy Assistant Secretary of the Army for Logistics (SARD–ZL); Deputy Assistant Secretary for Plans/Programs/Policy (SARD–ZR); Deputy Assistant Secretary of the Army for Procurement (SARD–ZP); Deputy Assistant Secretary for Research and Technology (SARD–ZT); Deputy for Systems Management (SARD–ZS); Management Support; SACO and associated offices.	Ft. Belvoir, VA; Falls Church, VA; Pentagon, Arlington, VA; Radford, VA; and all other locations.
Medical Command (MEDCOM)	Healthcare Acquisition Activity, MEDCOM Acquisition Activity.	Augusta, GA; Honolulu, HI; El Paso, TX; San Antonio, TX; Seattle, WA; Walter Reed Army Medical Center, Washington, DC; Landstuhl, Germany.
MEDCOM	Medical Research and Materiel Command (MRMC) (*See* Note 3).	Ft. Rucker, AL; Natick, MA; Aberdeen Proving Ground, MD; Ft. Detrick, MD; Washington, DC.
MEDCOM	Medical Department Activity	Ft. Greeley, AK; Ft. Richardson, AK; Ft. Wainwright, AK; Ft. Huachuca, AZ; Ft. Carson, CO; Heidelberg, Germany; Ft. Campbell, KY; West Point, NY; Ft. Jackson, SC; Ft. Hood, TX.
MEDCOM	Army Medical Centers	Honolulu, HI; Ft. Bragg, NC; San Antonio, TX; Tacoma, WA; Washington, DC.
MEDCOM	Center for Health Promotion and Preventive Medicine.	Aberdeen Proving Ground, MD.
US Army Eighth Army (EUSA)	Contracting Command Korea/EAKC	Seoul, Korea and all other locations.
EUSA	Troop Command	Seoul, Korea and all other locations.
US Army Test and Evaluation Command (ATEC).	HQ, ATEC	Alexandria, VA.
ATEC	Operational Test Command (OTC)	Ft. Hood, TX and all other locations.
ATEC	Army Evaluation Center (AEC)	Alexandria, VA and all other locations.
ATEC	Developmental Test Command (DTC)	Aberdeen Proving Ground, MD and all other locations.
Headquarters, Department of the Army (HQDA)	Defense Supply Services Washington (DSSW)/Joint-DSSW.	Alexandria, VA; Ft. Belvoir, VA; Falls Church, VA; Washington, DC.
National Guard Bureau (NGB) (*See* Note 4)	Program Executive Office/Program Management RCAS, NGB–RCS–RA.	Arlington, VA.
Joint Activities	Information Management Support Center	Pentagon, Arlington, VA and all other locations.
Military Traffic Management Command (MTMC)	HQ, MTMC	Alexandria, VA.
MTMC	MTAQ	Falls Church, VA and all other locations.
MTMC	PM Global Freight Management System	Alexandria, VA.
MTMC	598th Transportation Terminal Group; 599th Transportation Terminal Group; 836th Transportation Terminal Group Deployment Support Command.	Yokohama, Japan; Rotterdam, Netherlands; Oahu, HI; Fort Eustis, VA; and all other locations.
Space and Missile Defense Command (SMDC)	SMDC (See Note 1)	Huntsville, AL; Kwajalein Atoll, Marshall Islands; Colorado Springs, CO; White Sands Missile Range, NM; Arlington, VA; Fairfax, VA; all other locations.
Training and Doctrine Command (TRADOC)	Headquarters, TRADOC Acquisition Directorate and Small and Disadvantaged Business Utilization Office.	Ft. Monroe, VA.
TRADOC	Directorate of Contracting and TRADOC Contracting Activity.	Ft. Eustis, VA.
TRADOC	Directorate of Contracting and Mission Contracting Activity.	Ft. Leavenworth, KS.
TRADOC	Directorate of Contracting and Mission Contracting Activity.	Ft. Lee, VA.
TRADOC	Directorates of Contracting	McClellan, AL; Rucker, AL; Ft. Huachuca, AZ; Presidio at Monterey, CA; Ft. Benning, GA; Ft. Gordon, GA; Ft. Knox, KY; Ft. Leonard Wood, MO; Ft. Sill, OK; Carlisle Barracks, PA; Ft. Jackson, SC; Ft. Bliss, TX; Ft. Lee, VA.
Corps of Engineers (COE)	Headquarters	Washington, DC.
COE	Regional Headquarters	All locations.
COE	Division, Directorates of Contracting	All locations.
COE	District Contracting Offices	All locations.

TABLE 1.—ELIGIBLE ORGANIZATIONS—Continued

DoD component/DoD component major organizational subdivision	Organization/office symbol	Locations
COE	Transatlantic Programs Center, Directorate of Contracting.	All locations.
COE	Humphreys Engineering Center Support Activity, Contracting Office.	All locations.
COE	Marine Design Center	All locations.
Intelligence and Security Command	704 Military Brigade, Headquarters and Headquarters Company; 718th Military Group; HQ, U.S. Army (USA) Intelligence Security Command; USA Element National Security Agency (NSA); USA Foreign Counter Intelligence (CI) Activity; USA Land Information Warfare; USA National Ground Intelligence Center (*See* Note 2).	All locations.
Criminal Investigation Command	Headquarters	Ft. Belvoir, VA and all other locations.
U.S. Army Europe and 7th Army (USAREUR)	Wiesbaden Contracting Center	Wiesbaden, Germany.
USAREUR	USA Contracting Command Europe	Brussels, Belgium; Bad Kreuznach, Germany; Grafenwohr, Germany; Seckenheim, Germany; Wiesbaden, Germany; Wuerzburg, Germany; Vicenza, Italy; and all other locations.
USAREUR	USA Transportation Management Center	Grafenwoehr, Germany.
USAREUR	Southern European Task Force	Vicenza, Italy.
USAREUR	21st Theater Army Area Command	Kaiserslautern, Germany.
USAREUR	V Corps	Heidelberg, Germany.
USAREUR	7th Army Training Command	Grafenwoehr, Germany.
USAREUR	26th Support Group	Heidelberg, Germany.
Forces Command (FORSCOM)	U.S. Army Garrisons (USAGs)	Ft. Carson, CO; Ft. McPherson, GA; Ft. Stewart, GA; Ft. Riley, KS; Ft. Campbell, KY; Ft. Polk, LA; Ft. Bragg, NC; Ft. Hood, TX; Ft. Dix, NJ; Ft. Drum, NY; Ft. Lewis, WA; Ft. McCoy, WI.
FORSCOM	Reserve Command	All locations.
FORSCOM	Signal Command	Ft. Huachuca, Arizona and all other locations.
FORSCOM	First Army; Third Army; Fifth Army	All locations.
US Military Academy	West Point (See Note 5)	West Point, NY.
Military District of Washington	3rd U.S. Infantry; 12th Aviation Battalion; Army Signal Activity; Arlington National Cemetery; Joint Personal Property Shipping Office; U.S. Army Band; White House Transportation Agency.	All locations.
U.S. Army National Guard Bureau (ANGB)	USPFO Activity (*See* Note 3)	All locations.
ANGB	State Area Command (*See* Note 3)	All locations.
Southern Command	U.S. Army Element, Headquarters Southern Command.	Miami, FL and all other locations.
Recruiting Command	USA Recruiting Support Battalions	Fort Knox, KY and all other locations.
Military Entrance Processing Command (MEPCOM).	Headquarters, USA, MEPCOM	North Chicago, IL.
Total Army Personnel Command	Information System Agency, Army Reserve Personnel Center.	St. Louis, MO.
U.S. Army Pacific (USARPAC)	HQ, USARPAC; and subordinate command/installations.	All locations.
Office of the Secretary of the Army	Immediate Office of the Secretary of the Army	Pentagon, Arlington, VA and all other locations.
Office of the Secretary of the Army	Office of the Administrative Assistant to the Secretary of the Army.	Pentagon, Arlington, VA and all other locations.
Office of the Secretary of the Army	Office of the Chief of Legislative Liaison	Pentagon, Arlington, VA and all other locations.
Office of the Secretary of the Army	Office of Small and Disadvantaged Business Utilization.	Pentagon, Arlington, VA and all other locations.
Office of the Secretary of the Army	Office of Director, Information Systems for Command Control, Communications, and Computers.	Pentagon, Arlington, VA and all other locations.
Field Operating Offices of the Office of the Secretary of the Army.	Army Broadcasting Service	Alexandria, VA.
Field Operating Offices, Office of the Secretary of the Army.	Cost and Economic Analysis Agency	Arlington, VA and all other locations.
Field Operating Offices, Office of the Secretary of the Army.	Army Safety Center	Ft. Rucker, AL and all other locations.
Field Operating Offices, Office of the Secretary of the Army.	USA War College (See Note 5)	Carlisle Barracks, PA and all other locations.

TABLE 1.—ELIGIBLE ORGANIZATIONS—Continued

DoD component/DoD component major organizational subdivision	Organization/office symbol	Locations
Field Operating Offices, Office of the Secretary of the Army.	Communication Electronic Service Office	Alexandria, VA and all other locations.
Special Operations Command	Office of the Acquisition Executive and all associated PEOs and PMs.	All locations.
Joint Activities	Army Visual Information Center	Pentagon, Arlington, VA and all other locations.
Joint Activities	Defense Acquisition University (DUA) (See Note 5).	Ft. Belvoir, VA.
DEPARTMENT OF THE NAVY		
Navy		
Assistant Secretary of the Navy (Research, Development, and Acquisition).	(ASN(RD&A))	Arlington, VA.
Navy International Program Office (NIPO)	NIPO	Arlington, VA.
Naval Supply Systems Command (NAVSUP)	Fleet and Industrial Supply Center, Puget Sound.	Bremerton, WA.
NAVSUP	Fleet and Industrial Supply Center	San Diego, CA.
Naval Seal Systems Command (NAVSEA)	TEAM CX (Surface Ship Directorate (SEA 91), Program Executive Office Aircraft Carriers, and Program Executive Office Expeditionary Warfare).	Arlington, VA.
Marine Corps		
Marine Corps Systems Command (MARCORSYSCOM).	Amphibious Vehicle Test Bed (AVTB); Marine Corps Tactical Systems Support Activity (MCTSSA).	Camp Pendleton, CA.
MARCORSYSCOM	Headquarters, Marine Corps Systems Command (MARCORSYSCOM); CSLE; Program Support Section.	Albany, GA; Rock Island, IL; Picatinny Arsenal, NJ; Warren, MI; Quantico, VA.
DEPARTMENT OF DEFENSE		
Office of the Secretary of Defense Office of the Under Secretary of Defense for Acquisition, Logistics, and Technology (USD(AT&L)).	ATSD (NCB); DIR, Admin; DIR, API; DDR&E; DIR, DP; DSB; DUSD (ES); DUSD (AR); DUSD (AT); DUSD (IA&I); DUSD (I&CP); DUSD (L); DIR, S&TS; DIR, TSE&E; Spec Prog; SADBU.	Pentagon, Arlington, VA.
Defense Advanced Research Projects Agency (DARPA).	All (See Note 5)	Arlington, VA.
Defense Logistics Agency	All	All locations.
Missile Defense Agency	All	Arlington, VA.
Defense Contract Management Agency (DCMA).	All	All locations.
Defense Threat Reduction Agency (DTRA)	All	Arlington, VA; Ft. Belvoir, VA.
Defense Information Systems Agency	PM DISN System Integration Project	Falls Church, VA.

Note 1: Includes all associated PMs and liaison representatives.

Note 2: Excludes Defense Civilian Intelligence Personnel System positions.

Note 3: Excludes positions covered by another demonstration project that is operating or under development within DoD.

Note 4: Only title 5 National Guard Bureau positions are eligible to be included in this demonstration.

Note 5: Excludes Administratively Determined pay plan employees.

2. *Section II F.:* Delete the entire first paragraph of Section II. F. and replace it with the following two paragraphs:

In determining the scope of the demonstration project, primary consideration was given to the number and diversity of occupations within (1) the DoD acquisition workforce and (2) the teams of personnel, more than half of which consist of members of the acquisition workforce and the remainder of supporting personnel assigned to work directly with the acquisition workforce. This can include positions in the following fields, as well as any other position or group of positions in acquisition-related fields or that perform acquisition-related duties: program management; systems planning, research, development, engineering, and testing; procurement, including contracting; industrial property management; logistics; quality control and assurance; manufacturing and production; business, cost estimating, financial management, and auditing; education, training, and career development; construction; and joint development and production with other Government agencies and foreign governments.

Additionally, in determining the scope of the demonstration project, current DoD human resources management design goals and priorities for the entire civilian workforce were

considered. While the intent of this project is to provide DoD activities with increased control and accountability for their covered workforce, the decision was made to restrict development efforts initially to covered General Schedule (GS) positions. Employees covered under the Performance Management and Recognition System Termination Act (pay plan code GM) are General Schedule employees and are covered under the demonstration project.

3. Replace current Table 3 and the first sentence of the final paragraph of Section II. F. with the following:

TABLE 3.—DOD ACQUISITION WORKFORCE DEMOGRAPHICS AND UNION REPRESENTATION

Career Paths:	
Business Management & Technical Management Professional	95,821
Technical Management Support	1,084
Administrative Support	3,389
Total	*100,294
DoD Components:	
DoD Agencies	23,574
Air Force	16,969
Army	33,180
Navy	25,823
Marine Corps	748
Total	*100,294
Occupational Families 22.	
Percentage of Veterans 26.9%.	
Union Affiliation 54,944.	

* These figures are as of February 25, 2002.

Although more than 100,000 employees have been identified for eligibility to participate in this demonstration project, the project is limited by statute to a maximum of 95,000 participants at any given time. Of the approximately 100,000 personnel currently eligible to participate in the project, 55 percent are represented by labor unions. The American Federation of Government Employees (AFGE), the National Federation of Federal Employees (NFFE), and the National Association of Government Employees (NAGE) represent the vast majority of bargaining unit employees.

[FR Doc. 02–16603 Filed 6–27–02; 12:18 pm]

BILLING CODE 6325–43–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Magnum Hunter Resources, Inc.) File No. 1–12508

June 25, 2002.

Magnum Hunter Resources, Inc., an Nevada 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, $.002 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 18 by complying with all applicable laws in effect in the State of Nevada, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

On June 7, 2002, the Board of Trustees (''Board'') of the Issuer approved a resolution to withdraw the Issuer's Security from listing on the Amex. In making the decision to withdraw its Security from the Amex, the Board considered the direct and indirect costs and the division of the market resulting from dual listing on AMEX and New York Stock Exchange, Inc. (''NYSE''). The Issuer stated in its application that trading in the Security began on the NYSE on June 25, 2002.

The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and shall have no affect upon the Security's continued listing on the NYSE and registration under Section 12(b) of the Act.[3]

Any interested person may, on or before July 15, 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.

[1] 15 U.S.C. 78L(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78l(b).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–16457 Filed 6–28–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (Computer Sciences Corporation, Common Stock, $1.00 Par Value, and Attached Preferred Stock Purchase Rights) File No. 1–4850

June 25, 2002.

Computer Sciences Corporation, a Nevada corporation, (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $1.00 par value, and Attached Preferred Stock Purchase Rights (expiring February 18, 2008) (''Securities''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on April 16, 2002 to withdraw its Securities from listing on the Exchange. In making the decision to withdraw the Security from listing and registration on the PCX, the Issuer states that it does not perceive any benefit of continued listing of the Securities on the PCX and that less than 1% of the Common Stock sold in open market transactions are traded on the PCX. The Issuer will continue to list its Securities on the New York Stock Exchange, Inc. (''NYSE'').

The Issuer's application relates solely to the withdrawal of the Securities from listing on the PCX and shall have no affect upon the Securities' continued listing on the NYSE and registration under section 12(b) of the Act.[3]

Any interested person may, on or before July 15, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and what terms, if any, should be imposed by the Commission

[4] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

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.[4]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–16454 Filed 6–28–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3426]

State of Arizona

As a result of the President's major disaster declaration on June 25, 2002, I find that Apache and Navajo Counties and the Fort Apache Indian Reservation in the State of Arizona constitute a disaster area due to damages caused by wildfires occurring on June 18, 2002 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 24, 2002 and for economic injury until the close of business on March 25, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Coconino, Gila, Graham and Greenlee Counties in the State of Arizona; Montezuma County in the State of Colorado; Catron, Cibola, McKinley and San Juan Counties in the State of New Mexico; and San Juan County in the State of Utah.

The interest rates are:

	Percent
For Physical Damage:	*Percent*
Homeowners With Credit Available Elsewhere	*6.750*
Homeowners Without Credit Available Elsewhere	*3.375*
Businesses With Credit Available Elsewhere	*7.000*
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	*3.500*
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	*6.375*
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	*3.500*

The number assigned to this disaster for physical damage is 342605. For economic injury the number is 9Q3200 for Arizona; 9Q3300 for Colorado; 9Q3400 for New Mexico; and 9Q3500 for Utah.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 25, 2002.

Herbert L. Mitchell,

Associate Administrator, for Disaster Assistance.

[FR Doc. 02–16522 Filed 6–28–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3423]

State of Minnesota; Amendment # 1

In accordance with a notice received from the Federal Emergency Management Agency, dated June 24, 2002, the above-numbered Declaration is hereby amended to include Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman and Red Lake Counties in the State of Minnesota as a disaster area due to damages caused by severe storms, flooding and tornadoes occurring on June 9, 2002 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Becker, Clay, Clearwater, Itasca, Pennington, Polk and St. Louis Counties in Minnesota; and Cass, Grand Forks, Pembina, Traill and Walsh Counties in North Dakota. All other counties contiguous to the above-names primary counties have been previously declared.

The economic injury number assigned to North Dakota is 9Q3100.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is August 13, 2002 and for economic injury the deadline is March 14, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 25, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–16521 Filed 6–28–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on April 22, 2002 (67 FR 19614)

DATES: Comments must be submitted on or before July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Debra Steward, Office of Information Technology and Support Systems, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On April 22, 2002, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 67 FR 19614. FRA received no

[4] 17 CFR 200.30–3(a)(1).

comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The updated requirements are being submitted for clearance by OMB as required by the PRA.

Title: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants.

OMB Control Number: 2130–0517.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Form(s): FRA–F–120.

Abstract: The Supplemental Qualifications Statement for Railroad Safety Inspector Applicants is an information collection instrument used by FRA to gather additional background data so that FRA can evaluate the qualifications of applicants for the position of Railroad Safety Inspector. The questions cover a wide range of general and specialized skills, abilities, and knowledge of the five types of railroad safety inspector positions.

Annual Estimated Burden Hours: 6,000 hours.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on June 25, 2002.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 02–16473 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending June 21, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–12532.

Date Filed: June 19, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC31 SOUTH 0125 dated May 28, 2002, South Pacific (except between New Zealand and USA), Resolutions r1–r34. PTC31 SOUTH 0126 dated May 28, 2002, South Pacific between New Zealand and USA Resolutions, r35–r47. Minutes—PTC31 SOUTH 0127 dated June 4, 2002. Tables—PTC31 SOUTH Fares 0029 dated June 11, 2002. Intended effective date: October 1, 2002.

Docket Number: OST–2002–12546.

Date Filed: June 20, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 USA–EUR 0137 dated June 18, 2002, North Atlantic–USA–Europe Resolution 002ab, (except between USA and Austria, Belgium, Germany, Iceland, Italy, Netherlands, Scandinavia, Switzerland). Intended effective date: August 1, 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–16503 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 21, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–12543.

Date Filed: June 20, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 11, 2002.

Description: Application of Hageland Aviation Services, Inc., pursuant to section 401(d) and subpart B, requesting a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail between any point in any State in the United States or District of Columbia, or any Territory or Possession of the United States, and any other point in any State of the United States or District of Columbia, or any Territory or Possession of the United States.

Docket Number: OST–2002–12551.

Date Filed: June 21, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 12, 2002.

Description: Application of Air Memphis, pursuant to 49 U.S.C. section 41302, part 211 and subpart B, requesting a foreign air carrier permit to engage in charter air transportation of property and mail between a point or points in the Arab Republic of Egypt, and a point or points in the United States, including service via

intermediate stops, beginning on or about July 12, 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–16514 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 6, 2002. No comments were received.

DATES: Comments must be submitted on or before July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Evie Chitwood, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone: 202–366–5127; FAX: 202–366-6988, or e-mail: *evie.chitwood@marad.dot.gov.* Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Intermodal Access to Shallow Draft Ports and Terminals Survey.

OMB Control Number: 2133–NEW.

Type of Request: Approval of a new request.

Affected Public: Officials at the Nation's key shallow draft marine ports and terminals.

Form(s): MA–1024B.

Abstract: The Maritime Administration (MARAD) has primary responsibility for ensuring the availability of efficient water transportation service to shippers and consumers. This information collection is designed to be a survey of critical infrastructure issues that impact the Nation's shallow draft marine ports and terminals. The survey will provide MARAD with key road, rail, and waterside access data as well as security information and highlight the issues that affect the flow of cargo through U.S. shallow draft marine ports and terminals.

Annual Estimated Burden Hours: 22.5 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments Are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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 collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on June 25, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–16470 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Motor Theft Prevention Standard; Isuzu

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT)

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Isuzu Motors America, Inc. (Isuzu) for an exemption of a high-theft line, the Isuzu Axiom, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington DC 20590. Ms. Proctor's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated January 24, 2002, Isuzu Motors America, Inc. (Isuzu), on behalf of Isuzu Motors Limited, Tokyo, Japan requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Isuzu Axiom vehicle line, beginning with MY 2003. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Section 33106(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997—2000. However, it does not address the contingency of what to do after model year 2000 in the absence of a decision under Section 33103(d). 49 U.S.C. § 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of Section 33103(d) is that the National Highway Traffic Safety Administration (NHTSA) may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to Section 330103(d)(3).

Isuzu's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and

the specific content requirements of § 543.6.

In its petition, Isuzu provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Isuzu will install its antitheft device as standard equipment on the MY 2003 Isuzu Axiom carline. The antitheft device installed on the Isuzu Axiom includes both an audible and visual alarm and an engine immobilizer system.

The alarm system consists of the conventional ignition switch, alarm controller, door key switches, door lock switches, door switches, engine hood switch and horn. The normal locking of the vehicle door automatically activates the alarm system. In order to arm the device, the key must be removed from the ignition switch, all of the doors and engine hood must be closed and the driver's door must be locked with the ignition key. An indicator light within the vehicle informs the vehicle operator whether the device is armed, disarmed or alarmed.

Once armed, switches in the vehicle's doors, key cylinders and hood monitor the vehicle for unauthorized entry. Isuzu stated that all system components have been placed in inaccessible locations. If the device is armed and unauthorized entry is attempted by opening any of the doors or the engine hood, releasing the inside door lock knob, operating the inside engine hood release handle or the power door lock button, the antitheft device will be triggered. The alarm system will operate to sound the horn installed exclusively for this system and flash the headlights. The alarm will cycle for approximately three minutes and then shut down in order to prevent the battery from becoming discharged. Even if the alarm shuts down, the system will remain armed.

Unlocking either the driver's door or the tailgate door with the ignition key deactivates the antitheft device. Inserting the key in the ignition switch and rotating the key to the ''ACC'' position will also disarm the device. The remote control is used like the key to lock or unlock the vehicle door. The remote control will not take the place of the key. However, it can be used to lock and unlock the vehicle door, arm and disarm the alarm system, and deactivate the alarm.

The engine immobilizer system consists of an immobilizer electronic control unit (ECU), antenna coil, transponder, powertrain control module (PCM) and immobilizer security card.

Isuzu's antitheft device is activated when the driver/operator turns off the engine using the properly coded ignition key. When the ignition key is turned to the start position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle.

Isuzu stated that there are approximately seven quadrillion unique electrical key codes. The security code is a four-digit unique electronic number, which is written at the end of the Axiom production line on a ''CAR PASS'' card, which is handed over to the owner of the vehicle only. The security code should prevent the immobilizer ECU from being changed without the approval of the vehicle owner. Without this security code, a diagnostic tool has no access to important immobilizer functions or the transponder.

In order to ensure the reliability and durability of the device, Isuzu conducted tests based on its own specified standards conducted and stated its belief that the device is reliable and durable since it has complied with Isuzu's specified requirements for each test. Isuzu provided a detailed list of the component and on-line tests that were conducted: general performance, temperature and voltage combination tests, vibration tests, thermal shock, field decay, electromagnetic compatibility, corrosion resistance and high speed durability.

Isuzu reported that the proposed alarm system is identical to the system installed on the Acura SLX as standard equipment. The Acura SLX was granted an exemption from the parts marking requirements of the Federal Motor Vehicle Theft Prevention Standard beginning with the 1997 model year (96 FR 24852).

Additionally, Isuzu states the Axiom immobilizer is a system similar to the General Motors' ''PASS-Key III'' device installed on the MY 1997 Buick Park Avenue and MY 1998 Cadillac Seville vehicle lines. The agency granted the MY 1997 Buick Park Avenue and the MY 1998 Cadillac Seville a full exemption from the parts-marking requirements. The theft rates for the Buick Park Avenue are 0.4702, 1.2900 and 1.3021, respectively, in MYs 1997, 1998 and 1999. The theft rates for the Cadillac Seville are 1.6998 and 2.4141, respectively, in MYs 1998 and 1999. Isuzu contends that two lines have very low theft rates in spite of the fact that they are not equipped with audible or visible indicators to protect the vehicle against unauthorized entry. In further support of its request for petition for exemption, Isuzu also identified five other vehicle lines (Cadillac Deville, Pontiac Bonneville, Buick LeSabre, Oldsmobile Aurora, and Chevrolet Venture) that are all equipped with the PASS-Key III device and have been granted full exemptions from the parts-marking requirements.

On the basis of this comparison, Isuzu has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Isuzu, the agency believes that the antitheft device for the Isuzu Axiom vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide the types of performance listed in ''543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR part 543.6(a)(4) and (5), the agency finds that Isuzu has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Isuzu provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Isuzu's petition for an exemption for the MY 2003 Isuzu Axiom vehicle line from the parts-marking requirements of 49 CFR part 541. If Isuzu decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Isuzu wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. § 543.7(d)

states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions Ato modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: June 26, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–16471 Filed 6–28–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 394X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Burke and Williams Counties, ND

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon and discontinue service over a 60.51-mile line of railroad between milepost 26.59 in Powers Lake, and milepost 87.10 in Grenora, in Burke and Williams Counties, ND. The line traverses United States Postal Service Zip Codes 58845, 58856, 58830, 58795, 58755, and 58773.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 31, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 11, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 22, 2002, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606–6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 5, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by July 1, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: June 25, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–16456 Filed 6–28–02; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

[Treasury Order Number 101–05]

Reporting Relationships and Supervision of Officials, Offices and Bureaus, and Delegation of Certain Authority in the Department of the Treasury

By virtue of the authority vested in the Secretary of the Treasury, *it is ordered that:*

1. The Deputy Secretary shall report directly to the Secretary.

2. The Chief of Staff shall report directly to the Secretary and shall exercise supervision over the Director, Secretary's Scheduling Office, and the Executive Secretary.

3. The Executive Secretary shall report directly to the Chief of Staff and shall exercise supervision over the functions of the Executive Secretariat Correspondence Unit; the Office of Public Correspondence; and, for purposes of administrative and managerial control, over the Special Assistant to the Secretary (National Security). The Special Assistant to the Secretary (National Security) shall report to the Secretary and the Deputy Secretary.

4. The following officials shall report through the Deputy Secretary to the Secretary and shall exercise supervision over those officers and organizational entities set forth on the attached organizational chart:

Under Secretary (International Affairs)
Under Secretary (Domestic Finance)
Under Secretary (Enforcement)
General Counsel
Treasurer of the United States
Assistant Secretary (Legislative Affairs)
Assistant Secretary (Public Affairs)
Assistant Secretary (Economic Policy)
Assistant Secretary (Tax Policy)
Assistant Secretary (Management) and Chief Financial Officer
Commissioner of Internal Revenue
Comptroller of the Currency
Director, Office of Thrift Supervision
Director, Bureau of Engraving and Printing
Director, United States Mint

5. The Inspector General and the Treasury Inspector General for Tax Administration shall report to and be under the general supervision of the Secretary and the Deputy Secretary.

6. The Assistant Secretary (Management) also holds the office of the Department's Chief Financial Officer established pursuant to Chapter 9, Title 31, U.S.C., and serves as the Department's Chief Operating Officer for purposes of the Presidential Memorandum, ''Implementing Government Reform'', dated July 11, 2001.

7. The Deputy Assistant Secretary (Information Systems), reporting to the Assistant Secretary for Management and Chief Financial Officer, is designated as the Department's Chief Information Officer pursuant to Division E of the Clinger-Cohen Act of 1996, and E.O. 13011, dated July 16, 1996, and shall have direct access to the Secretary to the extent required by that Act and related statutes.

8. The Deputy Secretary is authorized, in that official's own capacity and that official's own title, to perform any functions the Secretary is authorized to perform and shall be responsible for referring to the Secretary any matter on which action would appropriately be taken by the Secretary. Any action heretofore taken by the Deputy Secretary in that official's own title is hereby affirmed and ratified as the action of the Secretary.

9. The Under Secretaries, the General Counsel, the Assistant Secretaries, and the Treasurer of the United States are authorized to perform any functions the Secretary is authorized to perform. Each of these officials will ordinarily perform under this authority only those functions that arise out of, relate to, or concern the activities or functions of, or the laws administered by or relating to, the bureaus, offices, or other organizational units over which the incumbent has supervision. Each of these officials shall perform under this authority in the official's own capacity and the official's own title and shall be responsible for referring to the Secretary any matter on which action would appropriately be taken by the Secretary. Any action heretofore taken by any of these officials in that official's own title is hereby affirmed and ratified as the action of the Secretary.

10. The Deputy Secretary shall carry out the duties and powers of the Secretary when the Secretary is absent or unable to serve, or when the office of the Secretary is vacant.

11. During any period when both the Secretary and the Deputy Secretary have died, resigned, or are otherwise unable to perform the functions and duties of the office of the Secretary of the Treasury, those officials designated by the President pursuant to Executive Order 13246, dated December 18, 2001, as amended by Executive Order 13261, dated March 19, 2002, or otherwise designated pursuant to law, shall act as and perform the functions and duties of the office of the Secretary.

12. *Authorities.*

a. 31 U.S.C. 301 and 321(b); and

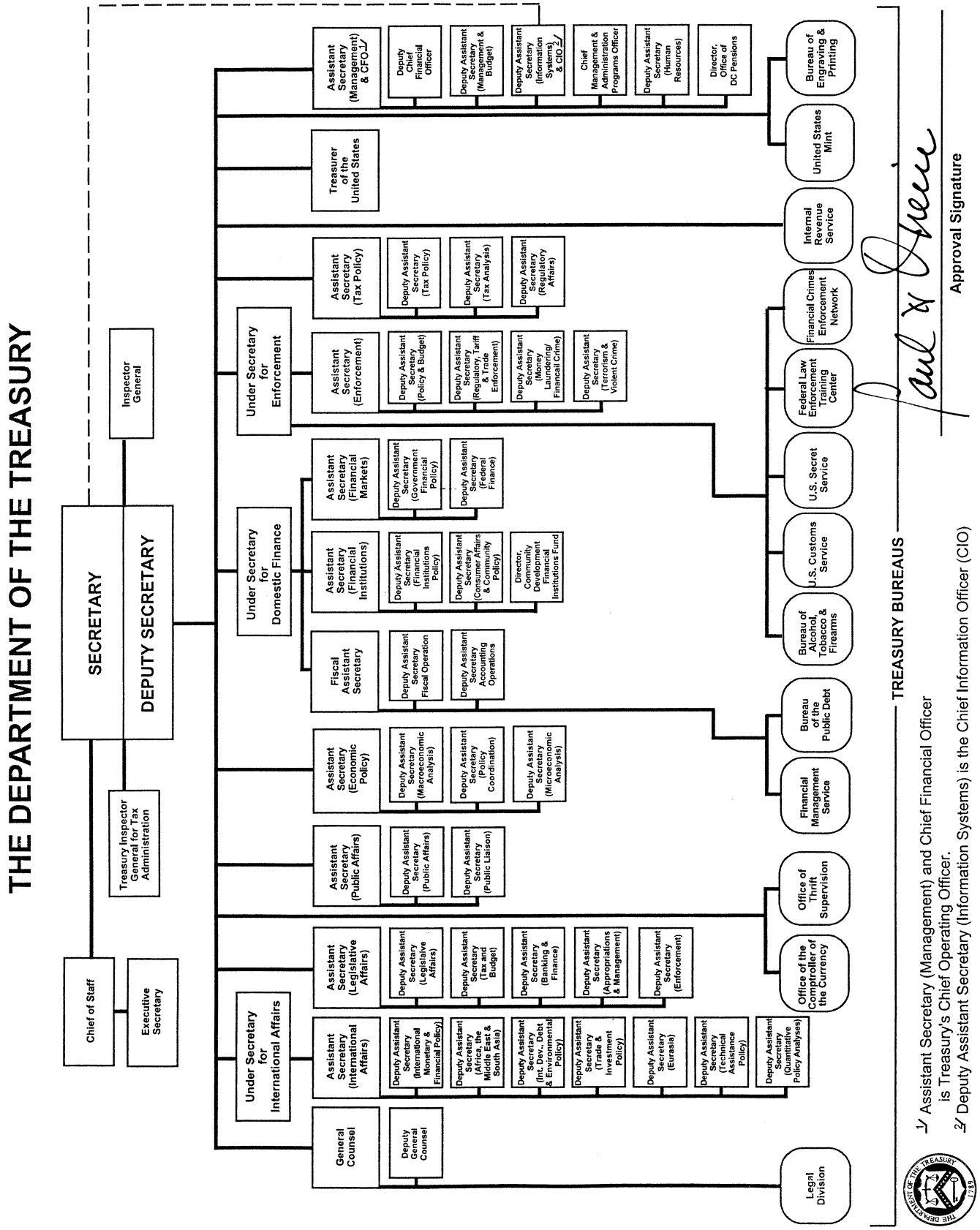
b. Executive Order 13246, dated December 18, 2001, as amended by Executive Order 13261, dated March 19, 2002.

13. *Cancellation.* Treasury Order 101–05, ''Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury,'' dated January 7, 1999, is superseded.

14. *Office of Primary Interest.* Deputy Assistant Secretary (Human Resources).

Paul H. O'Neill,
Secretary of the Treasury.

BILLING CODE 4810–25–P


THE DEPARTMENT OF THE TREASURY
SECRETARY
DEPUTY SECRETARY
Chief of Staff
Executive Secretary
Inspector General
Treasury Inspector General for Tax Administration
Under Secretary for International Affairs
Under Secretary for Domestic Finance
Under Secretary for Enforcement
General Counsel
Deputy General Counsel
Assistant Secretary (International Affairs)
Deputy Assistant Secretary (International Monetary & Financial Policy)
Deputy Assistant Secretary (Africa, the Middle East & South Asia)
Deputy Assistant Secretary (Int. Dev., Debt & Environmental Policy)
Deputy Assistant Secretary (Trade & Investment Policy)
Deputy Assistant Secretary (Eurasia)
Deputy Assistant Secretary (Technical Assistance Policy)
Deputy Assistant Secretary (Quantitative Policy Analyses)
Assistant Secretary (Legislative Affairs)
Deputy Assistant Secretary (Legislaive Affairs)
Deputy Assistant Secretary (Tax and Budget)
Deputy Assistant Secretary (Banking & Finance)
Deputy Assistant Secretary (Appropriations & Management)
Deputy Assistant Secretary (Enforcement)
Assistant Secretary (Public Affairs)
Deputy Assistant Secretary (Public Affairs)
Deputy Assistant Secretary (Public Liaison)
Assistant Secretary (Economic Policy)
Deputy Assistant Secretary (Macroeconomic Analysis)
Deputy Assistant Secretary (Policy Coordination)
Deputy Assistant Secretary (Microeconomic Analysis)
Fiscal Assistant Secretary
Deputy Assistant Secretary Fiscal Operation
Deputy Assistant Secretary Accounting Operations
Assistant Secretary (Financial Institutions)
Deputy Assistant Secretary (Financial Institutions Policy)
Deputy Assistant Secretary (Consumer Affairs & Community Policy)
Director, Community Development Financial Institutions Fund
Assistant Secretary (Financial Markets)
Deputy Assistant Secretary (Government Financial Policy)
Deputy Assistant Secretary (Federal Finance)
Assistant Secretary (Enforcement)
Deputy Assistant Secretary (Policy & Budget)
Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement)
Deputy Assistant Secretary (Money Laundering/ Financail Crime)
Deputy Assistant Secretary (Terrorism & Violent Crime)
Assistant Secretary (Tax Policy)
Deputy Assistant Secretary (Tax Policy)
Deputy Assistant Secretary (Tax Analysis)
Deputy Assistant Secretary (Regulatory Affairs)
Treasurer of the United States
Assistant Secretary (Management) & CFO 1/
Deputy Chief Financial Officer
Deputy Assistant Secretary (Management & Budget)
Deputy Assistant Secretary (Information Systems) & CIO 2/
Chief Management & Administration Programs Officer
Deputy Assistant Secretary (Human Resources)
Director, Office of DC Pensions
Legal Division
Office of the Comptroller of the Currency
Office of Thrift Supervision
Financial Management Service
Bureau of the Public Debt
Bureau of Alcohol, Tobacco & Firearms
U.S. Customs Service
U.S. Secret Service
Federal Law Enforcement Training Center
Financial Crimes Enforcement Network
Internal Revenue Service
United States Mint
Bureau of Engraving & Printing
TREASURY BUREAUS
Approval Signature
1/ Assistant Secretary (Management) and Chief Financial Officer is Treasury's Chief Operating Officer.
2/ Deputy Assistant Secretary (Information Systems) is the Chief Information Officer (CIO)

[FR Doc. 02–16405 Filed 6–28–02; 8:45 am]

BILLING CODE 4810–25–C

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Proposed Collection; Comment Request

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 Bureau of Engraving and Printing within the Department of the Treasury is soliciting comments concerning the Owner's Affidavit of Partial Destruction of Mutilated Currency.

SUPPLEMENTARY INFORMATION:

Title: Owner's Affidavit of Partial Destruction of Mutilated Currency.

OMB Number: 1520–0001.

Form Number: BEP 5283.

Abstract: This is a request for an extension.

Current Action: The Office of Currency Standards, Mutilated Currency Division, Bureau of Engraving and Printing request owners of partially destroyed U.S. currency to complete a notarized affidavit (BEP 5283) for each claim submitted when substantial portions of notes are missing.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: The estimated number of respondents for the next three years is 180, with a total estimated number of burden hours of 90.

Estimated Total Annual Burden Hours: The estimated number of annual burden hours is 270.

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.

Dated: May 3, 2002.

Pamela Grayson,

Management Analyst, Office of Budget and Strategic Planning, Bureau of Engraving and Printing.

[FR Doc. 02–16414 Filed 6–28–02; 8:45 am]

BILLING CODE 4840–01–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2002 and ending on December 31, 2002 the prompt payment interest rate and the contract dispute interest rate are each 5.250 per centum per annum.

DATES: Comments or inquiries may be mailed to Eleanor Farrar, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328. A copy of this Notice will be available to download from *http://www.publicdebt.treas.gov.*

DATES: This notice announces the applicable interest rate for the July 1, 2002 to December 31, 2002 period.

FOR FURTHER INFORMATION CONTACT: Rank Dunn, Manager, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–5170; Eleanor Farrar, Team Leader, Borrowings Accounting Team, Office of Public Debt Accounting, Bureau of the Public Debt, (304) 480–5166; Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8692; or Mary C. Schaffer, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8692.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 Sec. 2, Pub. L. 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978 Sec. 12, Pub. L. 95–563, 92 Stat. 2389 and indirectly, the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury for the Renegotiation Board under Pub. L. 92–41.

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable, for the period beginning July 1, 2002 and ending on December 31, 2002, is 5.250 per centum per annum. This rate is determined pursuant to the above-mentioned sections for the purpose of said sections.

Dated: June 26, 2002.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 02–16602 Filed 6–28–02; 8:45 am]

BILLING CODE 4810–39–M

Corrections

Federal Register
Vol. 67, No. 126
Monday, July 1, 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 COMMERCE

Foreign-Trade Zones Board

[Order No. 1231]

Expansion of Foreign-Trade Zone 8, Toledo, Ohio, Area

Correction

In notice document 02–15343 appearing on page 41393 in the issue of Tuesday, June 18, 2002, the subject heading is corrected to read as set forth above.

[FR Doc. C2–15343 Filed 6–28–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC65

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Decommissioning Activities

Correction

In rule document 02–11640 beginning on page 35398 in the issue of Friday, May 17, 2002, make the following corrections:

§250.1704 [Corrected]

On page 35407, the table should read as set forth below:

* * * * *

DECOMMISSIONING APPLICATIONS AND REPORTS TABLE

Decommissioning applications	When to submit	Instructions
(a) Initial platform removal application [not required in the Gulf of Mexico OCS Region].	In the Pacific OCS Region or Alaska OCS Region, submit the application to the Regional Supervisor at least 2 years before production is projected to cease.	Include information required under § 250.1726.
(b) Final removal application for a platform or other facility.	Before removing a platform or other facility in the Gulf of Mexico OCS Region, or not more than 2 years after the submittal of an initial platform removal application to the Pacific OCS Region and the Alaska OCS Region.	Include information required under § 250.1727.
(c) Post-removal report for a platform or other facility.	Within 30 days after you remove a platform or other facility	Include information required under § 250.1729.
(d) Pipeline decommissioning application.	Before you decommission a pipeline	Include information required under § 250.1751(a) or § 250.1752(a), as applicable.
(e) Post-pipeline decommissioning report.	Within 30 days after you decommission a pipeline	Include information required under § 250.1753.
(f) Form MMS–124, Sundry Notices and Reports on Wells.	(1) Before you plug a well	Include information required under § 250.1712.
	(2) Within 30 days after you plug a well	Include information required under § 250.1717.
	(3) Within 30 days after you complete siteclearance activities	Include information required under § 250.1743(b).

§250.1715 [Corrected]

On page 35408, the table should read as set forth below:

(a)***

PERMANENT WELL PLUGGING REQUIREMENTS

If you have—	Then you must use—
(1) Zones in open hole	Cement plug(s) from at least 100 feet below the bottom to 100 feet above the top of oil, gas, and fresh-water zones to isolate fluids in the strata.

PERMANENT WELL PLUGGING REQUIREMENTS—Continued

If you have—	Then you must use—
(2) Open hole below casing	(i) A cement plug set by the displacement method, at least 100 feet above and below deepest casing shoe; (ii) A cement retainer with effective back-pressure control set 50 to 100 feet above the casing shoe, and a cement plug that extends at least 100 feet below the casing shoe and at least 50 feet above the retainer; or (iii) A bridge plug 50 feet to 100 feet above the shoe with 50 feet of cement on top of the bridge plug, for expected or known lost circulation conditions.
(3) A perforated zone that is currently open and not previously squeezed or isolated.	(i) A method to squeeze cement to all perforations; (ii) A cement plug set by the displacement method, at least 100 feet above to 100 feet below the perforated interval, or down to a casing plug, whichever is less; or (iii) If the perforated zones are isolated from the hole below, you may use any of the plugs specified in paragraphs (A) through (E) of this paragraph instead of those specified in paragraphs (3)(i) and (3)(ii) of this section: (A) A cement retainer with effective back-pressure control 50 to 100 feet above the top of the perforated interval, and a cement plug that extends at least 100 feet below the bottom of the perforated interval with at least 50 feet of cement above the retainer; (B) A bridge plug set 50 to 100 feet above the top of the perforated interval and at least 50 feet of cement on top of the bridge plug; (C) A cement plug at least 200 feet in length, set by the displacement method, with the bottom of the plug no more than 100 feet above the perforated interval; (D) A through-tubing basket plug set no more than 100 feet above the perforated interval with at least 50 feet of cement on top of the basket plug; or (E) A tubing plug set no more than 100 feet above the perforated interval topped with a sufficient volume of cement so as to extend at least 100 feet above the uppermost packer in the wellbore and at least 300 feet of cement in the casing annulus immediately above the packer.
(4) A casing stub where the stub end is within the casing.	(i) A cement plug at least 100 feet above and below the stub end; (ii) A cement retainer or bridge plug set at least 50 to 100 feet above the stub end with at least 50 feet of cement on top of the retainer or bridge plug; or (iii) A cement plug at least 200 feet long with the bottom of the plug set no more than 100 feet above the stub end.
(5) A casing stub where the stub end is below the casing.	A plug as specified in paragraph (a)(1) or (a)(2) of this section, as applicable.
(6) An annular space that communicates with open hole and extends to the mud line.	A cement plug at least 200 feet long set in the annular space. For a well completed above the ocean surface, you must pressure test each casing annulus to verify isolation.
(7) A subsea well with unsealed annulus	A cutter to sever the casing, and you must set a stub plug as specified in paragraphs (a)(4) and (a)(5) of this section.
(8) A well with casing	A cement surface plug at least 150 feet long set in the smallest casing that extends to the mud line with the top of the plug no more than 150 feet below the mud line.
(9) Fluid left in the hole	A fluid in the intervals between the plugs that is dense enough to exert a hydrostatic pressure that is greater than the formation pressures in the intervals.

§ 250.1741 [Corrected]

On page 35411, the table should read as set forth below:

For—	You must trawl—	And you must—
(1) Buried active pipelines		First contact the pipeline owner or operator to determine the condition of the pipeline before trawling over the buried pipeline.
(2) Unburied active pipelines that are 8 inches in diameter or larger.	no closer than 100 feet to the either side of the pipeline.	Trawl parallel to the pipeline Do not trawl across the pipeline.
(3) Unburied smaller diameter pipelines in the trawl area that have obstructions (e.g., pipeline valves) present.	no closer than 100 feet to either side of the pipeline.	Trawl parallel to the pipeline. Do not trawl across the pipeline.
(4) Unburied active pipelines in the trawl area that are smaller than 8 inches in diameter and have no obstructions present.	parallel to the pipeline.	

* * * * *

§ 250.1742 [Corrected]

* * * * *

On page 35412, the table should read as set forth below:

If you use—	You must—	And you must—
(a) Sonar	cover 100 percent of the appropriate grid area listed in § 250.1741(a).	Use a sonar signal with a frequency of at least 500 kHz.
(g)***		

If you use—	You must—	And you must—
(b) A diver	ensure that the diver visually inspects 100 percent of the appropriate grid area listed in § 250.1741(a).	Ensure that the diver uses a search pattern of concentric circles or parallel lines spaced no more than 10 feet apart.
(c) An ROV (remotely operated vehicle).	ensure that the ROV camera records videotape over 100 percent of the appropriate grid area listed in § 250.1741(a).	Ensure that the ROV uses a pattern of concentic circles or parallel lines spaced no more than 10 feet apart.

[FR Doc. C2–11640 Filed 6–28–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
July 1, 2002

Part II

National Credit Union Administration

12 CFR Parts 703 and 704
Investment and Deposit Activities; Corporate Credit Unions; Proposed Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 703 and 704

Investment and Deposit Activities; Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is issuing proposed revisions to the rule governing corporate credit unions (corporates). The major revisions to the rule are in the areas of capital, credit concentration limits and services. The proposed amendments enable corporates to remain competitive in the marketplace while retaining NCUA's historic focus on the safety and soundness of the corporate credit union system. The major changes to these areas necessitate some substantive changes to other provisions of the rule. Several other minor revisions are generally either a clarification or a modernization of the existing rule.

DATES: Comments must be received on or before August 30, 2002.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to *regcomments@ncua.gov. Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Kent Buckham, Director, Office of Corporate Credit Unions, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone (703) 518–6640; or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

On July 28, 1999, and November 22, 2000, NCUA issued advance notices of proposed rulemaking (ANPRs). 64 FR 40787, July 28, 1999; 65 FR 70319, November 22, 2000. Based on the comments received in response to the ANPRs, the Board issued a proposed rule. 66 FR 48742, September 21, 2001. The Board received 51 comments on the proposal, 28 from corporate credit unions, nine from natural person credit unions, four from credit union trade associations, one from a bank trade association, ten from state credit union leagues and three from miscellaneous sources. The majority of the commenters commended NCUA on the process leading up to the proposed rule. They expressed appreciation for NCUA's responsiveness to the comments on the ANPRs and the continuous dialogue NCUA has engaged in with the corporate community.

In response to the comments received, particularly in the area of capital, the Board is issuing a revised proposed rule for another round of public comment. The comments to the initial proposed rule have greatly assisted the Board in drafting the revised proposed rule and will be discussed in the relevant section of the section-by-section analysis.

B. Section-by-Section Analysis

Natural Person Credit Union Investments Section 703.100

The Board proposed increasing the limit on a natural person credit union's aggregate purchase of paid-in capital (PIC) and membership capital (MC) in one corporate to 2 percent of the credit union's assets measured at the time of purchase. The Board also proposed limiting a credit union's aggregate purchase of PIC and MC in all corporates to 4 percent.

Twenty-five commenters supported the proposal. Two commenters opposed the proposal. Those who supported the proposal indicated the ability of a natural person credit union to acquire a higher level of capital in a corporate will bring about the positive result of further capital redistribution in the credit union system. They indicated it would introduce a degree of moderation in the amount of capital a credit union could potentially invest in the corporate network. One commenter, a natural person credit union, opposed the proposal as being too restrictive because it limits credit unions' options. One commenter, a bank trade association, opposed the proposal as too permissive, contending it doubles the risk exposure a natural person credit union could have in a single corporate credit union.

Additionally, fifteen commenters suggested a revision to the proposed wording. The proposal stated the percentage is based on ''the credit union's assets measured at the time of purchase.'' *Id.* at 48755. The commenters recommended changing ''at the time of purchase'' to ''at the time of investment or adjustment.'' This would take into account the adjusted balance feature of most existing MC accounts. One commenter suggested the limit in one corporate and the aggregate limit in all corporates be set at 25 percent and 50 percent respectively of a credit union's net worth, rather than as a percentage of assets.

The revised proposed rule retains the increased investment limits in the proposed rule. Based on the comments, the Board has made some minor wording revisions. The term ''aggregate purchase'' in the proposal has been revised to ''aggregate amount'' and the term ''time of purchase'' in the proposal has been revised to ''time of investment or adjustment.''

Definitions Section 704.2

Daily Average Net Assets (DANA)

Although not specifically addressed in the proposed rule, seventeen commenters requested that the Board exclude future dated ACH items and uncollected cash letters that are perfectly matched on both the asset and liability sides of the balance sheet from the definition of DANA. The issue is whether such transactions should be recorded on their settlement date (the date the funds are posted) or on the advice date (the date the corporate receives an advice indicating the funds will be posted on a specific future date).

The Office of Corporate Credit Unions (OCCU) issued guidance in 2000 to all corporates stating, ''[i]n order to provide for a consistent approach to reporting corporate financial information, we expect all corporates to record future-dated ACH transactions as assets and liabilities on their financial statements for both regulatory and 5310 (Corporate Credit Union Call Report) reporting purposes. However, other external and internal financial statements can continue to be prepared based on the advice of your CPA.'' Corporate Credit Union Guidance Letter No. 2000–03, August 30, 2000. This guidance was provided because corporates were using different reporting practices and there was a lack of definitive guidance on the issue under Generally Accepted Accounting Principles (GAAP).

The commenters stated that several corporates have obtained opinions from accounting firms indicating that accounting for such transactions as of the advice date is not in accordance with GAAP. Rather, these transactions (as well as uncollected cash letters) should be accounted for on a settlement date basis. The concern is that DANA is overstated by inclusion of these items and capital ratios are understated. Several commenters also noted that the definition of ''the fair value of assets'' should exclude these transactions from the Net Economic Value (NEV) definition.

The Board does not agree with the commenters that accounting for such transactions as of the advice date is inconsistent with GAAP. Rather, there is a divergence of opinion in the accounting community on this issue. In order to ensure a consistent regulatory

approach, the revised proposal does not exclude these items from the definition of DANA. Each corporate should continue to prepare its other internal and external financial statements based on the advice of its CPA.

Capital Section 704.3

Requirements for Membership Capital, Section 704.3(b)(3)

The Board proposed revising the existing amortization of MC. Currently, the regulation requires a constant monthly amortization of MC placed on notice so that the full balance is amortized by the end of the notice period. The proposal required the full amortization of MC one year before the date of maturity or one year before the end of the notice period. The proposal also revised the requirements for adjusted balance MC accounts. These revisions included limiting the frequency of adjustments to no more than once every six months and, if the adjustment measure is anything other than assets, the corporate must address the measure's permanency characteristics in the capital plan.

Fifteen commenters opposed the proposed change in the amortization of MC and one commenter supported the proposal. Those opposed stated that it fails to recognize any portion of the MC that is still available to cover losses during the last year. Further, several commenters suggested amortizing MC before the end of the notice period is contrary to GAAP. One commenter opposed the entire premise of amortizing MC stating MC that has been placed on notice should count in full as long as the full balance is available to cover losses.

A few commenters commented on changes to adjusted balance MC accounts. One commenter suggested allowing MC to flow in and out of the corporate, with the corporate setting its own minimum limit based on its capital needs. One commenter suggested allowing a corporate to base the adjustment on a member's deposits in the corporate rather than on its assets. Another commenter did not object to the proposed changes in the adjusted balance MC accounts, but suggested grandfathering existing adjusted balance MC accounts.

Several commenters took exception to the proposed wording in § 704.3(b)(3) that states, ''[w]hen an MC account has been place on notice *or* has a remaining maturity of three years * * *'' (emphasis added). The commenters suggested replacing ''or'' with ''and.'' The commenters stated that the corporates issue adjusted balance accounts with no maturity. Several commenters suggested adding ''less than'' before ''three years'' to avoid the mistaken impression that a three-year notice account could arguably be deemed to require amortization before being placed on notice.

The Board remains convinced that MC placed on notice should be fully amortized one year before maturity or the end of the notice period. The Board does not believe a corporate should include capital that will be paid out in less than a year in risk capital measures. The Board is also cognizant that five-year subordinated debt allowed by other financial regulators is not counted in the last year. 12 CFR part 3, App. A, § 2(b). The Board views the change in amortization as a measure of consistency with other financial regulators.

The revised proposal retains the limitation on the frequency of adjustment for adjusted balance MC accounts to no more than once every six months. The Board desires a greater degree of permanence for MC. The Board agrees with the commenter that existing MCs should be grandfathered from the change in the frequency of adjustment since corporates have already issued disclosures to their members, which should be adhered to. However, corporates that have tied their adjustments to a measure other than assets are not grandfathered from addressing the measure's permanency in their capital plans.

The revised proposal adds the words ''less than'' in front of ''three years'' to clarify that a three-year notice account is not subject to amortization if notice has not been given. The revised proposal retains the word ''or,'' rather than substituting the word ''and'' as some commenters recommended, because the regulation does allow term MC accounts.

Requirements for Paid-in Capital, Section 704.3(c)(2).

Although not proposed, based on the comments and the Board's desire to eliminate the proposed minimum RUDE ratio, the Board has revised the definition of PIC, so it is a perpetual, non-cumulative dividend account. This revision brings PIC in line with the GAAP definition of equity accounts. Existing PIC is grandfathered from this requirement but is subject to the proposed amortization schedule. Because new PIC must be perpetual, the amortization requirement only applies to grandfathered PIC.

The proposal required an amortization schedule for PIC similar to that proposed for MC, full amortization one year before the date of maturity. Twelve commenters opposed the proposed amortization for PIC. The commenters reiterated the arguments raised in opposition to the proposed amortization of MC. One commenter supported the proposed change to the amortization schedule. The revised proposal retains the amortization requirement for grandfathered PIC. This position is consistent with that taken for MC.

Additionally, the proposal eliminated the existing limitation on PIC, which limits PIC to 100 percent of RUDE. 12 CFR 704.2. Eight commenters supported removing the limitation on PIC, and three commenters opposed it. Of those in support, one suggested that only PIC up to 150 percent of RUDE should count towards any minimum regulatory capital ratio, but that all PIC should count towards a total capital ratio. One commenter opposed to eliminating the PIC limitation suggested limiting the aggregate amount of MC and PIC that counts towards a total capital requirement to100 percent of RUDE. The Board agrees with the majority of commenters and has retained the deletion in the revised proposed rule.

Finally, the Board proposed eliminating the requirement in the current regulation that nonmember PIC requires NCUA Board approval. The proposal required Board approval if the terms and conditions of the nonmember PIC differed from member PIC. Because the revised proposed rule requires all PIC to be GAAP qualifying, the requirement for Board approval if the terms and conditions are different for nonmember PIC is deleted in the revised proposed rule.

Minimum RUDE Ratio Requirement, Section 704.3(e)

The Board proposed a minimum RUDE to moving DANA ratio of 2 percent. In addition, the proposal eliminated the reserve transfer requirements because it is unnecessary if all corporates must maintain a minimum RUDE ratio of 2 percent.

Forty-six commenters objected to a minimum RUDE ratio. Two commenters, a bank trade association and an individual, supported the proposal. Many commenters indicated this requirement was the one they most vehemently opposed.

Twenty commenters recommended the adoption of a credit-risk weighted capital requirement in lieu of a minimum RUDE ratio. Three commenters included with their comments draft credit-risk weighted guidelines for corporates. Twenty-five commenters recommended the adoption

of a ''core capital ratio'' requirement alone or in conjunction with a credit-risk weighted capital requirement. The core capital ratio would include RUDE and PIC, with a few commenters indicating only a portion of PIC should qualify. Several commenters suggested there is no need for a minimum RUDE ratio since NCUA has the authority to supervise and ensure adequate capital in corporates through the requirement that corporates prepare a capital plan.

Nearly all of those who objected to the minimum RUDE ratio indicated concern that the requirement would threaten the very purpose for which corporates exist. Commenters noted that, in their roles as the provider and absorber of credit union liquidity, corporates must be able to grow and contract in a prompt and fluid manner. The imposition of a mandatory RUDE ratio would force corporates to turn away credit union deposits. They noted that, not only would this affect the role of corporates in the credit union system, but it may increase risk to credit unions that seek other means for depositing or investing their excess liquidity. Commenters noted that corporates in 2000 and 2001 successfully handled a period of unprecedented liquidity demand followed by a period of unprecedented excess liquidity in the credit union system. Many commenters expressed concern that the proposed capital requirements will introduce a new factor, which will negatively affect what risk managers may allow on their balance sheets.

Commenters noted that corporates have consistently increased RUDE over the years. In fact, RUDE has grown at a higher rate than the minimum requirements under the regulation. Commenters suggested the proposal would force corporates to focus on the goal of building RUDE to the detriment of the products and services the corporates offer the credit union system. Further, commenters asserted that lessening the regulatory value of PIC may lead to an outflow of capital from the corporate system. Corporates trying to maximize earnings to build RUDE may call their PIC to reduce expenses. Commenters suggested it would take years to build the RUDE just to replace the called PIC. The commenters stated that NCUA's concern that corporates would not continue to strive to build RUDE, or would arbitrarily decide to return PIC to members, is baseless and not supported by past performance. Further, several commenters stated that RUDE levels in corporate credit unions are already adequate, based on the risks corporates take. Several commenters noted the 2 percent requirement appears arbitrary and NCUA has offered no findings to support that it is an appropriate level.

Many commenters noted that, while the proposed preamble indicates a goal of instituting a RUDE ratio is to reach a level of capital comparability with other financial intuitions, the proposal is inconsistent with the capital structure of other financial depository institutions. The commenters noted some of the other financial regulators include common stock and noncumulative perpetual preferred stock in the determination of their core capital requirements. As such, the commenters noted that NCUA's core capital requirements for corporates should recognize PIC.

In keeping with the concept of comparable capital measures with other federally-insured financial institutions, a number of commenters recommended the adoption of a credit-risk weighted capital structure. Many commenters suggested that the new Basel Capital Accord Proposal establishes a framework intended to more closely align regulatory capital requirements with underlying risk. The proposal noted that the Board was not considering a credit-risk weighted requirement due to the added burden on corporate credit unions. Several commenters suggested the proposed RUDE ratio was more burdensome to corporates than the adoption of a credit-risk weighted capital structure. Finally, several commenters suggested that, if the Board does not establish a credit-risk weighted structure at this time, it should create a working group to study the issue and make a recommendation to the Board within the next two years.

In addition to the suggestion of a credit-risk weighted approach to capital, several commenters suggested the use of a core capital requirement. Some commenters suggested the use of core capital as a single measure while others recommended its use in conjunction with a credit-risk weighted capital measure. As noted above, several commenters made reference to the recognition of common stock and noncumulative perpetual preferred stock in the determination of core capital in other financial institutions. The commenters noted that MC and PIC are available to absorb losses before any impact on the National Credit Union Share Insurance Fund (NCUSIF). They contend PIC is a long-term, stable component of capital because of its regulatory requirements. As such, commenters believe NCUA's core capital calculation should include PIC. Some commenters recommended that all PIC be counted as core capital, while others suggested a percentage limitation. Others suggested that only PIC that qualifies under GAAP should be included in core capital.

Several commenters noted that PIC was introduced during the last regulatory revision. Many corporates solicited their members and were able to raise significant amounts of PIC. These commenters noted their concern for the reputation of the individual corporates, and the corporate system as a whole, if member credit unions are now told the PIC they committed to the corporate is not considered ''real'' capital. Further, many noted that the influx of funds into a corporate might not necessarily translate into an increase in risk. Under the proposal, the mere inflow of excess liquidity could trigger the need for a capital restoration plan. It is possible that a regulatory requirement could affect the opinion of the corporate's auditors or the rating issued by a nationally recognized statistical rating organization. The commenters noted the ripple effect of these occurrences on the reputation, as well as the safety and soundness, of the corporate could be severe, while no significant increase in risk has actually occurred.

As noted above, some commenters stated the existing regulations provide NCUA with adequate authority to ensure the capital strength in the corporate system. Section 704.3(a) requires corporates to develop a written capital plan. The regulation requires the corporate to develop and implement short and long term capital goals, objectives, and strategies that provide for building capital consistent with regulatory requirements, and capital sufficient to support a corporate's current and projected business risks. The plans are subject to review by NCUA through the supervision process. The commenters believe this requirement provides NCUA the ongoing opportunity to monitor and exert regulatory oversight over a corporate's capital intentions.

Only one commenter, a bank trade association, objected to the elimination of the reserve transfer requirement.

The Board believes that a minimum RUDE ratio may have the unintended consequence of limiting the traditional role of corporates as depositors of excess liquidity for natural person credit unions. As such, the minimum RUDE ratio requirement has been eliminated from the revised proposal.

The Board remains convinced of the need for corporates to continue to maintain an adequate level of retained earnings. To that end, the revised proposal adopts several of the commenters' suggestions, in addition to

incorporating existing requirements in § 704.3.

Rather than the proposed minimum 2 percent RUDE ratio requirement, the revised proposal provides a mechanism for increasing retained earnings to 2 percent on an ongoing basis. The earnings retention requirement in § 704.3(i) includes features of the existing reserve transfer requirement, in addition to a core capital measurement.

As the current regulation does not define retained earnings, the revise proposal adds a definition. The definition specifically excludes GAAP recognized ''other comprehensive income accounts'' such as unrealized gains and losses on available for sale securities. These accounts may distort a corporate's capital position; so the Board is excluding these accounts from the definition. Additionally, the definition excludes the allowance for loan and lease losses. Although the allowance for loan and lease losses is nonexistent in most corporate credit unions, it may become more common in corporates that engage in loan participations with their members under the proposed Part V expanded authority. Since the allowance for loan and lease losses is funded to the amount of anticipated losses, the Board contends that amount should not be recognized for the purpose of determining retained earnings.

Numerous commenters recommended, in lieu of a minimum RUDE ratio, retaining the reserve transfer requirement in the current regulation as a means of building capital. The Board agrees with the need to increase capital but believes the existing reserve transfer requirement may not result in the accumulation of retained earnings. Under the current regulation, a corporate can meet its reserve transfer requirement without an overall increase to retained earnings. Therefore, the revised proposal establishes an earnings retention requirement of 10 or 15 basis points per annum based upon the corporate's retained earnings and core capital ratio. The earnings retention requirement is established at 10 and 15 basis points to provide for the building of retained earnings while also recognizing the value of PIC.

Several commenters also recommended adopting a core capital measurement to recognize the value of PIC. In response, the Board has re-titled the existing definition of ''reserve ratio,'' which includes retained earnings and PIC, as ''core capital ratio.'' The core capital ratio, in conjunction with the retained earnings ratio, is used to determine the earnings retention factor. A number of commenters noted that PIC, a long-term capital account, is available to absorb losses. The Board agrees with the need to recognize the value of PIC in the capital structure of corporates; however, the Board also notes that the major disadvantage of using PIC rather than retained earnings to absorb losses is the potential for erosion of member confidence in the viability of the corporate. The Board is establishing an earnings retention factor to serve the dual purpose of building retained earnings while also providing value to PIC. As such, a corporate with a core capital ratio greater than 3 percent will have a lower earnings retention factor than a corporate with a core capital ratio less than 3 percent.

The Board notes the earnings retention requirement eases the regulatory burden on corporates from that in the proposal. Under the proposed regulation, a RUDE restoration plan was required if the RUDE ratio fell below 2 percent. Rather than requiring a corporate to submit a RUDE restoration plan if the retained earnings ratio falls below 2 percent, the revised proposed rule establishes a specific restoration plan for retained earnings.

The Board is cognizant that circumstances may arise where corporate management will have to make operational decisions that are in the best interest of the corporate, but may also result in an inability to meet the earnings retention requirement. To provide flexibility, the Board permits corporates to meet earnings retention requirements on a rolling three-month average. The regulation also allows a corporate to pay dividends without prior approval if its retained earnings ratio falls below 2 percent, if the retained earnings ratio was already below 2 percent but the corporate has an increase in retained earnings for the current measurement period, or if the corporate experiences a loss on the sale of investments. In addition, the regulation provides the OCCU Director the authority to approve a lower earnings retention amount to avoid a significant adverse impact on the corporate.

The Board believes it is imperative to the long-term safety and soundness of the corporate credit union system that a regulatory framework exist to facilitate the ongoing accumulation of retained earnings. An earnings retention requirement will provide certainty to corporates as to regulatory requirements, while permitting corporates the flexibility to continue the vital role they play in assisting natural person credit unions in serving their members.

The Board is steadfast in its contention that a credit-risk weighted capital approach is not the best measure for risk in corporates. Further, there exists a divergence of opinion in the financial community as to the validity of some of the risk weights assigned to the various risk categories.

Several outside studies of the corporate credit union system have been critical of using credit risk as a primary means of measuring overall risk in corporates. The report entitled ''Corporate Credit Union Network Investments: Risks and Risk Management,'' issued in 1994 by a committee headed by Dr. Harold Black, indicated many corporates traditionally take very little credit risk, but instead assume a higher level of interest rate risk. The General Accounting Office (GAO) reports of 1991 and 1994 both noted that an over reliance on credit-risk weighted capital failed to fully capture other risks (market, liquidity, and operational) in corporate credit unions. A December 1997 study by the Department of the Treasury specifically stated that a credit-risk weighted capital approach ''is inappropriate given that corporate credit unions generally have little credit risk.''

Capital Directive, Section 704.3(h)(i)

The proposal made the capital restoration requirement in current § 704.3(f) applicable to a corporate failing to meet the minimum RUDE ratio. Since the revised proposal eliminates a RUDE ratio requirement, this issue is moot and there are no changes to the current rule.

Eight commenters indicated there should be an appeal process in this section, similar to the procedures for prompt corrective action (PCA). 12 CFR part 702. Several commenters suggested that the public disclosure of the existence of a capital directive or capital restoration plan in a corporate credit union could be disastrous to the reputation of the institution. One commenter opposed the current inclusion of any kind of capital restoration plan in the regulation.

Although the revised proposal does not add a specific appeal process to this section, the regulation continues to require NCUA Board approval of capital directives.

Board Responsibilities, Section 704.4

The proposed rule changed the term ''operating policies'' to ''policies'' throughout this section and changed the title of subsection (c) to ''Other requirements.'' The commenters supported this change and it has been retained as proposed.

Investments, Section 704.5

The proposed rule deleted several investment-related definitions no longer used in the regulation and amended the definitions of: Asset-backed security (ABS), Collateralized mortgage obligation (CMO), Forward settlement, Quoted market price, Mortgage related security, Regular-way settlement, Repurchase transaction, and Residual interest. The few comments received on these definitions supported the proposal, and they have been deleted or amended as proposed. As discussed below, the revised proposed rule includes a new definition of a limited liquidity investment.

Policies, Section 704.5(a).

The proposed rule combined the policy requirements in this section and deleted ''if any'' from § 704.5(a)(1) to clarify a corporate must have ''appropriate tests and criteria'' to evaluate investments it makes on an ongoing basis, as well as new investments. No comments were received on these provisions, and they have been retained as proposed.

Section 704.5(a)(2). The proposed rule deleted the requirement that the investment policy address the marketing of liabilities to its members. No comments were received on this provision, and it is deleted in the revised proposed rule.

The proposed rule added a requirement for a corporate to establish appropriate aggregate limits on limited liquidity investments, including private placements and funding agreements. A number of commenters observed many privately placed securities have active quoted markets or readily obtainable market quotes, with liquidity comparable to publicly registered securities. In response to those comments, the Board notes other private placements do not have readily obtainable market quotes. A corporate would have difficulty selling such investments with reasonable promptness at a price that corresponds reasonably to fair value. The Board also is concerned if there is only one active market purchaser for a private placement or a funding agreement. The revised proposed rule omits the examples of limited liquidity investments, defines a limited liquidity investment to mean a private placement or a funding agreement, requires a corporate to specify concentration limits in relation to capital and requires the investment policy to address reasonable and supportable concentration limits for limited liquidity investments. By reasonable, the Board means concentration limits should be economically reasonable. By supportable, the Board means the investment policy should address the prepurchase analysis a corporate should undertake before making a limited liquidity investment. For example, the investment policy may require a prepurchase analysis to include estimates of bid-asked spreads and, also, an estimate of the time necessary to sell a limited liquidity investment.

Several commenters suggested addressing concentration limits for limited liquidity investments in the contingency funding plan required in § 704.9. The Board notes the concentration limit requirement emphasizes the need to address risk tolerances for portfolios of limited liquidity investments. Articulated risk tolerances for portfolios with limited liquidity investments are separate and distinct from contingency funding plans. Contingency funding plans address successively deteriorating liquidity scenarios and focus on the most liquid sources of funds. Concentration limits for limited liquidity investments focus on investments with relatively lower levels of liquidity.

Authorized Activities, Section 704.5(c)(5)

The proposed rule clarified an ABS must be domestically issued. Several commenters supported the proposal, agreeing that foreign exposure in a domestically-issued ABS should be handled as a supervisory matter. This section is retained as proposed.

Section 704.5(c)(6). The proposal deleted this section, which provided specific authorization for CMOs. Two commenters supported the deletion, since these investments are still authorized under § 704.5(c)(1) and (5). This provision is deleted in the revised proposal.

Repurchase Agreements, Section 704.5(d)

The proposed rule made several changes to the requirements for repurchase agreements, generally to conform to current market practices. Many commenters objected to the change requiring a corporate to obtain a perfected first priority security interest in repurchase securities. The commenters noted a perfected first priority security interest is inconsistent with standard market practices for repurchase transactions. The Board agrees and that portion of the proposed rule is deleted. The commenters did not object to the other changes, and they are retained in the revised proposed rule.

Securities Lending, Section 704.5(e)

The proposed rule made several nonsubstantive changes to the requirements for securities lending transactions to clarify the rule and conform it more closely to current market practices. There were no comments on the proposed changes; however, ten commenters viewed the existing requirement for a perfected first priority security interest as inconsistent with standard market practice for securities lending agreements. The Board agrees with the commenters and has removed the word ''perfected'' but will continue to require a first priority security interest through possession or control of the collateral. Often, under state law, possession or control constitutes a ''perfected'' security interest. In addition, the Board has clarified in the revised proposal that ownership is an appropriate substitute for possession and control.

Investment Companies, Section 704.5(f)

The proposed rule clarified the prospectus is the document restricting the portfolio of an investment company. A few commenters supported this clarification, and it has been retained as proposed.

Prohibitions, Section 704.5(h)

The proposed rule prohibited trading securities. One commenter supported this prohibition. A few commenters opposed the prohibition, but supported the existing prohibitions on pair-off transactions, when-issued trading, adjusted trading, and short sales. The revised proposal, like the current rule, permits trading securities but requires transactions to be accounted for on a trade date basis and, in addition, no longer prohibits engaging in pair-off transactions and when-issued trading. The Board agrees with the commenters that concerns with these investments should be handled as a supervisory matter. The Board notes corporates engaging in trading securities must have sufficient resources, knowledge, systems and procedures to handle the risks. The revised proposed rule retains the prohibitions on engaging in adjusted trading and short sales.

The proposed rule prohibited investments in residual interests in ABS, deleted the prohibition on commercial mortgage related securities, and moved the prohibition on the purchase of mortgage servicing rights from the investments section to the permissible services section. A few commenters supported these proposed changes, and these provisions are unchanged in the revised proposed rule.

Credit Risk Management, Section 704.6

The proposed rule defined ''obligor'' to mean the primary party obligated to repay an investment and excluded from the definition the originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment. A few commenters supported this definition, and it is retained as proposed. One commenter proposed including any party obligated to make repayment, including secondary parties such as an insurer, in the definition of obligor and, therefore, within the rule's credit concentration limit. The Board declines to impose regulatory credit risk concentration limits on insurers of investments, but notes § 704.6(a)(4) requires a corporate's credit risk management policy to address concentrations of credit risk exposure, which would include an insurer of an investment.

Although not previously proposed, the revised proposal deletes the definitions of ''short-term investment'' and ''long-term investment'' since they are no longer used, as explained below. The revised proposed rule also deletes the definition of ''expected maturity,'' since that term was only used in the definitions of these deleted terms.

Policies, Section 704.6(a)

The proposed rule amended the policy requirements to base credit limits on capital, rather than RUDE and PIC. The proposed rule deleted the requirement that the credit risk management policy address loan credit limits. The proposed rule added to the examples of concentrations of credit risk an ''originator of receivables'' and an ''insurer.'' A few commenters supported the proposal to base credit limits on capital. While one commenter opposed adding examples of credit concentration risk, the commenter suggested all types of such risk should be adequately addressed in the policy. In response, the Board notes the revised proposal's examples of credit concentration are illustrative only. A corporate's credit risk management policy should address all material types of concentrations of credit risk, regardless of whether included in the examples. This section is retained as proposed.

Exemption, Section 704.6(b)

The proposed rule required subordinated debt of government sponsored enterprises to meet the rule's credit risk management requirements. The few comments received supported the proposed rule, and it is unchanged in the revised proposed rule.

Concentration Limits, Section 704.6(c)

The proposed rule set concentration limits in relation to capital. Likewise, the revised proposal establishes a general credit concentration limit of 50 percent of capital or a *de minimis* limit of $5 million for the aggregate of all investments in any single obligor, whichever is greater.

A bank trade group that commented asserted these changes would permit larger investments by corporates. The Board notes that, based on current levels of capital, these changes have the overall effect of reducing credit concentration limits from the prior limits.

Many commenters opposed the proposed general credit concentration limit as too restrictive. Some commenters noted the proposed limit would substantially restrict investments in certain AAA rated instruments from prior levels (*e.g.,* the prior limit of 200 percent of RUDE and PIC on mortgage-backed and asset-backed securities). While observing that diversification is normally a desirable goal, a number of commenters noted the proposed limits could force increased aggregate exposure to lower quality credits. A number of these commenters suggested a general credit concentration limit of 100 percent of capital on investments rated no lower than AA–(or equivalent) or A–1 (or equivalent). A few advocated increasing the proposed general credit concentration limit to 100 percent of capital, regardless of credit rating. A number of commenters advocated a risk-based capital framework to require higher levels of capital for lower rated investments in lieu of credit concentration limits.

As the Board noted in the proposal, the 50 percent limit provides corporates with substantial flexibility compared to other depository institutions. *Id.* at 48746. The Board believes this limit is the most credit exposure a corporate should prudently take in investment-grade quality investments. The Board recognizes the corporate network has increased its due diligence capabilities. However, if the corporate network is to maintain and enhance its ability to withstand financial crises, it must exercise caution in placing membership capital at risk. Placing all capital at risk would substantially increase the likelihood of a crisis and decrease membership confidence if losses occurred.

The Board also noted in the proposed rule that adoption of a credit-risk weighted capital requirement is not warranted. *Id.* at 48743. The Board's long-standing opinion is that such a requirement would provide limited regulatory value where corporates are concerned. 62 FR 12929, 12931, March 19, 1997. The Board again suggests to corporates choosing voluntarily to calculate a credit-risk weighted capital ratio that they adopt the same standards used by other financial institutions.

The Board notes a credit-risk weighted capital requirement would impose a macro level restriction on aggregate credit exposure to the entire balance sheet. In contrast, the credit concentration limit in the revised proposed rule is a micro level restriction on credit exposure to a single obligor.

Section 704.6(c)(2) of the proposed rule provides exceptions to the general credit concentration rule. For repurchase and securities lending transactions, the proposed limit was 200 percent of capital. Investments in corporate CUSOs are subject to the limitations in § 704.11. Investments in wholesale corporates and aggregate investments in other corporates are exempt.

A number of commenters requested that the proposed credit concentration limit of 200 percent of capital on repurchase transactions be increased to 250 percent of capital. The commenters contended 200 percent is too restrictive in periods of large liquidity inflows. One commenter expressed general support for excepting repurchase transactions from the general credit concentration limit. In response to comments, the Board notes greater concentration limits in repurchase transactions are available to corporates meeting the infrastructure requirements of Part I or Part II expanded authorities.

One commenter supported the exception for CUSO investments. This provision is unchanged in the revised proposed rule.

A few comments supported the proposal to exempt investments in corporates from concentration limits. Two commenters thought the exemption should be limited to wholesale corporates: one noted the proposal appeared to increase systemic risk, while the other suggested adding a requirement for a corporate to obtain at least one credit rating for other corporate investments. The Board continues to believe the capital requirements for the receiving corporate will serve to limit the amount of investment any corporate may place in another corporate. In addition, the Board weighed the potential for increased systemic risk against the potential benefits of allowing additional alternatives to moving liquidity within the corporate system. Therefore, the Board believes it is appropriate to

expand the exemption to include all corporates. The Board reiterates that a corporate's credit risk management policy must address investments in corporates that are not fully insured by the NCUSIF.

Proposed § 704.6(c)(3) applied the requirements for an investment action plan in § 704.10 when a reduction in capital after the purchase of an investment resulted in a credit concentration that was higher than permitted by regulation. One commenter believes that noncompliance caused by a reduction in capital should not trigger the 30-day notification period in § 704.10. Rather, the commenter suggests calling the investment ''nonconfoming'' rather than ''failed'' and allowing a 90-day period to permit a corporate to bring the investment into compliance before triggering the requirements of § 704.10. This is similar to the approach used by the Office of the Comptroller of the Currency. 23 CFR 1.8.

The Board agrees with the commenter's suggestion, and the revised proposed rule deems an investment as ''nonconforming'' if it fails a requirement because of a reduction in capital. A corporate credit union is required to exercise reasonable efforts to bring nonconforming investments into conformity within 90 days. Investments that remain nonconforming for 90 days are deemed to ''fail'' a requirement and will require compliance with the requirements in § 704.10. The Board cautions corporates to consider the permanence of capital before committing investment funds. Because corporate concentration limits provide for substantial flexibility in comparison to other depository institutions, the Board is adopting the specific time frame suggested by the commenter, rather than an open-ended time frame for nonconforming investments.

Credit Ratings, Section 704.6(d)

This section reduced the applicable credit rating to AA–(or equivalent) for a long-term investment and A–1 (or equivalent) for a short-term investment. The proposed rule applied the investment action plan requirements of § 704.10 if at least two ratings were downgraded and a corporate had relied on more than one rating to meet the minimum credit rating requirements at the time of purchase.

A number of commenters generally supported the credit rating requirements. However, most of the commenters noted the regulation's definitions of ''short-term investment'' and ''long-term investment'' can be inconsistent with the market. For consistency, they suggested the rule reference investments with short-term or long-term ratings. The Board agrees and adopts the suggestion in the revised proposed rule.

One commenter advocated permitting investment in any investment grade instrument, particularly for repurchase transactions. The commenter noted the typical cash market practice for repurchase transactions is to require investment grade securities. In contrast, another commenter expressed caution that prudent risk management skills and infrastructure should be required to take on more credit risk. In light of the substantial flexibility already provided to corporates, the Board remains convinced a base level corporate should not be permitted to acquire more than limited credit risk exposure. Expanded authority provisions allow for a broader spectrum of credit risk, and require increased due diligence by corporates that obtain such authority.

Another commenter questioned whether ''or equivalent'' when referring to acceptable ratings such as ''A–1 (or equivalent)'' meant a rating of another NRSRO or an evaluation by credit staff at a corporate. The Board notes this continues to refer to a rating of another NRSRO, and not an evaluation by credit staff at a corporate. Because of the substantial flexibility provided to corporates in concentration limits, the Board declines to permit internal credit analysis of investments in lieu of a rating by an NRSRO. While an NRSRO rating is no substitute for due diligence, it is a useful tool for investors to evaluate credit risk. The Board also notes ''or equivalent'' does not refer to a rating of an issuer that is not directly applicable to the investment. For example, a corporate may not rely on a short-term issuer rating to comply with the minimum rating requirement for an investment with a long-term rating.

To avoid confusion regarding the investment watch list requirements of § 704.6(e)(1), the revised proposed rule clarifies in § 704.6(d)(4) that it is applicable only when the corporate relied upon more than one rating to meet the minimum credit rating requirements at the time of purchase. If there is a subsequent downgrade below the minimum requirement, then the investment must be placed on the investment watch list. The revised proposed rule permits a board to decide under § 704.6(e)(1) to what extent it will require management to report to the board its review of a downgrade that does not result in a rating lower than the minimum requirements of part 704. The Board notes it remains a sound business practice for a corporate to monitor the credit quality of all investments, including reviewing any downgrades of credit ratings.

Reporting and Documentation, Section 704.6(e)

The proposed rule clarified that requirements for annual approval apply to each credit limit with each obligor or transaction counterparty. Those commenters who addressed this change supported the proposed clarification, and it is retained as proposed.

Lending, Section 704.7

Section 704.7(c)(1) and (2). Currently, the aggregate secured and unsecured loan and line of credit limits to any one member credit union are based on the higher of a percentage of capital or a percentage of RUDE and PIC. The Board proposed basing the loan limits on a percentage of capital and eliminating the option of basing them on a percentage of RUDE and PIC. Several commenters objected to eliminating this option. These commenters indicated the proposed limits were too restrictive and would not provide corporates adequate flexibility to meet member liquidity needs. The Board considered the comments and concluded that the percentages of capital in the proposed rule provide sufficient flexibility when balanced against safety and soundness concerns associated with a higher loan to one borrower ratio.

Section 704.7(c)(3). This section of the proposed rule stated the maximum aggregate amount of loans and lines of credit is limited to 15 percent of the corporate's capital plus pledged shares for members that are not credit unions. This is identical to current § 704.7(d). Several commenters indicated proposed § 704.7(c)(3) conflicts with proposed § 704.7(e)(3), which requires compliance with the aggregate limits in § 723.16 of the member business loan rule.

The Board notes that these two provisions do not conflict because § 704.7(c)(3) is the individual limit and § 704.7(e)(3) is the aggregate limit. To clarify this, the Board has placed the word ''one'' in front of ''member'' in revised proposed § 704.7(c)(3).

Currently, § 704.7(c) and (d) reference ''irrevocable'' loans and lines of credit. The Board proposed clarifying its intent that these sections apply to both ''irrevocable'' and ''revocable'' loans and lines of credit. No commenter objected to the proposed clarification; therefore, the Board is deleting the modifier ''irrevocable'' from these sections of the revised proposed rule.

Proposed § 704.7(e) attempted to clarify the applicability of the member business loan rule in part 723 to loans

granted by a corporate. Based on the comments, the Board realizes there is still some confusion and is amending the revised proposed rule to state that all loans exempt under § 723.1 are exempt from compliance with the member business loan rule.

Proposed § 704.7(e)(3) expanded the partial exemption from the member business loan rule in current § 704.7(d). The partial exemption requires compliance with the aggregate limits in § 723.16 but exempts a corporate from the other requirements in part 723. The Board proposed adding to the current, partial exemption for guaranteed loans, loans that are fully secured by U.S. Treasury or agency securities. No commenter objected and this change is retained in the revised proposed rule. The revised proposed rule also clarifies that the aggregate limits of § 723.16 are statutory, and a corporate is not exempt from these limits unless the loan is not a business loan as defined in § 723.1(b).

Section 704.7(g). The Board proposed revising the provision governing loan participations between corporates to include a requirement that a corporate execute a master participation loan agreement before the purchase or the sale of a participation loan. In conjunction with this requirement, the Board deleted the language that a participation loan agreement may be executed at any time before, during, or after the disbursement. No comments were received on this section, and this requirement is retained in the revised proposed rule.

Currently, a corporate is not permitted to participate in loans with natural person credit unions, although some corporates have obtained an NCUA Board waiver to do so. The Board proposed adding this authority as an expanded authority in Appendix B, Part V. No comments were received on the proposal to make it an expanded authority, and the Board is retaining it in the revised proposed rule.

Finally, the Board proposed reorganizing the lending section to make it easier to read. No commenter objected to the reorganization; therefore, the revised proposal incorporates the proposed changes.

Asset and Liability Management, Section 704.8

The proposed rule deleted the term ''net interest income'' because it is no longer used in the regulation and amended the definitions of ''net economic value (NEV)'' and ''fair value.'' NEV means the fair value of assets minus the fair value of liabilities. The amended definition excluded from liabilities both PIC and MC, rather than excluding only PIC.

Two commenters supported the amended definition of NEV, but one noted the exclusion of MC from liabilities may be contrary to market practice because others may not recognize three-year notice accounts as capital. The Board notes debt instruments with shorter maturities are recognized for certain regulatory capital purposes in other depository institutions. 12 CFR part 3, App. B.

One commenter suggested including all off balance sheet financial derivatives in the definition of NEV. The Board does not agree and notes for purposes of NEV measurement, fair values are to be determined for all assets and liabilities that are balance sheet items under GAAP. NCUA acknowledges that GAAP does not require accounting for immaterial positions in financial derivatives on balance sheet. The Board notes corporates must have Part IV Expanded Authorities to engage in derivative transactions.

Policies, Section 704.8(a)(2)

The proposed rule eliminated the redundancies with § 704.5(a) and changed the term ''current NEV'' to ''base case NEV'' to provide uniform usage throughout the regulation. All commenters addressing this section were supportive, and the revised proposal adopts the proposed changes.

Section 704.8(a)(5). The proposed rule deleted the requirement for a policy limit on decline in net income. The few commenters on this section supported this deletion, and the revised proposed rule retains the deletion.

Section 704.8(a)(6). This section added a requirement for the asset and liability management policy to address the tests used to evaluate the impact of investments on the percentage decline in NEV, compared to the base case NEV. Many commenters opposed this requirement. Commenters noted tests are not appropriate for investments such as cash instruments, short-term investments, and pure floating-rate investments. Some noted it was impractical and untimely to run a complete NEV analysis to establish a base case at the time of each investment transaction. Others suggested reflecting the tests in operating procedures, rather than policies, and reviewing as a supervisory issue.

NCUA does not intend to require corporate policies to specify tests for investments with minimal investment rate risk. In addition, the Board would not expect tests to evaluate the impact of an investment in a wholesale corporate credit union that is funded by a share certificate with identical characteristics. Rather, the rule requires the board to address tests, as appropriate, for investments expected to impact the percentage decline in NEV, compared to the base case NEV as most recently determined for the balance sheet. The revised proposal clarifies NCUA does not expect a corporate to run a complete NEV analysis to establish a base case at the time of each investment transaction. Indeed, NCUA notes that measuring risk is an imprecise business because of the multitude of assumptions that are required to evaluate potential outcomes. However, the revised proposed rule is intended to require each corporate to establish an ongoing process to identify, estimate, monitor and control interest rate risk between the periodic complete NEV analysis.

Penalty for Early Withdrawals, Section 704.8(c)

The proposed rule required a corporate to impose a market-based penalty for early withdrawal, if early withdrawal is permitted. The proposed rule also required the penalty to equal the estimated replacement cost of the certificate or share redeemed. This change would have prohibited a corporate from imposing a penalty in excess of the replacement cost and would have required a penalty to be reasonably related to current offering rates of that corporate.

Many commenters objected to the proposed provision, asserting that penalties should be market based, and not based on rates currently offered by a corporate. Some of these commenters observed rates offered by a corporate may reflect limited quantity ''specials'' or other certificate marketing programs and, therefore, not reflect market rates. One commenter suggested early withdrawal should be subject to a market gain or loss. Another commenter stated that a corporate is exposed to the asset side of the balance sheet when redeeming a liability. A commenter noted an early withdrawal penalty should be assessed using all liquidity factors including size, bid or offer spreads, certificate features, and market conditions. A number of commenters suggested that no changes to the current regulation are needed.

The Board is persuaded that no substantive change is needed to this section and has withdrawn the proposed amendments. The Board notes the current rule requires a market based penalty sufficient to cover the estimated replacement cost of the liability redeemed. The Board proposes to clarify

that this means the minimum penalty must be reasonably related to the rate that the corporate would be required to offer to attract funds for a similar term with similar characteristics. NCUA agrees the minimum penalty was not intended to cover limited offerings of liabilities with above market rates. The minimum penalty also does not reflect the value of any specific asset of the corporate. A gain does not appear consistent with the notion of a penalty for early withdrawal. In the event a member needs liquidity in advance of maturity of a share certificate bearing an above market rate, the Board suggests the corporate offer a share secured loan, as appropriate. As the commenters suggest, the Board will leave to the marketplace the determination of penalties above the minimum penalty specified in the rule.

Interest Rate Sensitivity Analysis, Section 704.8(d)

The proposal deleted the requirement to conduct net interest income simulations. Many commenters supported this elimination, and it is deleted in the revised proposed rule.

The existing rule requires a corporate to evaluate the impact of shocks in the Treasury yield curve on its NEV and NEV ratio. One commenter suggested deleting the word ''Treasury,'' since the market has moved away from the Treasury yield curve as a benchmark. In response, the revised proposed rule omits the word ''Treasury.'' NCUA recognizes risk management practitioners often use a yield curve based on London Interbank Offered Rates (LIBOR).

Section 704.8(d)(1)(i). The proposed rule increased from two to three percent the minimum base case NEV ratio that triggers monthly interest rate sensitivity analysis testing. A number of commenters supported this increased NEV ratio. One commenter observed it was a sound business practice to assess monthly the impact of interest rate shocks on NEV, NEV ratio, and net interest income. Another commenter suggested setting the trigger at four percent, rather than three percent, since the base case NEV ratio for most corporates will increase significantly because of the new definition of NEV. The Board believes it is a sound business practice to assess interest rate risk periodically, as appropriate, and continues to believe at least quarterly analysis is appropriate for base level corporates. The revised proposed rule is retained as proposed.

Proposed § 704.8(d)(1)(ii) limited a corporate's risk exposure to levels that do not result in any NEV ratio resulting from the specified parallel shock tests, or a base case NEV ratio, of less than two percent, rather than one percent. Some commenters supported the two percent minimum NEV ratio. One commenter advocated establishing the minimum NEV limit under the shock scenarios at one percent, rather than two percent. The Board notes the proposed definition of NEV is intended to estimate the reserve of capital available to manage all other risks of the corporate other than the risks associated with changes in interest rates. The section is retained as proposed.

Section 704.8(d)(1)(iii). The proposal reduced the NEV decline limit for a base corporate from 18 to 10 percent. Numerous commenters opposed the proposed limit of 10 percent, since it may reduce the currently permissible amount of interest rate risk for some corporates. Many commenters requested the Board re-evaluate the limits to avoid diminishing the permitted amount of interest rate risk exposure. In contrast, one commenter suggested reducing the NEV decline limit further, to 8 percent, to maintain parity on average with the current rule, and one commenter supported the change. One commenter noted the reduction may have the unintended consequence of encouraging issuance of additional MC as a way of maintaining the dollar value of permissible at risk NEV.

Based on the comments, the Board has re-evaluated the NEV decline limit for a base corporate. The revised proposed rule establishes a limit of 15 percent. This increases the amount of interest rate risk most base corporates may undertake compared to the existing regulation. The Board is comfortable with the increased risk because the corporate system has improved its ability to measure interest rate risk since the existing regulation was adopted. NCUA recognizes that taking prudently controlled risk is necessary to obtain reasonable returns. The Board declines to impose a limit that may reduce substantially the amount of interest rate risk a base corporate may undertake. However, the Board cautions against over reliance on MC as a way of increasing the amount of interest rate risk permitted.

Section 704.8(d)(2). The proposed rule required all corporates to assess annually whether it is appropriate to conduct periodic, additional, interest rate risk tests. These additional tests formerly were triggered based on the level of unmatched embedded options. A number of commenters supported this change, and it is retained as proposed.

Regulatory Violations, and Policy Violations, section 704.8(e) and (f). No comments were received on these sections. The proposed changes were non-substantive grammatical amendments. The revised proposal incorporates the proposed amendments and also designates the OCCU Director to respond to regulatory violations. There has been some confusion regarding when reports of violations must be made. The Board notes the 10-day time period runs from the date the corporate first produces or receives reports of its NEV. Revisions or reruns of reports do not delay the reporting requirement.

Divestiture, Section 704.10

The Board did not propose any changes to this provision, however, because of confusion concerning this provision, the Board proposes retitling it ''Investment Action Plan.'' This change clarifies that divestiture is not the only remedy available under this section.

Corporate CUSOs, Section 704.11

The proposed rule added new due diligence requirements for corporates' loans to corporate CUSOs. These requirements were taken from the member business loan rule. All six of the commenters that commented on this issue opposed the additional requirements. Commenters suggested underwriting is a supervision issue and should be addressed as part of the examination process and not in a regulation. One of the commenters noted that this requirement may limit a corporate's desire to provide necessary liquidity to key service providers.

The Board believes these due diligence requirements are the minimum requirements necessary to insure the corporate is engaging in safe and sound lending practices. The requirements should not place a new burden on corporates because any corporate that makes a loan to a corporate CUSO should already be following these requirements.

Six commenters requested that the current 15 percent aggregate limit for investments in and loans to corporate CUSOs be increased to 30 percent and the additional 15 percent for loans that are fully secured be retained.

The Board agrees that with respect to loans to corporate CUSOs. Because of the mandatory due diligence requirements, a corporate' lending limits should be increased to 30 percent. The Board has safety and soundness concerns with increasing the investment limits to 30 percent. Therefore, the revised proposed rule maintains a limit of 15 percent of capital for investments in corporate CUSOs, increases the aggregate limit for loans and

investments to 30 percent of capital, and retains the additional 15 percent for loans that are fully secured.

Six commenters requested that the current audit requirements in § 704.11(d)(3) be modified to permit a consolidated CPA audit for wholly owned CUSOs. This modification would mirror the practice that is currently permissible for natural person CUSOs. 63 Fed. Reg. 10743, 10747 (March 5, 1998). The Board agrees but does not believe it is necessary to state it in the regulations since this is a requirement under GAAP for wholly owned CUSOs.

Six commenters supported revising § 704.11(b) so that it mirrors § 712.6 of the natural person CUSO rule. Section 704.11(b) prohibits a corporate from acquiring control directly or indirectly of another ''financial institution'' and § 712.6 prohibits a natural person credit union from acquiring control directly or indirectly of anther ''depository financial institution.'' The Board agrees and has placed the modifier ''depository'' before ''financial institution.''

The commenters generally supported clarifying in the CUSO rule that the aggregate limit of § 723.16, the member business loan rule applies to loans to CUSOs. The commenters objected to the other provisions of part 723 applying to those loans and cited a Guidance letter issued by the OCCU as support for their position. The intent of the proposal, as well as the revised proposal, is not to have any additional requirements in part 723 apply except those listed as due diligence requirements.

Permissible Services, Section 704.12

The Board proposed listing six broad categories of permissible financial services for corporate credit unions. They are: Credit and investment services; liquidity and asset liability management; payment systems; electronic financial services; sale or lease of excess physical or information system capacity; and operational services associated with administering or providing financial products or services. Currently, permissible services are not defined but are limited in the preamble to the final rule to ''traditional loan, deposit and payment services.'' 61 FR 28085, 28096 (June 4, 1996).

Twenty of the 21 commenters that commented on this provision objected to the proposed list of services. Some of the reasons given in opposition were that: services should be the same as those listed in part 721; a corporate should be able to seek approval for additional services, as in parts 712 and 721; the services should be listed as broad categories; limiting services to those currently offered by corporates inhibits the possibility of future development and could force credit unions to go to competitor banks for services; and securities safekeeping, custodial and brokerage services should be added to the list of permissible services. Several commenters objected to changing the name from ''services'' to ''permissible services.'' One commenter objected to limiting services of federally-insured, state-chartered credit unions (FISCUs). The commenter noted that prior to 1998, this provision did not apply to FISCUs.

The commenter that supported this provision commended NCUA for interpreting permissible services more broadly than the current interpretation. The commenter suggested listing the services as an appendix to the rule.

The Board believes some commenters may have been confused even though the proposal specifically stated that the services listed were broad categories. To eliminate confusion, the Board is listing the permissible services in categories in the same manner they are listed in parts 712 and 721. In addition, like parts 712 and 721, examples of the service are set out under each category. The Board does not agree that the permissible services for a corporate credit union should be the same as for a natural person credit union. The mission of a corporate credit union is serving its natural person credit union members, whereas, the mission of a natural person credit union is serving natural persons. These two distinct missions lead to very different services for members. The Board is retaining the six broad categories in the proposed, adding the category of trustee or custodial services, and including examples under each category. The Board notes that trustee services are limited to those permitted in part 724. Custodial services include acting as custodian or safekeeper of securities or other investments for your members. When performing these services, you must comply with applicable laws, including securities laws.

At the commenters' suggestion, the Board is adding a provision similar to the provisions in parts 712 and 721 concerning adding new permissible services. The new section permits corporates to petition the Board to add a new service to § 704.12 and encourages them to seek an advisory opinion from the Office of General Counsel (OGC) on whether a proposed service is already covered by one of the authorized categories before filing a petition. The rule does not require a corporate to come to OGC for an opinion every time it wants to provide a service not specifically listed as an example under a broad category. An opinion from OGC is recommended if there is doubt as to whether a specific service falls within one of the broad categories. In those situations, a corporate that does not consult with OGC runs the risk of engaging in an impermissible activity and being subject to supervisory action.

The proposal deleted the requirement that services to nonmember natural person credit unions through a correspondent services agreements could only be provided to those natural person credit unions' branch offices in the corporate's geographic field of membership. In addition, the proposal clarified that a correspondent services agreement is an agreement between two corporates for one of the corporates to provide services to the members of the other. Eleven of the 13 commenters that commented on this issue objected to the clarification.

The negative commenters stated that the requirement: Ignores the reality that a credit union can join almost any corporate; is an antitrust violation and is in restraint of trade; Ignores the existing practice; creates a competitive edge for noncredit union competitors; and will hinder the process of establishing relationships that will lead to membership. Several commenters noted that, with national fields of membership, any credit union can join a corporate and NCUA needs to define member.

The two commenters that supported this provision noted that corporates are still financial cooperatives formed to benefit members and that a national field of membership does not change that basic principle.

The Board agrees with the two positive commenters that corporates, like natural person credit unions, are formed to serve their members. Natural person credit unions are permitted as part of correspondent services to provide services to other natural person credit unions, but are only permitted to serve, nonmember natural persons through an agreement with the nonmember's natural person credit union. 12 CFR 721.3(b). The revised proposed rule for corporates, like that for natural person credit unions, requires an agreement between two corporates for one corporate to provide services to the members of the other. In addition, although not in the initial proposal, the revised proposal permits corporates to provide services to other nonmember corporates through a correspondent services agreement, just as natural person credit unions are permitted to provide services to other natural person credit unions through an

agreement. Finally, correspondent services are now listed under permissible services.

The proposal also moved the current prohibition on the purchase of ''mortgage servicing rights'' from the investment section to this section and renames it ''loan servicing rights.'' Three commenters objected to this current prohibition stating that it is arbitrary and contrary to the concept of business aggregation. The Board is not persuaded by these three commenters based on its safety and soundness concerns with corporates engaging in this type of activity. The Board will maintain the current prohibition in the revised proposed rule.

Fixed Assets, Section 704.13

The proposal eliminated the existing regulatory limit on fixed assets of 15 percent of capital. The proposal noted the monitoring of fixed assets is best accomplished through ongoing supervision rather than through regulation.

The few commenters that commented on this change supported the elimination. Therefore, the revised proposal reflects this change.

Representation, Section 704.14

The proposal clarified that the term ''credit union trade association'' in § 704.14(a) includes the term affiliates by adding to the regulation the definition of ''credit union trade association'' in the preamble to the prior final rule. 59 Fed. Reg. 59357, 59358, November 17, 1994. Thirteen of the 14 commenters that commented on this clarification objected to adding a definition of ''credit union trade association.'' The commenters erroneously perceived this as a change, stated that it unnecessarily limits the pool of qualified applicants, and it is not needed in light of the recusal provisions in § 704.14(d). The one positive commenter supported the change because it clarifies the use of the terms ''affiliates'' and ''trade association.''

The Board continues to believe that the chairman of the board of a corporate should not serve simultaneously as an officer, director or chair of a national credit union trade association or its affiliates. As the Board stated when this provision was originally drafted, ''the chair should be an individual whose loyalty is in no way divided between the corporate credit union and a trade association.'' 59 FR 59357, 59358, November 17, 1994. (Emphasis added). If the Board were to exclude affiliates from the definition, the chair's loyalty could be divided between the corporate and the credit union trade association affiliate. Therefore, the revised proposal retains the definition of ''credit union trade association'' in the initial proposal.

The proposal amends the requirement in § 704.14(a) that both federal and state-chartered corporates comply with federal corporate bylaws governing election procedures to require all corporates comply with § 704.14(a) governing election procedures. All four commenters that commented on this amendment agreed with the proposed change. The Board is retaining these changes in the revised proposal.

Wholesale Corporate Credit Unions, Section 704.19

The proposed rule eliminated separate wholesale corporate rules for minimum capital ratio, minimum NEV ratio, and maximum NEV volatility. In addition, it eliminated reserve transfer and annual validation of the asset and liability management modeling system requirements. A new provision was added that decreased the minimum RUDE ratio requirement for a wholesale corporate to 1 percent, as opposed to the 2 percent requirement for other corporates.

Four commenters addressed capital. None of the commenters addressed the minimum capital ratio, but all four opposed establishing a 1 percent minimum RUDE ratio requirement citing the same reasons they opposed the 2 percent minimum RUDE ratio for other corporates. Two commenters recommended adopting a credit-risk weighted capital approach for a wholesale corporate. Both commenters stated a credit-risk weighted capital system is a more appropriate measurement of capital adequacy than a RUDE ratio.

As discussed in the section addressing capital, the Board is persuaded to eliminate a minimum RUDE ratio requirement but remains convinced retained earnings are a critical component of capital. Therefore, the Board is establishing an earnings retention requirement when the retained earnings ratio is below 1 percent. The Board believes implementing an earnings retention requirement, in lieu of a minimum RUDE ratio requirement, addresses both the need to maintain an appropriate level of retained earnings and eliminates concerns expressed about restricting a wholesale corporate credit union's ability to accept deposits. Recognizing the unique position of a wholesale corporate credit union in the two-tier corporate system, the Board is establishing a 1 percent, rather than a 2 percent, retained earnings ratio threshold before the earnings retention requirement is in effect. For reasons previously cited, the Board remains unconvinced that a credit-risk weighted capital system for corporate credit unions is a preferred method for determining capital adequacy.

Several comments were received regarding eliminating § 704.19(c)(1). This section addressed separate rules for minimum NEV ratio and maximum NEV volatility. Several commenters objected to eliminating this provision citing a wholesale corporate's need for greater flexibility in managing liquidity. One commenter supported the proposed rule stating there is no basis for maintaining different regulatory requirement for a wholesale corporate. The Board continues to believe exposures associated with interest rate risk are the same regardless of the type of corporate. Therefore, the Board has eliminated this section in the revised proposal.

Two commenters supported the proposed elimination of § 704.19(c)(2) that requires a wholesale corporate to obtain an annual third-party review of its asset and liability management modeling system. This section is eliminated in the revised proposed rule.

Appendix A to Part 704—Model Forms

The proposal added language to the model forms to clarify the treatment of MC and PIC in the event of the merger, liquidation, or charter conversion of a member credit union or the corporate credit union. The proposal also noted that the model forms only set forth the minimum disclosure requirements and that there may be additional disclosures required that the Board has not considered. The Board proposed eliminating the wording that states corporates using the model forms are in compliance with all disclosure requirements.

One commenter indicated full support for all the proposed changes in this section. Several commenters suggested a revision to allow either the corporate's chair or the CEO to sign the annual disclosure. Eight commenters objected only to the removal of the wording that indicates a corporate using the model forms will be in compliance with the disclosure requirements. They suggested the value of providing model forms is to assist the industry in complying with regulatory requirements and expressed concern with having compliance with the terms and conditions of MC and PIC accounts left to an examiner's discretion.

The Board wants each corporate to have the ability to utilize MC and PIC to achieve the best results for its institution and its members. As such, a

corporate's officials may develop features in their MC or PIC offerings that the Board did not consider in adopting the model forms. The Board wants corporates to have the freedom to develop unique MC and PIC accounts, while ensuring member credit unions receive appropriate disclosure on these accounts. Therefore, in the revised proposed regulation, the Board has eliminated the wording that states corporate credit unions using the model forms are in compliance with all disclosure requirements.

The revised proposal also places the signature requirements for the disclosures that are currently only found in the disclosures in the regulation in § 704.3(b)(2) and (c)(1).

Appendix B to Part 704—Expanded Authorities and Requirements

Appendix B provides corporates with incrementally greater authorities provided additional infrastructure and capital requirements are met. The proposed rule introduced a more flexible approach to expanded authorities. The Board proposed changes to this section to: incorporate base plus expanded authorities under this appendix; expand permissible credit ratings on investments; permit corporates that precommit to a higher level of capital the option of a higher level of interest rate risk; ease the requirements for corporates to participate in risk reducing derivative activities; and permit corporates to participate in loan participations with natural person credit unions.

In addition, the proposed rule included minimum standards for any corporate credit union participating in expanded authorities. The minimum standards included requirements for monthly NEV modeling and annual updating of a corporate's self-assessment. No commenters objected to the NEV modeling requirement; however, twelve commenters opposed the establishment of a requirement to update the self-assessment plan originally submitted in a request for expanded authority. The Board is persuaded that updating the self-assessment would be overly burdensome. Therefore, the Board has deleted that requirement from the revised proposed rule.

The Board proposed allowing corporates to select the level of NEV volatility they choose given their level of capital. Recognizing that all corporates do not operate at or seek the same levels of risk, the Board proposed to reduce mandatory capital levels if NEV volatility is maintained at lower levels and to increase it as volatility increases. The Board believed this menu-driven approach would reduce burden on corporate credit unions, allowing them to better manage their risk taking activities in coordination with capital levels. No commenters opposed the approach; however, several commenters opposed the limits established in the proposed rule.

In the proposed rule, the Board limited volatility for a base plus corporate to a maximum of 15 percent. For Part I, the Board proposed to limit volatility to a maximum of 15 and 20 percent when the corporate credit union had committed to a minimum capital requirement of four and five percent, respectively. For Part II the board proposed to limit volatility to 15, 20, and 30 percent when a corporate credit union had committed to a minimum capital requirement of four, five, or six percent, respectively. Several commenters objected to these volatility levels recommending that volatility levels remain at existing levels. One commenter recommended lowering the volatility levels even further.

After reviewing the comments, the Board is persuaded to increase the proposed volatility levels as noted in Table 1. The Board is establishing NEV decline limits for a base-plus corporate credit union of 20 percent, as illustrated in Table 1. The Board is adopting the menu-driven approach proposed for only Part II expanded authority for corporates requesting both Part I and Part II expanded authorities. The NEV limits in Table 1 reflect reasonable levels of volatility given the infrastructure requirements imposed by this rule. A corporate can obtain greater levels of NEV volatility with Part I authority without incurring the infrastructure costs associated with the ability to assume the additional credit risk permitted in Part II. This flexibility is being provided to enable corporates to manage their balance sheets better.

TABLE 1.—NEV DECLINE LIMITS

[in percent]

Level of expanded authorities	Minimum capital requirement	Proposed rule NEV decline limit	Revised proposed rule NEV decline limit
Base plus	4	15	20
Part I	4	15	20
	5	20	28
	6	([1])	35
Part II	4	15	20
	5	20	28
	6	30	35

[1] Not proposed.

The Board's estimates of the effect of the NEV decline limits on corporates with expanded authorities are summarized in Table 2. Although the estimated permitted NEV declines are smaller for some corporates with expanded authorities, no corporates reported NEV declines under adverse rate shocks will violate the new NEV decline limits.

TABLE 2.—ESTIMATES OF PERMITTED DECLINES IN NEV FOR BASE-PLUS, PART I, AND PART II CORPORATE CREDIT UNIONS SIMPLE AVERAGES FOR THE QUARTERS ENDING JUNE 2000 THROUGH MARCH 2001

	NEV ratio	NEV decline limit	Permitted decline as % of FV of assets
Base plus			
Current Rule	4.33	25	1.06
Proposed Rule	9.24	20	1.85
Part I			
Current Rule	3.62	35	1.27
Proposed Rule 20	8.44	20	1.69
Proposed Rule 28	8.44	28	2.36
Proposed Rule 35	8.44	35	2.95
Part II			
Current Rule	3.53	50	1.76
Proposed Rule 20	6.51	20	1.30
Proposed Rule 28	6.51	28	1.82
Proposed Rule 35	6.51	35	2.28

The Board will permit any corporate currently approved for Part I or Part II Expanded Authorities to request to lower its NEV decline limit in conjunction with a request to lower its minimum capital requirement from 5 or 6 percent, respectively.

As discussed in § 704.8, asset and liability management, the Board proposed to establish limits for the aggregate credit exposure to a single obligor at 50 percent of capital. This limit provides corporates with substantial flexibility in comparison to other depository institutions. The Board believes this limit is the most credit exposure a corporate credit union should prudently take in investment quality investments. This 50 percent limit will apply to all corporates.

The Board proposed expanding the exception from the general credit concentration rule for repurchase and securities lending transactions for corporate credit unions with Part I or II authority. Due to the increased infrastructure requirements for Part I and II, the Board proposed to establish a 300 percent limit for Part I, and 400 percent limit for Part II. Several commenters objected to the limits stating that the lower levels will significantly reduce their existing limits. The Board believes the proposed levels of risk are appropriate because of the increased requirements for credit analysis for Part I and II corporates; however, the Board believes increasing the limits beyond those proposed would not be prudent.

Part I

Currently, corporates with Part I authority can purchase long-term investments rated no lower than AA−. The Board proposed lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to A−. One commenter objected to the lowering of the credit standards, since it believes that corporates should only invest in the highest rated instruments. The Board believes these proposed levels of risk are appropriate because of the credit risk analysis infrastructure requirements for Part I and has retained them in the revised proposed rule.

Currently, corporates cannot purchase a short-term investment rated lower than A−1. For Part I corporates, the Board proposed lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A−2, provided the issuer had a long-term rating no lower than A−. Again, one commenter objected to the lowering of the credit standards, since it believes that corporates should only invest in the highest rated instruments. As stated above, the Board believes these proposed levels of risk are appropriate because of the credit risk analysis infrastructure requirements for Part I and has adopted them in the revised proposed rule. The revised proposed rule clarifies that an asset-backed security with a short-term rating of A−2 is permissible.

The Board proposed to delete authority for Part I corporates to enter into a repurchase transaction where the collateral securities are rated no lower than A (or equivalent). This authority is no longer necessary because the revised proposed rule permits Part I corporates to purchase long-term investments rated no lower than A− (or equivalent). No comments we received on this change and the Board has adopted it in the revised proposed rule.

The current rule generally prohibits when-issued trading, but allows corporates with Part I and II authorities to engage in when-issued trading when accounted for on a trade date basis. The revised proposed § 704.5(h) would permit all corporates, including those with expanded authorities, to engage in when-issued trading when accounted for on a trade date basis. The reference to when-issued trading in Parts I and II is no longer necessary and is deleted in the revised proposal.

In both Part I and II, the Board proposed clarifying that the aggregate loan limits apply to both revocable and irrevocable lines of credit. Currently, the rule only states ''irrevocable lines of credit.'' The Board deleted the modifier ''irrevocable'' to clarify this. No comments were received on this proposed change and it is adopted in the revised proposed rule.

Part II

Currently, corporates with Part II authority can purchase long-term investments rated no lower than A− (or equivalent). The Board proposed lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to BBB (flat). Several positive comments were received on this change. One commenter believed even lower rated instruments should be permitted. Given the additional credit risk analysis infrastructure requirements of a Part II corporate, the Board believes the proposed rating is appropriate and has adopted it in the revised proposed rule.

Currently, corporates cannot purchase a short-term investment rated lower than A−1 (or equivalent). For Part II corporates, the Board proposed lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A−2 (or equivalent), provided the issuer has a long-term rating no lower than BBB

(flat). One commenter believed even lower rated instruments should be permitted. Given the additional credit risk analysis infrastructure requirements of a Part II corporate, the Board believes the proposed rating is appropriate and has adopted it in the revised proposed rule. The revised proposed rule clarifies that an asset-backed security with a short-term rating of A−2 is permissible.

Currently, corporates with Part II authority must establish limits for secured and unsecured loans as a percentage of the corporate's capital plus pledged shares. The Board proposed to limit unsecured loans to 100 percent of capital. This proposed unsecured loan limit is the same as that for a Part I corporate. One commenter noted that corporates operating at this level of expanded authority are capable of making a credit decision and establishing limits utilizing their own expertise. The Board does not believe it is appropriate for any corporate to risk more than 100 percent of its capital to any one member credit union on an unsecured basis. The Board has adopted the proposed limit in the revised proposed rule.

Part III

Corporates with Part III authority may purchase certain foreign investments. The current rule requires the foreign country to be rated no lower than AA (or equivalent) for political and economic stability. The Board proposed to replace this requirement with a requirement for a long-term foreign currency (non-local currency) debt rating no lower than AA− (or equivalent). No negative comments were received so the Board has adopted this change in the revised proposed rule

The Board proposed to relax the bank issuer or guarantor rating from AA (or equivalent) to AA− (equivalent). This change represented only a minor increase in risk, and provided Part III corporates with additional investment alternatives. Five commenters noted that corporates should be allowed to take credit risk on foreign investments at the same level as permitted for domestic issuers. The Board was persuaded that a credit rating by an NRSRO is consistent between foreign and domestic issuers, so the revised proposed rule is modified to allow corporates the same credit rating levels for foreign and domestic issuers at their level of authority. In addition, several commenters noted that the rule favored banks over other foreign counterparties. The Board agrees this wording favored foreign banks and has modified the revised proposed rule to allow foreign counterparties, not just banks.

The current rule limits non-secured obligations of any single foreign issuer to 150 percent of RUDE and PIC. The Board proposed to limit all obligations of any single foreign issuer or guarantor to 50 percent of capital. The Board believes the limits for foreign issuers or guarantors should be parallel to those of domestic obligors and based on capital rather than RUDE and PIC. The current rule limits non-secured obligations of any single foreign country to 500 percent of RUDE and PIC. The Board proposed to limit all obligations of any single foreign country to 250 percent of capital. This change equates the existing limit based on RUDE and PIC to a limit using the new definition of capital. The Board noted that sovereign risk is present in foreign debt obligation, whether secured or unsecured. No negative comments were received on these changes, and the Board is adopting them in the revised proposed rule.

Part IV

Part IV expanded authorities have been restructured to provide more flexibility among corporates seeking to use derivatives to reduce risk.

The current rule requires corporates to have either Part I or II expanded authorities to qualify for Part IV. The proposal removed this requirement. The Board believes that all corporates demonstrating and possessing the resources, knowledge, systems, and procedures necessary to measure, monitor, and control the risks associated with derivative transactions should be permitted to use these powers. As with all expanded authorities, the corporate in its application must detail the specific types of derivatives they may utilize. The Board believes that derivative transactions, used properly, reduce risk to the institution and its members.

The current rule provides that a corporate may use such derivatives only for creating structured instruments and hedging its own balance sheet and the balance sheet of its members. The proposed rule delineated between the various permissible activities and clarified the Board's original intent, as it relates to hedging ''its own balance sheet and the balance sheet of its members.'' The Board believes corporates should be allowed to manage their own balance sheets, which may at times add risk. The Board's intent as it relates to ''its members'' is that the activities only be related to risk reduction. An example of this is to reduce a member's exposure to fixed rate mortgage loans by swapping a fixed rate for a floating rate. The Board is adopting this provision as proposed in the revised proposed rule.

The current rule is silent as to counterparty ratings for derivative transactions with foreign and domestic counterparties. The Board proposed to clarify its intent by adding language in Part IV making the rating requirements parallel with the corporates other permissible activities. Several commenters noted that requiring the counterparty to be rated unintentionally limited a corporate's ability to enter into transactions with government sponsored enterprises, member credit unions, and special purpose entities fully guaranteed by an entity with a minimum rating for comparable term permissible investments. Based on these comments, the Board is adding clarifying language to the revised proposed rule excluding those specific entities from the Part IV rating requirements.

Part V

As discussed in the lending section, new Part V gives corporates the authority to enter into loan participations with their member credit unions. Several commenters objected to the proposed individual and aggregate participation loan limits of 25 and 100 percent of capital, respectively. These commenters recommended the Board establish individual and aggregate participation loan limits on a case-by-case basis. The Board believes safety and soundness factors require retention of the 25 percent individual member credit union limit. A greater concentration of capital for an individual member credit union, particularly, for non-recourse participation loans, could jeopardize the future viability of a corporate because recovery on those loans is limited to the natural person borrower.

The Board agrees with the commenters on the issue of establishing aggregate participation loan limits on a case-by-case basis. The revised proposed rule permits this; however, the Board only intends to permit aggregate participation loan limits above 100 percent of capital after a corporate demonstrates its ability to manage this activity soundly. Once a corporate has demonstrated its ability to soundly manage this activity, the OCCU Director may authorize greater aggregate participation loan limits.

Delegations of Authority

Although not in the initial proposed rule, the Board, in an effort to streamline the regulatory approval process, has delegated to the OCCU Director in the revised proposal, the authority to act on its behalf in

§§ 704.3(e), (g) and (i); 704.8(e); 704.10; 704.15; and 704.19(b).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (those under $1 million in assets). The rule only applies to corporates, all of which have assets well in excess of $1 million. The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). NCUA currently has OMB clearance for part 704's collection requirements (OMB No. 3133–0129).

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The executive order states that: ''National action limiting the policymaking discretion of the states shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance.'' The risk of loss to federally-insured credit unions and the NCUSIF caused by actions of corporates are concerns of national scope. The proposed rule, if adopted, will help assure that proper safeguards are in place to ensure the safety and soundness of corporates.

The proposed rule, if adopted, applies to all corporates that accept funds from federally-insured credit unions. NCUA believes that the protection of such credit unions, and ultimately the NCUSIF, warrants application of the proposed rule to all corporates, including nonfederally insured. The proposed rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions. NCUA has determined that this proposal may have an occasional 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. However, the potential risk to the NCUSIF without the proposed changes justifies them.

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

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

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 703

Credit unions, Investments.

12 CFR Part 704

Credit unions, Reporting and record keeping requirements, Surety bonds.

By the National Credit Union Administration Board on June 20, 2002.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 703 and 704 as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

1. The authority citation for part 703 will continue to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), and 1757(15).

2. Amend § 703.100 paragraph (c) by revising the second and third sentences and adding a fourth sentence to read as follows:

§ 703.100 What investments and investment activities are permissible for me?

* * * * *

(c) * * * Your aggregate amount of paid-in capital and membership capital in one corporate credit union is limited to two percent of your assets measured at the time of investment or adjustment. Your aggregate amount of paid-in capital and membership capital in all corporate credit unions is limited to four percent of your assets measured at the time of investment or adjustment. Paid-in capital and membership capital are defined in part 704 of this chapter.

* * * * *

PART 704—CORPORATE CREDIT UNIONS

3. The authority citation for part 704 will continue to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

4. Amend § 704.2 as follows:

a. Remove the definition of ''*commercial mortgage related security*'', ''*correspondent services*'', ''*expected maturity*'', ''*long term investment*'', '' market price'', ''*member paid-in capital*'', ''*mortgage servicing*'', ''*net interest income*'', ''*non member paid-in capital*'', ''*non secured obligation*'', ''*prepayment model*'', ''*real estate mortgage investment conduit (REMIC)*'', ''*reserve ratio*'', ''*reserves and undivided earnings*'', ''*short-term investment*'', and ''*trade association*'';

b. Revise the definitions of ''*capital*'', ''*collateralized mortgage obligation (CMO)*'', '' *fair value*'', ''*forward settlement*'', ''*membership capital*'', ''*mortgage related security*'', ''*paid-in capital*'', ''*regular-way settlement*'', ''*repurchase transaction*'', and ''*residual interest*'';

c. Amend the definitions of ''*asset-backed security*'' by revising the last sentence, and ''*net economic value (NEV)*'' by revising the second and third sentences; and

d. Add new definitions for ''*core capital*'', ''*core capital ratio*'', ''*limited liquidity investment*'', ''*obligor*'', ''*quoted market price*'', ''*retained earnings*'', and ''*retained earnings ratio*''.

§ 704.2 Definitions.

* * * * *

Asset-backed security * * * This definition excludes mortgage related securities.

Capital means the sum of a corporate credit union's retained earnings, paid-in capital, and membership capital.

* * * * *

Collateralized mortgage obligation (CMO) means a multi-class mortgage related security.

Core capital means the corporate credit union's retained earnings and paid-in capital.

Core capital ratio means the corporate credit union's core capital divided by its moving daily average net assets.

* * * * *

Fair value means the amount at which an instrument could be exchanged in a current, arms-length transaction

between willing parties, other than in a forced or liquidation sale. Quoted market prices in active markets are the best evidence of fair value. If a quoted market price in an active market is not available, fair value may be estimated using a valuation technique that is reasonable and supportable, a quoted market price in an active market for a similar instrument, or a current appraised value. Examples of valuation techniques include the present value of estimated future cash flows, option-pricing models, and option-adjusted spread models. Valuation techniques should incorporate assumptions that market participants would use in their estimates of values, future revenues, and future expenses, including assumptions about interest rates, default, prepayment, and volatility.

* * * * *

Forward settlement of a transaction means settlement on a date later than regular-way settlement.

* * * * *

Limited liquidity investment means an investment without a quoted market price.

* * * * *

Membership capital means funds contributed by members that: are adjustable balance with a minimum withdrawal notice of 3 years or are term certificates with a minimum term of 3 years; are available to cover losses that exceed retained earnings and paid-in capital; are not insured by the NCUSIF or other share or deposit insurers; and cannot be pledged against borrowings.

Mortgage related security means a security as defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)), *e.g.*, a privately-issued security backed by mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure that is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.

* * * * *

Net economic value (NEV) * * * All fair value calculations must include the value of forward settlements and embedded options. The amortized portion of membership capital and paid-in capital, which do not qualify as capital, are treated as liabilities for purposes of this calculation. * * *

Obligor means the primary party obligated to repay an investment, *e.g.*, the issuer of a security, the taker of a deposit, or the borrower of funds in a federal funds transaction. Obligor does not include an originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment.

* * * * *

Paid-in capital means accounts or other interests of a corporate credit union that: are perpetual, non-cumulative dividend accounts; are available to cover losses that exceed retained earnings; are not insured by the NCUSIF or other share or deposit insurers; and cannot be pledged against borrowings.

* * * * *

Quoted market price means a recent sales price or a price based on current bid and asked quotations.

Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for immediate delivery of that type of security. For example, regular-way settlement of a Treasury security includes settlement on the trade date (''cash''), the business day following the trade date (''regular way''), and the second business day following the trade date (''skip day'').

Repurchase transaction means a transaction in which a corporate credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a specified future date and at a specified price.

* * * * *

Residual interest means the remainder cash flows from a CMO or ABS transaction after payments due bondholders and trust administrative expenses have been satisfied.

Retained earnings means the total of the corporate credit union's undivided earnings, reserves, and any other appropriations designated by management or regulatory authorities. For purposes of this regulation, retained earnings does not include the allowance for loan and lease losses account, accumulated unrealized gains and losses on available for sale securities, accumulated FASB adjustments, or other comprehensive income items.

Retained earnings ratio means the corporate credit union's retained earnings divided by its moving daily average net assets.

* * * * *

5. Amend § 704.3 as follows:

a. Amend paragraph (a) by revising the paragraph heading;

b. Redesignate paragraphs (d) through (g) as paragraphs (e) through (h) and paragraph (b) as paragraph (d);

c. Remove paragraph (c);

d. Add paragraphs (b), (c), and (i); and

e. Revise redesignated paragraphs (e) heading, (e)(1) introductory text, (e)(2) and (e)(3)(iii) and (f).

§ 704.3 Corporate credit union capital.

(a) Capital plan. * * *

(b) *Requirements for membership capital*—(1) *Form.* Membership capital funds may be in the form of a term certificate or an adjusted balance account.

(2) *Disclosure.* The terms and conditions of a membership capital account must be disclosed to the recorded owner of the account at the time the account is opened and at least annually thereafter.

(i) The initial must be signed by either all of the directors of the member credit union or, if authorized by board resolution, the chair and secretary of the board; and

(ii) The annual disclosure notice must be signed by the chair of the corporate credit union. The chair must sign a statement that certifies that the notice has been sent to member credit unions with membership capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

(3) *Three-year remaining maturity.* When a membership capital account has been placed on notice or has a remaining maturity of less than three years, the amount of the account that can be considered membership capital is reduced by a constant monthly amortization that ensures membership capital is fully amortized one year before the date of maturity or one year before the end of the notice period. The full balance of a membership capital account being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of the sum of retained earnings and paid-in capital until the funds are released by the corporate credit union at the time of maturity or the conclusion of the notice period.

(4) *Release.* Membership capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the membership capital transfers to the continuing credit union. In the event of a charter conversion, the membership capital transfers to the new institution. In the event of liquidation, the membership capital may be released to facilitate the payout of shares with the prior written approval of the OCCU Director.

(5) *Sale.* A member may sell its membership capital to a credit union in the corporate credit union's field of membership, subject to the corporate credit union's approval.

(6) *Liquidation.* In the event of liquidation of a corporate credit union, membership capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders and the National Credit Union Share Insurance Fund (NCUSIF), but excluding paid-in capital.

(7) *Merger.* In the event of a merger of a corporate credit union, membership capital transfers to the continuing corporate credit union. The minimum three-year notice period for withdrawal of membership capital remains in effect.

(8) *Adjusted balance accounts:* (i) May be adjusted no more frequently than once every six months; and

(ii) Must be adjusted in relation to a measure (*e.g.,* one percent of a member credit union's assets) established and disclosed at the time the account is opened without regard to any minimum withdrawal period. If the measure is other than assets, the corporate credit union must address the measure's permanency characteristics in its capital plan.

(iii) *Notice of withdrawal.* Upon written notice of intent to withdraw membership capital, the balance of the account will be frozen (no further adjustments) until the conclusion of the notice period.

(9) *Grandfathering.* Membership capital issued before the effective date of this regulation is exempt from the limitation of § 704.3(b)(8)(i).

(c) *Requirements for paid-in capital*—(1) Disclosure. The terms and conditions of any paid-in capital instrument must be disclosed to the recorded owner of the instrument at the time the instrument is created and must be signed by either all of the directors of the member credit union or, if authorized by board resolution, the chair and secretary of the board.

(2) *Release.* Paid-in capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the paid-in capital transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital transfers to the new institution. In the event of liquidation, the paid-in capital may be released to facilitate the payout of shares with the prior written approval of the OCCU Director.

(3) *Callability.* Paid-in capital accounts are callable on a pro-rata basis across an issuance class only at the option of the corporate credit union and only if the corporate credit union meets its minimum level of required capital and NEV ratios after the funds are called.

(4) *Liquidation.* In the event of liquidation of the corporate credit union, paid-in capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders, the NCUSIF, and membership capital holders.

(5) *Merger.* In the event of a merger of a corporate credit union, paid-in capital shall transfer to the continuing corporate credit union.

(6) Paid-in capital includes both member and nonmember paid-in capital.

(i) Member paid-in capital means paid-in capital that is held by the corporate credit union's members. A corporate credit union may not condition membership, services, or prices for services on a credit union's ownership of paid-in capital.

(ii) Nonmember paid-in capital means paid-in capital that is not held by the corporate credit union's members.

(7) *Grandfathering.* A corporate credit union's authority to include paid-in capital as a component of capital is governed by the regulation in effect at the time the paid-in capital was issued. When a grandfathered paid-in capital instrument has a remaining maturity of less than 3 years, the amount that may be considered paid-in capital is reduced by a constant monthly amortization that ensures the paid-in capital is fully amortized 1 year before the date of maturity. The full balance of grandfathered paid-in capital being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of retained earnings until the funds are released by the corporate credit union at maturity.

* * * * *

(e) *Individual capital ratio requirement*—(1) When significant circumstances or events warrant, the OCCU Director may require a different minimum capital ratio for an individual corporate credit union based on its circumstances. Factors that may warrant a different minimum capital ratio include, but are not limited to, for example:

* * * * *

(2) When the OCCU Director determines that a different minimum capital ratio is necessary or appropriate for a particular corporate credit union, he or she will notify the corporate credit union in writing of the proposed capital ratio and, if applicable, the date by which the capital ratio should be reached. The OCCU Director also will provide an explanation of why the proposed capital ratio is considered necessary or appropriate for the corporate credit union.

(3) * * *

(iii) After the close of the corporate credit union's response period, the OCCU Director will decide, based on a review of the corporate credit union's response and other information concerning the corporate credit union, whether a different minimum capital ratio should be established for the corporate credit union and, if so, the capital ratio and the date the requirement will become effective. The corporate credit union will be notified of the decision in writing. The notice will include an explanation of the decision, except for a decision not to establish a different minimum capital ratio for the corporate credit union.

(f) *Failure to maintain minimum capital ratio requirement.* When a corporate credit union's capital ratio falls below the minimum required by paragraphs (d) or (e) of this section, or appendix B to this part, as applicable, operating management of the corporate credit union must notify its board of directors, supervisory committee, and the OCCU Director within 10 calendar days.

* * * * *

(i) *Earnings retention requirement.* A corporate credit union must increase retained earnings if the prior month-end retained earnings ratio is less than 2 percent.

(1) Its retained earnings must increase:

(i) During the current month, by an amount equal to or greater than the monthly earnings retention amount; or

(ii) During the current and prior two months, by an amount equal to or greater than the quarterly earnings retention amount.

(2) Earnings retention amounts are calculated as follows:

(i) The monthly earnings retention amount is determined by multiplying the earnings retention factor by the prior month-end moving daily average net assets; and

(ii) The quarterly earnings retention amount is determined by multiplying the earnings retention factor by moving daily average net assets for each of the prior three month-ends.

(3) The earnings retention factor is determined as follows:

(i) If the prior month-end retained earnings ratio is less than 2 percent and the core capital ratio is less than 3 percent, the earnings retention factor is .15 percent per annum; or

(ii) If the prior month-end retained earnings ratio is less than 2 percent and the core capital ratio is equal to or

greater than 3 percent, the earnings retention factor is .10 percent per annum.

(4) The OCCU Director may approve a decrease to the earnings retention amount if it is determined a lesser amount is necessary to avoid a significant adverse impact upon a corporate credit union.

(5) A corporate credit union may authorize the payment of dividends provided:

(i) The payment will not cause the retained earnings ratio to fall below 2 percent;

(ii) The payment will not cause the amount of retained earnings to decrease from the prior month-end, unless the decrease results from losses on the sale of investments; or

(iii) The OCCU Director and, if applicable, state regulator have given prior written approval for the payment.

6. Amend § 704.4 by removing the word ''operating'' wherever it appears in paragraphs (a) and (b) and revising paragraph (c) introductory text to read as follows:

§ 704.4 Board responsibilities.

* * * * *

(c) *Other requirements.* The board of directors of a corporate credit union must ensure:

* * * * *

7. Amend § 704.5 as follows:

a. Revise paragraphs (a)(1) and (2), (c)(5), (d)(1), (e)(1), (3) and (4), (f), and (h)(2) and(3);

b. Remove paragraphs (c)(6), (d)(3) and (d)(6);

c. Redesignate paragraphs (d)(4) and (d)(5) as paragraphs (d)(3) and (d)(4);

d. Revise redesignated paragraphs (d)(3) and the first sentence of (d)(4);

e. Add paragraph (h)(4); and

f. Add at the end of paragraph (c)(4) after the '';'' an ''and.''

§ 704.5 Investments.

(a) * * *

(1) Appropriate tests and criteria for evaluating investments and investment transactions prior to purchase; and

(2) Reasonable and supportable concentration limits for limited liquidity investments in relation to capital.

* * * * *

(c) * * *

(5) Domestically-issued asset-backed securities.

(d) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the transaction, and either takes physical possession or control of the repurchase securities or is recorded as owner of the repurchase securities through the Federal Reserve Book-Entry Securities Transfer System;

* * * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of the repurchase securities and maintains adequate margin that reflects a risk assessment of the repurchase securities and the term of the transaction; and

(4) The corporate credit union has entered into signed contracts with all approved counterparties and agents, and ensures compliance with the contracts.

* * *

(e) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the loan, obtains a first priority security interest in the collateral by taking physical possession or control of the collateral, or is recorded as owner of the collateral through the Federal Reserve Book-Entry Securities Transfer System;

* * * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of collateral and maintains adequate margin that reflects a risk assessment of the collateral and terms of the loan; and

(4) The corporate credit union has entered into signed contracts with all agents and, directly or through its agent, has executed a written loan and security agreement with the borrower. The corporate or its agent ensures compliance with the agreements.

(f) *Investment companies.* A corporate credit union may invest in an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a), provided that the prospectus of the company restricts the investment portfolio to investments and investment transactions that are permissible for that corporate credit union.

* * * * *

(h) * * *

(2) Engaging in trading securities unless accounted for on a trade date basis;

(3) Engaging in adjusted trading or short sales; and

(4) Purchasing stripped mortgage-backed securities, small business related securities, or residual interests in CMOs or asset-backed securities.

* * * * *

8. Amend § 704.6 by revising paragraphs (a) introductory text and paragraphs (a)(3), (a)(4) and (b) through (e) to read as follows:

§ 704.6 Credit risk management.

(a) Policies. A corporate credit union must operate according to a credit risk management policy that is commensurate with the investment risks and activities it undertakes. The policy must address at a minimum:

* * * * *

(3) Maximum credit limits with each obligor and transaction counterparty, set as a percentage of capital. In addition to addressing deposits and securities, limits with transaction counterparties must address aggregate exposures of all transactions, including, but not necessarily limited to, repurchase agreements, securities lending, and forward settlement of purchases or sales of investments; and

(4) Concentrations of credit risk (*e.g.*, originator of receivables, insurer, industry type, sector type, and geographic).

(b) *Exemption.* The requirements of this section do not apply to investments that are issued or fully guaranteed as to principal and interest by the U.S. government or its agencies or enterprises (excluding subordinated debt) or are fully insured (including accumulated interest) by the National Credit Union Share Insurance Fund or Federal Deposit Insurance Corporation.

(c) *Concentration limits*—(1) *General rule.* The aggregate of all investments in any single obligor is limited to 50 percent of capital or $5 million, whichever is greater.

(2) *Exceptions.* Exceptions to the general rule are:

(i) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 200 percent of capital;

(ii) Investments in corporate CUSOs are subject to the limitations of § 704.11; and

(iii) Aggregate investments in corporate credit unions are not subject to the limitations of paragraph (c)(1) of this section.

(3) For purposes of measurement, each new credit transaction must be evaluated in terms of the corporate credit union's capital at the time of the transaction. An investment that fails a requirement of this section because of a subsequent reduction in capital will be deemed nonconforming. A corporate credit union is required to exercise reasonable efforts to bring nonconforming investments into conformity within 90 days. Investments that remain nonconforming for 90 days will be deemed to fail a requirement of this section and will require compliance with § 704.10.

(d) *Credit ratings*—(1) All investments, other than in a corporate

credit union or CUSO, must have an applicable credit rating from at least one nationally recognized statistical rating organization (NRSRO).

(2) At the time of purchase, investments with long-term ratings must be rated no lower than AA – (or equivalent) and investments with short-term ratings must be rated no lower than A–1 (or equivalent).

(3) Any rating(s) relied upon to meet the requirements of this part must be identified at the time of purchase and must be monitored for as long as the corporate owns the investment.

(4) When two or more ratings are relied upon to meet the requirements of this part at the time of purchase, the board or an appropriate committee must place on the § 704.6(e)(1) investment watch list any rating that is downgraded below the minimum rating requirements of this part.

(5) Investments are subject to the requirements of § 704.10 if:

(i) One rating was relied upon to meet the requirements of this part and that rating is downgraded below the minimum rating requirements of this part; or

(ii) Two or more ratings were relied upon to meet the requirements of this part and at least two of those ratings are downgraded below the minimum rating requirements of this part.

(e) *Reporting and documentation.* (1) A written evaluation of each credit limit with each obligor or transaction counterparty must be prepared at least annually and formally approved by the board or an appropriate committee. At least monthly, the board or an appropriate committee must receive an investment watch list of existing and/or potential credit problems and summary credit exposure reports, which demonstrate compliance with the corporate credit union's risk management policies.

(2) At a minimum, the corporate credit union must maintain:

(i) A justification for each approved credit limit;

(ii) Disclosure documents, if any, for all instruments held in portfolio. Documents for an instrument that has been sold must be retained until completion of the next NCUA examination; and

(iii) The latest available financial reports, industry analyses, internal and external analyst evaluations, and rating agency information sufficient to support each approved credit limit.

9. Amend § 704.7 by removing paragraphs (c) through (g), adding paragraphs (c) through (f) and redesignating paragraph (h) as paragraph (g) to read as follows:

§ 704.7 Lending.

* * * * *

(c) *Loans to members*—(1) *Credit unions.* (i) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of capital.

(ii) The maximum aggregate amount in secured loans and lines of credit to any one member credit union, excluding those secured by shares or marketable securities and member reverse repurchase transactions, must not exceed 100 percent of capital.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(3) *Other members.* The maximum aggregate amount of loans and lines of credit to any other one member must not exceed 15 percent of the corporate credit union's capital plus pledged shares.

(d) *Loans to nonmembers*—(1) Credit unions. A loan to a nonmember credit union, other than through a loan participation with another corporate credit union, is only permissible if the loan is for an overdraft related to the providing of correspondent services pursuant to § 704.12. Generally, such a loan will have a maturity of one business day.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(e) *Member business loan rule*—Loans, lines of credit and letters of credit to:

(1) Member credit unions are exempt from part 723 of this chapter;

(2) Corporate CUSOs must comply with § 704.11; and

(3) Other members not excluded under § 723.1(b) of this chapter must comply with part 723 of this chapter unless the loan or line of credit is fully guaranteed by a credit union or fully secured by US Treasury or agency securities. Those guaranteed and secured loans must comply with the aggregate limits of § 723.16 but are exempt from the other requirements of part 723.

(f) *Participation loans with other corporate credit unions.* A corporate credit union is permitted to participate in a loan with another corporate credit union provided the corporate retains an interest of at least 5 percent of the face amount of the loan and a master participation loan agreement is in place before the purchase or the sale of a participation. A participating corporate credit union must exercise the same due diligence as if it were the originating corporate credit union.

* * * * *

10. Amend § 704.8 as follows:

a. Remove paragraphs (a)(2), (a)(5) and (e);

b. Redesignate paragraphs (a)(3) and (a)(4) as (a)(2) and (a)(3), (a)(6) and (a)(7) as (a)(4) and (a)(5), and (f) and (g) as (e) and (f);

c. Add paragraph (a)(6) and ''; and'' at the end of redesignated paragraph (a)(5) in place of the period;

d. Revise redesignated paragraphs (a)(2), (e) and (f);

e. Add a sentence to the end of the end of paragraph (c); and

f. Revise paragraphs (d)(1)(i) through (iii) and (d)(2) introductory text.

§ 704.8 Asset and liability management.

(a) * * *

(2) The maximum allowable percentage decline in net economic value (NEV), compared to base case NEV;

* * * * *

(6) The tests that will be used, prior to purchase, to estimate the impact of investments on the percentage decline in NEV, compared to base case NEV. The most recent NEV analysis, as determined under paragraph (d)(1)(i) of this section may be used as a basis of estimation.

* * * * *

(c) * * * This means the minimum penalty must be reasonably related to the rate that the corporate credit union would be required to offer to attract funds for a similar term with similar characteristics.

(d) * * *

(1) * * *

(i) Evaluate the risk in its balance sheet by measuring, at least quarterly, the impact of an instantaneous, permanent, and parallel shock in the yield curve of plus and minus 100, 200, and 300 basis points on its NEV and NEV ratio. If the base case NEV ratio falls below 3 percent at the last testing date, these tests must be calculated at least monthly until the base case NEV ratio again exceeds 3 percent;

(ii) Limit its risk exposure to levels that do not result in a base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section below 2 percent; and

(iii) Limit its risk exposures to levels that do not result in a decline in NEV of more than 15 percent.

(2) A corporate credit union must assess annually if it should conduct periodic additional tests to address market factors that may materially impact that corporate credit union's NEV. These factors should include, but are not limited to, the following:

* * * * *

(e) *Regulatory violations.* If a corporate credit union's decline in NEV, base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by this rule and is not brought into compliance within 10 calendar days, operating management of the corporate credit union must immediately report the information to the board of directors, supervisory committee, and the OCCU Director. If any violation persists for 30 calendar days, the corporate credit union must submit a detailed, written action plan to the OCCU Director that sets forth the time needed and means by which it intends to correct the violation. If the OCCU Director determines that the plan is unacceptable, the corporate credit union must immediately restructure the balance sheet to bring the exposures back within compliance or adhere to an alternative course of action determined by the OCCU Director.

(f) *Policy violations.* If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by its board, it must determine how it will bring the exposure within policy limits. The disclosure to the board of the violation must occur no later than its next regularly scheduled board meeting.

10a. Amend § 704.10 by revising the heading to read as follows:

§ 704.10 Investment action plan.

11. Amend § 704.11 by revising paragraph (b), redesignating paragraphs (c) through (e) as paragraphs (f) through (h) and adding paragraphs (c), (d) and (e) to read as follows:

§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).

* * * * *

(b) *Investment and loan limitations.* (1) The aggregate of all investments in member and nonmember corporate CUSOs must not exceed 15 percent of a corporate credit union's capital. (2) The aggregate of all investments in and loans to member and nonmember corporate CUSOs must not exceed 30 percent of a corporate credit union's capital. A corporate credit union may lend to member and nonmember corporate CUSOs an additional 15 percent of capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

(3) If the limitations in paragraphs (b)(1) and (b)(2) of this section are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method without an additional cash outlay by the corporate, divestiture is not required. A corporate credit union may continue to invest up to the regulatory limit without regard to the increase in the GAAP valuation resulting from the corporate CUSO's profitability.

(4) The aggregate of all loans to corporate CUSOs must comply with the aggregate limit of § 723.16 of this chapter. This requirement does not apply to loans excluded under § 723.1(b).

(c) *Due diligence.* A corporate credit union must comply with the due diligence requirements of §§ 723.5 and 723.6(f) through (l) of this chapter for all loans to corporate CUSOs. This requirement does not apply to loans excluded under § 723.1(b).

(d) *Separate entity.* (1) A corporate CUSO must be operated as an entity separate from a corporate credit union.

(2) The corporate credit union investing in or lending to a corporate CUSO must obtain a written legal opinion that the corporate CUSO is organized and operated in a manner that the corporate credit union will not reasonably be held liable for the obligations of the corporate CUSO. This opinion must address factors that have led courts to ''pierce the corporate veil'' such as inadequate capitalization, lack of corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records.

(e) *Prohibited activities.* A corporate credit union may not use this authority to acquire control, directly or indirectly, of another depository financial institution, or to invest in shares, stocks, or obligations of another depository financial institution, insurance company, trade association, liquidity facility, or similar organization.

* * * * *

12. Revise § 704.12 to read as follows:

§ 704.12 Permissible services.

(a) *Preapproved services.* NCUA may at any time, based upon supervisory, legal, or safety and soundness reasons, limit or prohibit any preapproved service. The specific activities listed within each preapproved category are provided as illustrations of activities permissible under the particular category, not as an exclusive or exhaustive list. A corporate credit union may provide the following services to its members:

(1) *Correspondent services agreement.* A corporate credit union may only provide financial services to nonmembers through a correspondent services agreement. A correspondent services agreement is an agreement between two corporate credit unions, whereby one of the corporate credit unions agrees to provide services to the other corporate credit union or its members.

(2) *Credit and investment services.* Credit and investment services are advisory and consulting activities that assist the member in lending or investment management. These services may include loan reviews, investment portfolio reviews and investment advisory services.

(3) *Electronic financial services.* Electronic financial services are any services, products, functions, or activities that a corporate credit union is otherwise authorized to perform, provide or deliver to its members but performed through electronic means. Electronic services may include automated teller machines, online transaction processing through a website, website hosting services, account aggregation services, and internet access services to perform or deliver products or services to members.

(4) *Excess capacity.* Excess capacity is the excess use or capacity remaining in facilities, equipment or services that: a corporate credit union properly invested in or established, in good faith, with the intent of serving its members; and it reasonably anticipates will be taken up by the future expansion of services to its members. A corporate credit union may sell or lease the excess capacity in facilities, equipment or services, such as office space, employees and data processing.

(5) *Liquidity and asset and liability management.* Liquidity and asset and liability management services are any services, functions or activities that assist the member in liquidity and balance sheet management. These services may include liquidity planning and balance sheet modeling and analysis.

(6) *Operational services.* Operational services are services established to deliver financial products and services that enhance member service and promote safe and sound operations. Operational services may include tax payment, electronic fund transfers and providing coin and currency service.

(7) *Payment systems.* Payment systems are any methods used to facilitate the movement of funds for transactional purposes. Payment systems may include Automated Clearing House, wire transfer, item processing and settlement services.

(8) *Trustee or custodial services.* Trustee services are services in which

the corporate credit union is authorized to act under a written trust agreement to the extent permitted under part 724 of this chapter. Custodial and safekeeping services are services a corporate credit union performs on behalf of its member to act as custodian or safekeeper of investments.

(b) *Procedure for adding services that are not preapproved.* To provide a service to its members that is not preapproved by NCUA, a corporate credit union must request approval from NCUA. The request must include a full explanation and complete documentation of the service and how the service relates to a corporate credit union's authority to provide services to its members. The request must be submitted jointly to the OCCU Director and the Secretary of the Board. The request will be treated as a petition to amend § 704.12 and NCUA will request public comment or otherwise act on the petition within a reasonable period of time. Before engaging in the formal approval process, a corporate credit union should seek an advisory opinion from NCUA's Office of General Counsel as to whether a proposed service is already covered by one of the authorized categories without filing a petition to amend the regulation.

(c) *Prohibition.* A corporate credit union is prohibited from purchasing loan servicing rights.

§ 704.13 [Removed and Reserved]

13. Remove and reserve § 704.13.

14. Amend § 704.14 by revising paragraph (a) introductory text, redesignating paragraphs (b) through (d) as (c) through (e) , and adding a new paragraph (b) to read as follows:

§ 704.14 Representation.

(a) *Board representation.* The board will be determined as stipulated in its bylaws governing election procedures, provided that:

* * * * *

(b) *Credit union trade association.* As used in this section, it includes but is not limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations.

* * * * *

15. Amend § 704.19 by revising paragraph (b) and removing paragraph (c) as follows:

§ 704.19 Wholesale corporate credit unions.

* * * * *

(b) *Earnings retention requirement.* A wholesale corporate credit union must increase retained earnings if the prior month-end retained earnings ratio is less than 1 percent.

(1) Its retained earnings must increase:

(i) During the current month, by an amount equal to or greater than the monthly earnings retention amount; or

(ii) During the current and prior two months, by an amount equal to or greater than the quarterly earnings retention amount.

(2) Earnings retention amounts are calculated as follows:

(i) The monthly earnings retention amount is determined by multiplying the earnings retention factor by the prior month-end moving daily average net assets; and

(ii) The quarterly earnings retention amount is determined by multiplying the earnings retention factor by moving daily average net assets for each of the prior three month-ends.

(3) The earnings retention factor is determined as follows:

(i) If the prior month-end retained earnings ratio is less than 1 percent and the core capital ratio is less than 3 percent, the earnings retention factor is .15 percent per annum; or

(ii) If the prior month-end retained earnings ratio is less than 1 percent and the core capital ratio is equal to or greater than 3 percent, the earnings retention factor is .075 percent per annum.

(4) The OCCU Director may approve a decrease to the earnings retention amount set forth in this section if it is determined a lesser amount is necessary to avoid a significant adverse impact upon a wholesale corporate credit union.

(5) A corporate credit union may authorize the payment of dividends provided either:

(i) The payment will not cause the retained earnings ratio to fall below 1 percent;

(ii) The payment will not cause the amount of retained earnings to decrease from the prior month-end, unless the decrease results from losses on the sale of investments; or

(iii) The OCCU Director and, if applicable, state regulator have given prior written approval for the payment.

16. Revise appendix A to part 704 as follows:

Appendix A to Part 704—Model Forms

This appendix contains sample forms intended for use by corporate credit unions to aid in compliance with the membership capital account and paid-in capital disclosure requirements of § 704.3.

Sample Form 1

Terms and Conditions of Membership Capital Account

(1) A membership capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A membership capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the membership capital account transfers to the continuing credit union. In the event of a charter conversion, the membership capital account transfers to the new institution. In the event of liquidation, the membership capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) A member credit union may withdraw membership capital with three years' notice.

(4) Membership capital cannot be used to pledge borrowings.

(5) Membership capital is available to cover losses that exceed retained earnings and paid-in capital.

(6) Where the corporate credit union is liquidated, membership capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(7) Where the corporate credit union is merged into another corporate credit union the membership capital account shall transfer to the continuing corporate credit union. The three-year notice period for withdrawal of the membership capital account will remain in effect.

(8) {If an adjusted balance account}: The membership capital balance will be adjusted ____(1 or 2)____ time(s) annually in relation to the member credit union's ____(assets or other measure)____ as of ____(date(s))____. {If a term certificate}: The membership capital account is a term certificate that will mature on ____(date)____.

I have read the above terms and conditions and I understand them. I further agree to maintain in the credit union's files the annual notice of terms and conditions of the membership capital account.

The notice form must be signed by either all of the directors of the member credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the notice has been sent to member credit unions with membership capital

accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

Sample Form 2

Terms and Conditions of Paid-In Capital

(1) A paid-in capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A paid-in capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the paid-in capital account transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital account transfers to the new institution. In the event of liquidation, the paid-in capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) The funds are callable only at the option of the corporate credit union and only if the corporate credit union meets its minimum required capital and NEV ratios after the funds are called.

(4) Paid-in capital cannot be used to pledge borrowings.

(5) Paid-in capital is available to cover losses that exceed retained earnings.

(6) Where the corporate credit union is liquidated, paid-in capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, and membership capital holders.

(7) Where the corporate credit union is merged into another corporate credit union the paid-in capital account shall transfer to the continuing corporate credit union.

(8) Paid-in capital is perpetual maturity and noncumulative dividend.

I have read the above terms and conditions and I understand them. I further agree to maintain in the credit union's files the annual notice of terms and conditions of the paid-in capital instrument.

The notice form must be signed by either all of the directors of the credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

17. Revise appendix B to part 704 as follows:

Appendix B to Part 704—Expanded Authorities and Requirements

A corporate credit union may obtain all or part of the expanded authorities contained in this appendix if it meets all of the requirements of this part 704 and the minimum requirement of this appendix, fulfills additional management, infrastructure, and asset and liability requirements, and receives NCUA's written approval. The additional requirements are set forth in the NCUA publication Guidelines for Submission of Requests for Expanded Authority.

A corporate credit union seeking expanded authorities must submit to NCUA a self-assessment plan supporting its request. A corporate credit union may adopt expanded authorities when NCUA has provided final approval. If NCUA denies a request for expanded authorities, it will advise the corporate of the reason(s) for the denial and what it must do to resubmit its request. NCUA may revoke these expanded authorities at any time if an analysis indicates a significant deficiency. NCUA will notify the corporate credit union in writing of the identified deficiency. A corporate credit union may request, in writing, reinstatement of the revoked authorities by providing a self-assessment plan detailing how it has corrected the deficiency.

Minimum Requirement

In order to participate in any of the authorities set forth in Base-Plus, Part I, Part II, Part III, Part IV, and Part V of this appendix, a corporate credit union must evaluate monthly the changes in NEV and the NEV ratio for the tests set forth in § 704.8(d)(1)(i).

Base-Plus

A corporate which has met the requirements for this Base-plus authority may, in performing the rate stress tests set forth in § 704.8(d)(1)(i), allow its NEV to decline as much as 20 percent.

Part I

(a) A corporate credit union which has met the requirements for this Part I may:

(1) Purchase investments with long-term ratings no lower than A− (or equivalent);

(2) Purchase investments with short-term ratings no lower than A−2 (or equivalent), provided that the issuer has a long-term rating no lower than A− (or equivalent) or the investment is a domestically-issued asset-backed security;

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk; and

(5) Enter into a dollar roll transaction.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 300 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union which has met the requirements of this Part I may decline as much as:

(1) 20 percent;

(2) 28 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; or

(3) 35 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, shall not exceed 100 percent of the corporate credit union's capital. The board of directors will establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part II

(a) A corporate credit union which has met the requirements for this Part II may:

(1) Purchase investments with long-term ratings no lower than BBB (flat) (or equivalent);

(2) Purchase investments with short-term ratings no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat) (or equivalent) or the investment is a domestically issued asset-backed security;

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk; and

(5) Enter into a dollar roll transaction.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 400 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union which has met the requirements of this Part II may decline as much as:

(1) 20 percent;

(2) 28 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; or

(3) 35 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to

any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, shall not exceed 100 percent of the corporate credit union's capital. The board of directors will establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part III

(a) A corporate credit union which has met the requirements of either Part I or Part II of this Appendix and the additional requirements for Part III may invest in:

(1) Debt obligations of a foreign country;

(2) Deposits and debt obligations of foreign banks or obligations guaranteed by these banks;

(3) Marketable debt obligations of foreign corporations. This authority does not apply to debt obligations that are convertible into the stock of the corporation; and

(4) Foreign issued asset-backed securities.

(b) All foreign investments are subject to the following requirements:

(1) Investments must be rated no lower than the minimum permissible domestic rating under the corporate credit union's Part I or Part II authority;

(2) A sovereign issuer, and/or the country in which an obligor is organized, must have a long-term foreign currency (non-local currency) debt rating no lower than AA–(or equivalent);

(3) For each approved foreign bank line, the corporate credit union must identify the specific banking centers and branches to which it will lend funds;

(4) Obligations of any single foreign obligor may not exceed 50 percent of capital; and

(5) Obligations in any single foreign country may not exceed 250 percent of capital.

Part IV

(a) A corporate credit union which has met the requirements for this Part IV may enter into derivative transactions specifically approved by NCUA to:

(1) Create structured products;

(2) Manage its own balance sheet; and

(3) Hedge the balance sheet of its members.

(b) Credit Ratings:

(1) All derivative transactions are subject to the following requirements:

(i) If the counterparty is domestic, the counterparty rating can be no lower than the minimum permissible rating for comparable term permissible investments; and

(ii) If the counterparty is foreign, the counterparty rating can be no lower that the minimum permissible rating for a comparable term investment under Part III Authority.

(2) Exceptions. Credit ratings are not required for derivative transactions with:

(i) Domestically chartered credit unions;

(ii) U.S. Government sponsored enterprises; or

(iii) Counterparties if the transaction is fully guaranteed by an entity with a minimum permissible rating for comparable term investments.

Part V

A corporate credit union, which has met the requirements for this Part V, may participate in loans with member natural person credit unions as approved by the OCCU Director and subject to the following limitations:

(a) The maximum aggregate amount of participation loans with any one member credit union shall not exceed 25 percent of capital; and

(b) The maximum aggregate amount of participation loans with all member credit unions shall be determined on a case-by-case basis by the OCCU Director.

§§ 704.3, 704.10, 704.15 [Amended]

19. In addition to the amendments set forth above, in 12 CFR part 704 remove the acronym ''NCUA'' wherever it appears and add in its place, the words ''the OCCU Director'' in the following places:

a. Redesignated § 704.3(e)(3)(i) and (ii), (g)(2)(v) and (g)(3).

b. Section 704.10(a) introductory text, (b) and (c).

c. Section 704.15(a) and (b).

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Federal Register

Monday,
July 1, 2002

Part III

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

4810-35

DEPARTMENT OF THE TREASURY

FISCAL SERVICE
(Dept. Circular 570; 2002 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 2002

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER and on the internet as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F07, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at http://www.fms.treas.gov/c570/index.html. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Wanda J. Rogers
Acting Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company

BUSINESS ADDRESS: P.O. BOX 9010, WESTBROOK, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION b/: $1,940,000. SURETY LICENSES c,f/: CT, DE, ME, MD, MA, NH, NY, PA, RI, VT. INCORPORATED IN: Maine.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

BUSINESS ADDRESS: 400 S. PARK AVENUE, SUITE 320, WINTER PARK, FL 32789. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: $1,044,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY

BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: $2,065,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company

BUSINESS ADDRESS: P.O. BOX 3153, HARRISBURG, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION b/: $2,567,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company

BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $7,170,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALL AMERICA INSURANCE COMPANY

BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2295. UNDERWRITING LIMITATION b/: $4,412,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Allegheny Casualty Company

BUSINESS ADDRESS: P.O. BOX 1116, MEADVILLE, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: $1,320,000. SURETY LICENSES c,f/: AL, CA, DC, FL, ID, IL, IN, KS, LA, MD, MI, MS, MO, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMCO Insurance Company

BUSINESS ADDRESS: 701 FIFTH AVENUE, DES MOINES, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION b/: $36,169,000. SURETY LICENSES c,f/: AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OR, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $4,452,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company

BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $6,825,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA

BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157. PHONE: (305) 253-2244. UNDERWRITING LIMITATION b/: $10,992,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $35,962,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes and Notes at the end of this Circular.

AMERICAN CONTRACTORS INDEMNITY COMPANY1

BUSINESS ADDRESS: 9841 Airport Blvd., 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: $1,812,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, GU, HI, ID, IN, IA, KS, KY, LA, ME, MD, MN, MS, MT, NE, NV, NM, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: California.

American Economy Insurance Company

BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $33,110,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company

BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $8,538,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $7,759,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company

BUSINESS ADDRESS: 471 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 225-8211. UNDERWRITING LIMITATION b/: $6,893,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

American Home Assurance Company
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $161,640,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The)
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $20,252,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO
BUSINESS ADDRESS: P O BOX 10181, SAN JUAN, PR 00908. PHONE: (787) 767-6400. UNDERWRITING LIMITATION b/: $7,531,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $2,596,000. SURETY LICENSES c,f/: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Manufacturers Mutual Insurance Company
BUSINESS ADDRESS: 1 KEMPER DRIVE, LONG GROVE, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION b/: $23,948,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Motorists Insurance Company
BUSINESS ADDRESS: 1 KEMPER DRIVE, LONG GROVE, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION b/: $42,435,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

American Re-Insurance Company

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $264,309,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY

BUSINESS ADDRESS: 8655 EAST VIA DE VENTURA, SCOTTSDALE, AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION b/: $2,374,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Safety Casualty Insurance Company

BUSINESS ADDRESS: 1845 THE EXCHANGE, SUITE 200, ATLANTA, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION b/: $1,525,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American States Insurance Company

BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $21,819,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company

BUSINESS ADDRESS: 3905 Vincennes Road, Suite 200, Indianapolis, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: $450,000. SURETY LICENSES c,f/: AL, CA, CT, DE, FL, HI, ID, IN, IA, KS, LA, ME, MD, MN, MS, MO, NE, NV, ND, OH, PA, SC, SD, TN, TX, UT, VT, VA, WA, WY. INCORPORATED IN: California.

See Footnotes and Notes at the end of this Circular.

Amerisure Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 2060, Farmington Hills, MI 48333-2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION b/: $9,989,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION b/: $3,814,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Associated Indemnity Corporation

BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $3,887,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc.

BUSINESS ADDRESS: SUITE 212, HILTON PLAZA, PIKESVILLE, MD 21208. PHONE: (410) 484-3100. UNDERWRITING LIMITATION b/: $340,000. SURETY LICENSES c,f/: MD. INCORPORATED IN: Maryland.

Atlantic Mutual Insurance Company

BUSINESS ADDRESS: 140 BROADWAY, NEW YORK, NY 10005-1101. PHONE: (212) 943-1800. UNDERWRITING LIMITATION b/: $42,039,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

ATLAS ASSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (315) 431-6100. UNDERWRITING LIMITATION b/: $37,094,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

Auto-Owners Insurance Company

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION b/: $279,783,000. SURETY LICENSES c,f/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Michigan.

Berkley Insurance Company

BUSINESS ADDRESS: 100 CAMPUS DRIVE, P.O. BOX 853, FLORHAM PARK, NJ 07932-0853. PHONE: (973) 301-8000. UNDERWRITING LIMITATION b/: $41,978,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION

BUSINESS ADDRESS: 320 - 18TH STREET, ROCK ISLAND, IL 61201-8744. PHONE: (309) 786-5401. UNDERWRITING LIMITATION b/: $19,703,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY

BUSINESS ADDRESS: 1919 S. Highland, Bldg. A, Suite 300, Lombard, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION b/: $480,000. SURETY LICENSES c,f/: IL, IN, KS, MO, NC, OK, TN, TX. INCORPORATED IN: Illinois.

BRITISH AMERICAN INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221-1590. PHONE: (214) 443-5613 x-613. UNDERWRITING LIMITATION b/: $2,431,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Buckeye Union Insurance Company (The)

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $15,385,000. SURETY LICENSES c,f/: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

Capital City Insurance Company, Inc.

BUSINESS ADDRESS: P. O. BOX 212157, COLUMBIA, SC 29221-2157. PHONE: (803) 731-7728. UNDERWRITING LIMITATION b/: $1,844,000. SURETY LICENSES c,f/: AL, AR, GA, IL, LA, MS, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: S. Carolina.

See Footnotes and Notes at the end of this Circular.

Capitol Indemnity Corporation

BUSINESS ADDRESS: PO BOX 5900, MADISON, WI 53705-0900. PHONE: (608) 231-4450. UNDERWRITING LIMITATION b/: $9,298,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company

BUSINESS ADDRESS: P.O. BOX 2575, JACKSONVILLE, FL 32203. PHONE: (904) 363-0900. UNDERWRITING LIMITATION b/: $6,123,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company

BUSINESS ADDRESS: 140 BROADWAY, NEW YORK, NY 10005-1101. PHONE: (212) 943-1800. UNDERWRITING LIMITATION b/: $13,759,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

CENTRAL MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2295. UNDERWRITING LIMITATION b/: $19,742,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA, WV. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY

BUSINESS ADDRESS: P.O. BOX 163340, COLUMBUS, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $1,760,000. SURETY LICENSES c,f/: AZ, IN, ME, OH, VT, WV, WI. INCORPORATED IN: Ohio.

Cherokee Insurance Company

BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201-0450. UNDERWRITING LIMITATION b/: $1,387,000. SURETY LICENSES c,f/: AR, CA, GA, ID, IN, IA, LA, MI, MN, MO, ND, OH, OR, TN, WV. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

CHUBB INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (212) 612-4000. UNDERWRITING LIMITATION b/: $1,459,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The)

BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $19,741,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The)

BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $229,368,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $1,855,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY

BUSINESS ADDRESS: 50 CHESTNUT RIDGE ROAD, MONTVALE, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION b/: $389,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CT, DE, DC, FL, IN, KS, MD, MA, MT, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SD, TN, TX, UT, WV, WY. INCORPORATED IN: Pennsylvania.

Commercial Casualty Insurance Company of North Carolina

BUSINESS ADDRESS: P.O. Box 926270, Norcross, GA 30010-6270. PHONE: (770) 729-8101. UNDERWRITING LIMITATION b/: $1,016,000. SURETY LICENSES c,f/: CA, FL, GA, IN, LA, NV, NC, PA, SC, WA. INCORPORATED IN: N. Carolina.

See Footnotes and Notes at the end of this Circular.

Consolidated Insurance Company

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: $4,590,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $180,888,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The)

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $48,527,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

CONTRACTORS BONDING AND INSURANCE COMPANY

BUSINESS ADDRESS: P.O. BOX 9271, SEATTLE, WA 98109-0271. PHONE: (206) 628-7200. UNDERWRITING LIMITATION b/: $2,551,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico

BUSINESS ADDRESS: P.O. BOX 363846, SAN JUAN, PR 00936-3846. PHONE: (787) 758-8585. UNDERWRITING LIMITATION b/: $17,797,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CUMBERLAND CASUALTY & SURETY COMPANY

BUSINESS ADDRESS: 4311 West Waters Avenue, Suite 401, Tampa, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION b/: $650,000. SURETY LICENSES c,f/: AL, AR, DE, DC, FL, GA, GU, ID, IN, KS, KY, LA, MD, MA, MO, MT, NE, NV, ND, OK, OR, PA, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

See Footnotes and Notes at the end of this Circular.

CUMIS INSURANCE SOCIETY, INC.

BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION b/: $27,835,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DaimlerChrysler Insurance Company

BUSINESS ADDRESS: CIMS:465-20-85, P.O. Box 5168, Southfield, MI 48086-5168. PHONE: (248) 948-3443. UNDERWRITING LIMITATION b/: $11,932,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Developers Surety and Indemnity Company

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623. PHONE: (949) 263-3300. UNDERWRITING LIMITATION b/: $1,533,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DC, FL, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

DIAMOND STATE INSURANCE COMPANY

BUSINESS ADDRESS: THREE BALA PLAZA, EAST, SUITE 300, BALA CYNWYD, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION b/: $5,908,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Employers Insurance Company of Wausau

BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION b/: $26,403,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes and Notes at the end of this Circular.

Employers Mutual Casualty Company

BUSINESS ADDRESS: P. O. BOX 712, DES MOINES, IA 50303-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION b/: $46,168,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation

BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66201-1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $406,647,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company

BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: $8,453,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company

BUSINESS ADDRESS: P.O. BOX 830, LIBERTY CORNER, NJ 07938-0830. PHONE: (908) 604-3000. UNDERWRITING LIMITATION b/: $100,162,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company

BUSINESS ADDRESS: P.O. BOX 163340, COLUMBUS, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $1,463,000. SURETY LICENSES c,f/: AL, AK, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $4,947,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, MD, MA, NH, NJ, NY, NC, PA, VT, VA. INCORPORATED IN: New Hampshire.

See Footnotes and Notes at the end of this Circular.

Executive Risk Indemnity Inc.

BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $25,460,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Delaware.

EXPLORER INSURANCE COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: $2,000,000. SURETY LICENSES c,f/: AZ, CA, CO, FL, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: Arizona.

Factory Mutual Insurance Company

BUSINESS ADDRESS: P.O. BOX 7500, JOHNSTON, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $137,611,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Farmers Alliance Mutual Insurance Company

BUSINESS ADDRESS: P.O. BOX 1401, MCPHERSON, KS 67460. PHONE: (620) 241-2200. UNDERWRITING LIMITATION b/: $6,981,000. SURETY LICENSES c,f/: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $16,645,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company

BUSINESS ADDRESS: 1963 BELL AVENUE, DES MOINES, IA 50315-1030. PHONE: (515) 245-8800. UNDERWRITING LIMITATION b/: $7,663,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See Footnotes and Notes at the end of this Circular.

Federal Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $260,902,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION b/: $107,966,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The)

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $5,816,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $5,748,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY

BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $1,216,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See Footnotes and Notes at the end of this Circular.

Fidelity and Guaranty Insurance Underwriters, Inc.
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $2,926,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company
BUSINESS ADDRESS: P.O. BOX 292220, SACRAMENTO, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: $1,950,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company
BUSINESS ADDRESS: 777 SAN MARIN DRIVE, NOVATO, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $105,536,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey
BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $29,293,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

First Community Insurance Company
BUSINESS ADDRESS: 360 CENTRAL AVENUE, ST. PETERSBURG, FL 33701. PHONE: (727) 823-4000. UNDERWRITING LIMITATION b/: $781,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Insurance Company of Hawaii, Ltd.
BUSINESS ADDRESS: P.O. BOX 2866, HONOLULU, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION b/: $10,750,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

See Footnotes and Notes at the end of this Circular.

First Liberty Insurance Corporation (The)
BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $1,766,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $4,875,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FOLKSAMERICA REINSURANCE COMPANY
BUSINESS ADDRESS: ONE LIBERTY PLAZA, NEW YORK, NY 10006-1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: $80,478,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

General Insurance Company of America
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $51,439,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation
BUSINESS ADDRESS: 695 East Main Street, P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $237,781,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.
BUSINESS ADDRESS: 3555 FARNAM STREET, OMAHA, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION b/: $3,298,000. SURETY LICENSES c,f/: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

See Footnotes and Notes at the end of this Circular.

GRANITE RE, INC.

BUSINESS ADDRESS: P.O. BOX 20683, OKLAHOMA CITY, OK 73156. PHONE: (405) 752-2600. UNDERWRITING LIMITATION b/: $357,000. SURETY LICENSES c,f/: AZ, AR, CO, KS, MN, MT, ND, OK, SD, WI. INCORPORATED IN: Oklahoma.

Granite State Insurance Company

BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $2,603,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Alliance Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $1,343,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company

BUSINESS ADDRESS: 580 WALNUT STREET, CINCINNATI, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $94,967,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $2,908,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $10,272,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes and Notes at the end of this Circular.

GREAT RIVER INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 152180, Irving, TX 75015-2180. PHONE: (972) 719-2400. UNDERWRITING LIMITATION b/: $1,048,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Greenwich Insurance Company

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: $2,507,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Guarantee Company of North America USA (The)

BUSINESS ADDRESS: 8000 MIDLANTIC DRIVE, MT. LAUREL, NJ 08054. PHONE: (856) 439-0066. UNDERWRITING LIMITATION b/: $563,000. SURETY LICENSES c,f/: AL, CT, DE, DC, FL, GA, IL, IN, KS, KY, MD, MA, MN, MO, NJ, NY, NC, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

Gulf Insurance Company

BUSINESS ADDRESS: P.O. BOX 131771, DALLAS, TX 75313-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: $42,533,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hanover Insurance Company (The)

BUSINESS ADDRESS: 100 NORTH PARKWAY, WORCESTER, MA 01605. PHONE: (508) 855-4476. UNDERWRITING LIMITATION b/: $92,250,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. BOX 68309, SCHAUMBURG, IL 60168-0309. PHONE: (847) 734-4100. UNDERWRITING LIMITATION b/: $10,564,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

Harleysville Mutual Insurance Company

BUSINESS ADDRESS: 355 MAPLE AVENUE, HARLEYSVILLE, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION b/: $49,239,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company

BUSINESS ADDRESS: 120 Front Street, Ste 500, Worcester, MA 01608-1408. PHONE: (508) 751-8100. UNDERWRITING LIMITATION b/: $10,133,000. SURETY LICENSES c,f/: CT, ME, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Massachusetts.

Hartford Accident and Indemnity Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $89,012,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $52,878,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $490,148,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $49,277,000. SURETY LICENSES c,f/: IL, PA. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

Hartford Insurance Company of the Midwest

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $9,708,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $3,512,000. SURETY LICENSES c,f/: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

ICI MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 40 MAIN STREET, SUITE 500, P.O. BOX 730, BURLINGTON, VT 05402-0730. PHONE: (802) 863-0096. UNDERWRITING LIMITATION b/: $11,439,000. SURETY LICENSES c,f/: VT. INCORPORATED IN: Vermont.

Indemnity Company of California

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623. PHONE: (949) 263-3300. UNDERWRITING LIMITATION b/: $543,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Independence Casualty and Surety Company

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: $1,770,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: $18,198,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company

BUSINESS ADDRESS: 3600 WOODVIEW TRACE, INDIANAPOLIS, IN 46268-0600. PHONE: (800) 428-1441. UNDERWRITING LIMITATION b/: $3,888,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes and Notes at the end of this Circular.

Inland Insurance Company

BUSINESS ADDRESS: P.O. BOX 80468, LINCOLN, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $5,626,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The)

BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $58,196,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: $13,972,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (254) 759-3703. UNDERWRITING LIMITATION b/: $270,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707. UNDERWRITING LIMITATION b/: $4,078,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Business & Mercantile REassurance Company

BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION b/: $8,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

International Fidelity Insurance Company2

BUSINESS ADDRESS: ONE NEWARK CENTER, 20TH FLOOR, NEWARK, NJ 07102-5207. PHONE: (973) 624-7200 x-205. UNDERWRITING LIMITATION b/: $3,361,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. 1INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED

BUSINESS ADDRESS: P.O. BOX 1520, HONOLULU, HI 96806-1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: $10,136,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The)

BUSINESS ADDRESS: P. O. BOX 1654, TOPEKA, KS 66601-1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: $8,770,000. SURETY LICENSES c,f/: AZ, AR, CO, DE, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI, WY. INCORPORATED IN: Kansas.

LEXINGTON NATIONAL INSURANCE CORPORATION

BUSINESS ADDRESS: 214 EAST LEXINGTON STREET, BALTIMORE, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: $556,000. SURETY LICENSES c,f/: CA, CO, DE, FL, IN, MD, MS, NJ, PA. INCORPORATED IN: Maryland.

Liberty Insurance Corporation

BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $20,388,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Vermont.

LIBERTY MUTUAL FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $66,682,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

See Footnotes and Notes at the end of this Circular.

Liberty Mutual Insurance Company

BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $177,241,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company

BUSINESS ADDRESS: 3350 Whiteford Road, P.O. Box 3709, York, PA 17402-0136. PHONE: (717) 757-0000. UNDERWRITING LIMITATION b/: $3,246,000. SURETY LICENSES c,f/: AL, CA, DE, GA, ID, IL, IN, IA, KS, MD, MI, MS, MO, NE, NV, NJ, OK, PA, SD, TN. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation

BUSINESS ADDRESS: 175 BERKELEY STREET, BOSTON, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $1,567,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lumbermens Mutual Casualty Company

BUSINESS ADDRESS: 1 KEMPER DRIVE, LONG GROVE, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION b/: $73,779,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company

BUSINESS ADDRESS: 520 Maryville Centre Drive, Ste 500, St. Louis, MO 63141. PHONE: (314) 275-5200. UNDERWRITING LIMITATION b/: $9,394,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

MARKEL INSURANCE COMPANY

BUSINESS ADDRESS: 4600 COX ROAD, GLEN ALLEN, VA 23060. PHONE: (800) 431-1270. UNDERWRITING LIMITATION b/: $7,544,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes and Notes at the end of this Circular.

Massachusetts Bay Insurance Company

BUSINESS ADDRESS: 100 NORTH PARKWAY, WORCESTER, MA 01605. PHONE: (508) 855-4476 x-4373. UNDERWRITING LIMITATION b/: $2,031,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual)

BUSINESS ADDRESS: 2100 FLEUR DRIVE, DES MOINES, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $3,016,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company

BUSINESS ADDRESS: P. O. BOX 30060, LANSING, MI 48909-7560. PHONE: (517) 482-6211 x-765. UNDERWRITING LIMITATION b/: $7,234,000. SURETY LICENSES c,f/: AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, NC, OH, OK, PA, VA, WI. INCORPORATED IN: Michigan.

Mid-Century Insurance Company

BUSINESS ADDRESS: P.O. BOX 2478 TERMINAL ANNEX, LOS ANGELES, CA 90051. PHONE: (323) 932-3200. UNDERWRITING LIMITATION b/: $24,095,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $8,611,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation

BUSINESS ADDRESS: 102 KERCHEVAL, GROSSE POINTE FARMS, MI 48236. PHONE: (313) 886-2200. UNDERWRITING LIMITATION b/: $1,186,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes and Notes at the end of this Circular.

MIDWESTERN INDEMNITY COMPANY (THE)3

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (513) 576-3200. UNDERWRITING LIMITATION b/: $2,348,000. SURETY LICENSES c,f/: AL, AK, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NJ, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company

BUSINESS ADDRESS: PO BOX 463, AUSTIN, MN 55912-0463. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $154,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company

BUSINESS ADDRESS: 471 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 225-8211. UNDERWRITING LIMITATION b/: $32,965,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation

BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: $82,496,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Mountbatten Surety Company, Inc. (The)

BUSINESS ADDRESS: 33 ROCK HILL ROAD, BALA CYNWYD, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: $1,021,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, WI. INCORPORATED IN: Pennsylvania.

National American Insurance Company

BUSINESS ADDRESS: 1010 MANVEL AVENUE, CHANDLER, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: $3,395,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

See Footnotes and Notes at the end of this Circular.

National Fire Insurance Company of Hartford

BUSINESS ADDRESS: CNA PLAZA, CHICAGO, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $66,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (603) 352-4000. UNDERWRITING LIMITATION b/: $26,770,000. SURETY LICENSES c,f/: CT, DE, DC, GA, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company

BUSINESS ADDRESS: 3024 HARNEY STREET, OMAHA, NE 68131-3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: $368,906,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation

BUSINESS ADDRESS: 233 SOUTH WACKER DRIVE, SUITE 2000, CHICAGO, IL 60606-6308. PHONE: (312) 441-5400. UNDERWRITING LIMITATION b/: $5,952,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA

BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $280,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nationwide Mutual Insurance Company

BUSINESS ADDRESS: ONE NATIONWIDE PLAZA, COLUMBUS, OH 43216. PHONE: (614) 249-7111. UNDERWRITING LIMITATION b/: $397,136,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Netherlands Insurance Company (The)

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $3,379,000. SURETY LICENSES c,f/: AZ, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, NV, NH, NJ, NY, NC, OH, PA, RI, SC, TN, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $31,396,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $11,783,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTHWESTERN PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (503) 221-4240. UNDERWRITING LIMITATION b/: $3,398,000. SURETY LICENSES c,f/: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

NOVA Casualty Company

BUSINESS ADDRESS: 180 OAK STREET, BUFFALO, NY 14203-1610. PHONE: (716) 856-3722. UNDERWRITING LIMITATION b/: $1,052,000. SURETY LICENSES c,f/: AZ, FL, GA, IN, IA, MS, NV, NY, ND, OH, PA, SC, TN, VA. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The)

BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $62,785,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

Ohio Farmers Insurance Company

BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $61,200,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $597,000. SURETY LICENSES c,f/: AR, KS, LA, OK, TX, VA. INCORPORATED IN: Oklahoma.

OLD DOMINION INSURANCE COMPANY

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 739-0873. UNDERWRITING LIMITATION b/: $1,405,000. SURETY LICENSES c,f/: DE, FL, GA, MD, SC, VA. INCORPORATED IN: Florida.

Old Republic Insurance Company

BUSINESS ADDRESS: PO BOX 789, GREENSBURG, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $38,050,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company

BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201. PHONE: (262) 797-2640. UNDERWRITING LIMITATION b/: $3,242,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company

BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $22,128,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

See Footnotes and Notes at the end of this Circular.

OneBeacon Insurance Company

BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $64,764,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ORISKA INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 855, Oriskany, NY 13424. PHONE: (315) 768-2726. UNDERWRITING LIMITATION b/: $352,000. SURETY LICENSES c,f/: DC, GA, NY, NC, PA, TN, WV. INCORPORATED IN: New York.

Pacific Indemnity Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $38,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 378 W. O'BRIEN DRIVE, AGANA, GU 96932. PHONE: (671) 477-8801. UNDERWRITING LIMITATION b/: $302,000. SURETY LICENSES c,f/: GU. INCORPORATED IN: Guam.

PARTNER REINSURANCE COMPANY OF THE U.S.

BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $27,407,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DC, GA, IL, IA, MS, NE, NV, NY, OH, SD, TX, WA. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK

BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $9,940,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, IL, IN, IA, KS, KY, MD, MI, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

Peerless Insurance Company

BUSINESS ADDRESS: 62 MAPLE AVENUE, KEENE, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $23,057,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company

BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558. PHONE: (309) 346-1161. UNDERWRITING LIMITATION b/: $4,051,000. SURETY LICENSES c,f/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company

BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: $4,589,000. SURETY LICENSES c,f/: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania General Insurance Company

BUSINESS ADDRESS: ONE BEACON STREET, BOSTON, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $10,437,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION b/: $20,287,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company

BUSINESS ADDRESS: 6780 EAST HAMPDEN AVENUE, DENVER, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION b/: $340,000. SURETY LICENSES c,f/: CO, MT, NM. INCORPORATED IN: Colorado.

See Footnotes and Notes at the end of this Circular.

PLANET INDEMNITY COMPANY

BUSINESS ADDRESS: 9025 N. LINDBERGH DR., PEORIA, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $1,317,000. SURETY LICENSES c,f/: AZ, AR, CO, DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MT, NE, NV, NH, NJ, NM, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Illinois.

Progressive Casualty Insurance Company

BUSINESS ADDRESS: 6300 WILSON MILLS ROAD, W33, MAYFIELD VILLAGE, OH 44143-2182. PHONE: (440) 461-5000. UNDERWRITING LIMITATION b/: $81,365,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company

BUSINESS ADDRESS: 1099 NORTH MERIDIAN STREET, INDIANAPOLIS, IN 46204. PHONE: (317) 636-9800 x-356. UNDERWRITING LIMITATION b/: $27,179,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Providence Washington Insurance Company

BUSINESS ADDRESS: P.O. BOX 518, PROVIDENCE, RI 02901-0518. PHONE: (401) 453-7000. UNDERWRITING LIMITATION b/: $6,251,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Ranger Insurance Company

BUSINESS ADDRESS: P.O. BOX 2807, HOUSTON, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION b/: $3,389,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic - Franklin Insurance Company

BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION b/: $2,236,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

RLI Insurance Company

BUSINESS ADDRESS: 9025 N. LINDBERGH DRIVE, PEORIA, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $24,182,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America

BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $32,335,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safety National Casualty Corporation

BUSINESS ADDRESS: 2043 Woodland Parkway, Suite 200, St. Louis, MO 63146. PHONE: (314) 995-5300. UNDERWRITING LIMITATION b/: $4,615,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Seaboard Surety Company

BUSINESS ADDRESS: 5801 SMITH AVENUE, BALTIMORE, MD 21209-3653. PHONE: (410) 205-3000. UNDERWRITING LIMITATION b/: $13,038,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURA INSURANCE, A Mutual Company

BUSINESS ADDRESS: P.O. BOX 819, APPLETON, WI 54912-0819. PHONE: (920) 739-3161. UNDERWRITING LIMITATION b/: $9,946,000. SURETY LICENSES c,f/: IL, IN, IA, KS, MI, MN, MO, ND, WI. INCORPORATED IN: Wisconsin.

Select Insurance Company

BUSINESS ADDRESS: P.O. BOX 131771, DALLAS, TX 75313-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: $3,953,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

Selective Insurance Company of America

BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $27,620,000. SURETY LICENSES c,f/: AL, CT, DE, DC, GA, IL, IN, IA, KY, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VA, WV, WI. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc.

BUSINESS ADDRESS: 160 WATER STREET, NEW YORK, NY 10038-4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: $5,262,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: $176,813,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: $13,022,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY

BUSINESS ADDRESS: P.O. BOX 9729, BRADENTON, FL 34206-9729. PHONE: (800) 780-8423. UNDERWRITING LIMITATION b/: $696,000. SURETY LICENSES c,f/: AL, CO, DE, DC, FL, GA, IN, IA, KS, MI, MS, MO, NE, NC, ND, OK, OR, PA, SC, TN, TX, UT, VA. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION b/: $201,000. SURETY LICENSES c,f/: DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

See Footnotes and Notes at the end of this Circular.

St. Paul Fire and Marine Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $36,956,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $3,541,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $6,785,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $65,857,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

State Auto Property and Casualty Insurance Company

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (864) 877-3311. UNDERWRITING LIMITATION b/: $17,023,000. SURETY LICENSES c,f/: AL, AZ, AR, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, UT, VA, WV, WI, WY. INCORPORATED IN: S. Carolina.

State Automobile Mutual Insurance Company

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION b/: $66,209,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VT, VA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes and Notes at the end of this Circular.

State Farm Fire and Casualty Company

BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION b/: $299,826,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Suretec Insurance Company

BUSINESS ADDRESS: 10000 Memorial Dr. Suite 330, Houston, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: $449,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

SURETY BONDING COMPANY OF AMERICA

BUSINESS ADDRESS: P.O. BOX 5111, SIOUX FALLS, SD 57117-5111. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: $467,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Surety Company of the Pacific

BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410-0289. PHONE: (818) 609-9232. UNDERWRITING LIMITATION b/: $541,000. SURETY LICENSES c,f/: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation

BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: $180,398,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (214) 754-0777. UNDERWRITING LIMITATION b/: $1,013,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

TRANSATLANTIC REINSURANCE COMPANY

BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: $101,985,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

Travelers Casualty and Surety Company

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $184,013,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $64,120,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois

BUSINESS ADDRESS: 215 SHUMAN BOULEVARD, NAPERVILLE, IL 60563. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $36,877,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $146,522,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company

BUSINESS ADDRESS: P.O. BOX 655028, DALLAS, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: $40,879,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

See Footnotes and Notes at the end of this Circular.

Underwriters Indemnity Company

BUSINESS ADDRESS: 9025 N. Lindbergh Dr., Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $1,434,000. SURETY LICENSES c,f/: AL, AR, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Union Insurance Company

BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. PHONE: (515) 278-3000. UNDERWRITING LIMITATION b/: $1,462,000. SURETY LICENSES c,f/: AR, CO, DC, ID, IA, KS, MD, MN, MS, MO, MT, NE, NC, ND, OK, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

UNITED CASUALTY AND SURETY INSURANCE COMPANY

BUSINESS ADDRESS: 170 MILK STREET, BOSTON, MA 02109. PHONE: (617) 542-3232 x-109. UNDERWRITING LIMITATION b/: $257,000. SURETY LICENSES c,f/: DC, MA, NY, ND, PA. INCORPORATED IN: Massachusetts.

United Coastal Insurance Company4

BUSINESS ADDRESS: 233 Main Street P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION b/: $2,245,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $19,499,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION b/: $14,365,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

United States Fidelity and Guaranty Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $104,787,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

See Footnotes and Notes at the end of this Circular.

UNITED STATES FIRE INSURANCE COMPANY
BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07960. PHONE: (973) 490-6600. UNDERWRITING LIMITATION b/: $23,418,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

United States Surety Company
BUSINESS ADDRESS: P. O. BOX 5605, TIMONIUM, MD 21094-5605. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $289,000. SURETY LICENSES c,f/: DE, DC, MD, PA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY
BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (787) 273-1818 x-2090. UNDERWRITING LIMITATION b/: $3,446,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL INSURANCE COMPANY
BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. PHONE: (787) 706-7150. UNDERWRITING LIMITATION b/: $8,086,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company
BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $3,706,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America
BUSINESS ADDRESS: P.O. BOX 1068, HOUSTON, TX 77251-1068. PHONE: (713) 722-4600. UNDERWRITING LIMITATION b/: $1,317,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY
BUSINESS ADDRESS: 7045 COLLEGE BOULEVARD, OVERLAND PARK, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $23,254,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

See Footnotes and Notes at the end of this Circular.

Utica Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION b/: $18,796,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED

BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION b/: $290,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company

BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (212) 612-4000. UNDERWRITING LIMITATION b/: $5,108,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company

BUSINESS ADDRESS: 1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, IL 60143-2625. PHONE: (630) 227-4700. UNDERWRITING LIMITATION b/: $3,204,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company

BUSINESS ADDRESS: 9450 SEWARD ROAD, FAIRFIELD, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $34,117,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 1900 SOUTH 18TH AVENUE, WEST BEND, WI 53095. PHONE: (262) 334-5571 x-6523. UNDERWRITING LIMITATION b/: $20,137,000. SURETY LICENSES c,f/: IL, IN, IA, MI, MN, OH, WI. INCORPORATED IN: Wisconsin.

See Footnotes and Notes at the end of this Circular.

Westchester Fire Insurance Company

BUSINESS ADDRESS: 1601 Chestnut Street, P. O. Box 41484, Philadelphia, PA 19101-1484. PHONE: (215) 640-1000. UNDERWRITING LIMITATION b/: $21,300,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company

BUSINESS ADDRESS: P.O. BOX 21030, RENO, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: $511,000. SURETY LICENSES c,f/: NV, UT. INCORPORATED IN: Nevada.

Western Surety Company

BUSINESS ADDRESS: P.O. BOX 5077, SIOUX FALLS, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: $20,735,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company

BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $31,305,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company

BUSINESS ADDRESS: P. O. BOX 5001, WESTFIELD CENTER, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $7,965,000. SURETY LICENSES c,f/: CA, IA, KY, ND, OH. INCORPORATED IN: Ohio.

Westport Insurance Corporation

BUSINESS ADDRESS: P.O. BOX 2979, OVERLAND PARK, KS 66201-1379. PHONE: (913) 676-5270. UNDERWRITING LIMITATION b/: $19,762,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes and Notes at the end of this Circular.

XL Reinsurance America Inc.

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: $41,987,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: $6,806,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Zurich American Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $173,783,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes and Notes at the end of this Circular.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

GE Reinsurance Corporation
BUSINESS ADDRESS: 540 W. Northwest Highway, Barrington, IL 60010. PHONE: (847) 277-5300. UNDERWRITING LIMITATION b/: $60,953,000.

Generali - U.S. Branch
BUSINESS ADDRESS: ONE LIBERTY PLAZA, NEW YORK, NY 10006. PHONE: (212) 602-7600. UNDERWRITING LIMITATION b/: $2,888,000.

GERLING GLOBAL REINSURANCE CORPORATION OF AMERICA
BUSINESS ADDRESS: 717 FIFTH AVENUE, NEW YORK, NY 10022. PHONE: (212) 754-7500. UNDERWRITING LIMITATION b/: $30,821,000.

NATIONAL REINSURANCE CORPORATION
BUSINESS ADDRESS: 695 EAST MAIN STREET, P. O. BOX 10350, STAMFORD, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $61,355,000.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY
BUSINESS ADDRESS: 385 WASHINGTON STREET, ST. PAUL, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $21,122,000.

Odyssey America Reinsurance Corporation
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8000. UNDERWRITING LIMITATION b/: $39,413,000.

Odyssey Reinsurance Corporation
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8000. UNDERWRITING LIMITATION b/: $35,404,000.

Phoenix Insurance Company (The)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $53,191,000.

See Footnotes and Notes at the end of this Circular.

SAFECO Insurance Company of Illinois
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $13,091,000.

SAFECO National Insurance Company
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $4,916,000.

SCOR REINSURANCE COMPANY
BUSINESS ADDRESS: 199 Water Street, 21st Floor, New York, NY 10038-3526. PHONE: (212) 480-1900. UNDERWRITING LIMITATION b/: $31,285,000.

ZENITH INSURANCE COMPANY5
BUSINESS ADDRESS: 21255 CALIFA STREET, WOODLAND HILLS, CA 91367. PHONE: (818) 713-1000. UNDERWRITING LIMITATION b/: $6,226,000.

See Footnotes and Notes at the end of this Circular.

FOOTNOTES

1 AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY, assumed name of AMERICAN CONTRACTORS INDEMNITY COMPANY.

2 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

3 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

4 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

5 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks on *bonds in favor of the United States are protected by reinsurance*, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

See Footnotes and Notes at the end of this Circular.

(c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec.24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the *principal resides*; where the *obligation is to be performed;* and in the *District of Columbia* where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.)
(NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state*. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

See Footnotes and Notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama, Montgomery 36104	(334) 269-3550
Alaska, Anchorage 99503-5948	(907) 269-7900
Arizona, Phoenix 85018-7256	(602) 912-8400
Arkansas, Little Rock 72201-1904	(501) 371-2600
California, Sacremento 95814	(916) 492-3500
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(860) 297-3800
D. C., Washington 20002	(202) 727-8000
Delaware, Dover 19904	(302) 739-4251
Florida, Tallahasse 32399-0300	(850) 413-2804
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96813	(808) 586-2790
Idaho, Boise 83720-0043	(208) 334-4250
Illinois, Springfield 62767-0001	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612-1678	(785) 296-7801
Kentucky, Frankfort 40602-0517	(502) 564-6027
Louisiana, Baton Rouge 70802	(225) 342-5423
Maine, Augusta 04333-0034	(207) 624-8475
Maryland, Baltimore 21202-2272	(410) 468-2090
Massachusetts, Boston 02110	(617) 521-7301
Michigan, Lansing 48933-1020	(517) 335-3167
Minnesota, St. Paul 55101-2198	(612) 296-6025
Mississippi, Jackson 39201	(601) 359-3569
Missouri, Jefferson City 65101	(573) 751-4126
Montana, Helena 59601	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89706-0661	(775) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Sante Fe 87504-1269	(505) 827-4601

See Footnotes and Notes at the end of this Circular.

New York, New York 10004-2319	(212) 480-2292
North Carolina, Raleigh 27611	(919) 733-3058
North Dakota, Bismarck 58505-0320	(701) 328-2440
Ohio, Columbus 43215-1067	(614) 644-2658
Oklahoma, Oklahoma City 73107	(405) 521-2828
Oregon, Salem 97310-3883	(503) 947-7980
Pennsylvania, Harrisburg 17120	(717) 783-0442
Puerto Rico, Santurce 00909	(787) 722-8686
Rhode Island, Providence 02903-4233	(401) 222-2223
South Carolina, Columbia 29201	(803) 737-6160
South Dakota, Pierre 57501-2000	(605) 773-3563
Tennessee, Nashville 37243-0565	(615) 741-2241
Texas, Austin 78701	(512) 463-6464
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virgin Islands, St. Thomas 00802	(340) 774-7166
Virginia, Richmond 23218	(804) 371-9694
Washington, Olympia 98504-0255	(360) 664-8137
West Virginia, Charleston 25305-0540	(304) 558-3354
Wisconsin, Madison 53707	(608) 267-1233
Wyoming, Cheyenne 82002-0440	(307) 777-7401

See Footnotes and Notes at the end of this Circular.

[FR Doc. 02–16395 Filed 6–28–02; 8:45 am]

<FNP>

Federal Register

Monday,
July 1, 2002

Part IV

Department of Justice

Immigration and Naturalization Service

8 CFR Part 214

Allowing Eligible Schools To Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS); Interim Final Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2211–02]

RIN 1115–AG55

Allowing Eligible Schools To Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Immigration and Naturalization Service (Service), consistent with its statutory authority to regulate foreign students under sections 101(a)(15)(F) and (M) of the Immigration and Nationality Act (Act), will be conducting a review of all Service-approved schools, as a prerequisite for enrollment in the Student and Exchange Visitor Information System (SEVIS). This interim rule will allow eligible schools to preliminarily enroll in SEVIS, beginning on July 1, 2002, provided they meet the established criteria. Eligibility for preliminary enrollment in SEVIS will continue through August 16, 2002. By that date, the Service anticipates publishing a new interim certification rule. When the forthcoming interim certification rule takes effect, the preliminary enrollment period will end and all schools will be required to apply for certification prior to enrollment in SEVIS in accordance with the requirements of that rule.

DATES: *Effective date.* This interim rule is effective July 1, 2002.

Comment date. Written comments must be submitted on or before July 31, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC, 20536. To ensure proper handling, please reference INS No. 2211–02 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically, you must include INS No. 2211–02, in the subject heading, and any attachments must be typed in MS Word format so that the comments can be electronically routed to the appropriate program office. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Maura Deadrick, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION: On May 16, 2002, at 67 FR 34862, the Service published a proposed rule in the **Federal Register** to implement the new SEVIS requirements and establish a process for electronic reporting by designated school officials (DSOs). That proposed rule, which would be codified at 8 CFR 214.2(f), (j), and (m), indicated that the SEVIS system would begin operation on July 1, 2002, and proposed a mandatory compliance date of January 30, 2003, by which all schools must be using SEVIS in order to issue Form I–20, Certificate of Eligibility for Nonimmigrant Student. Schools will only be granted access to SEVIS by the Service after a review of the bona fides of the school.

The Service will allow schools that meet the criteria in 8 CFR 214.12, as promulgated in the present interim rule, to preliminarily enroll in SEVIS after the Service verifies that they meet the established criteria. This preliminary enrollment period will close the later of August 16, 2002, or until the date the service begins the SEVIS full scale certification process, which will be the effective date of a forthcoming interim rule (Interim Certification Rule) implementing section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. 107–173) (Border Security Act).

In general, 8 CFR 214.12(a) will permit private elementary and private secondary schools, post-secondary schools, and language and vocational schools, to apply for preliminary enrollment in SEVIS, if the school is accredited, and the school has been continuously approved by the Service for the last three years for the enrollment of F or M nonimmigrant students. Private elementary and private secondary schools must be accredited by an organization holding membership in the Council for the American Private Education (CAPE) or the American Association of Christian Schools (AACS). Postsecondary, language and vocational schools must be accredited by an accrediting agency recognized by the United States Department of Education. Proof that a school has been determined to be eligible under Title IV of the Higher Education Act of 1965 is sufficient to establish that a school is properly accredited, since such accreditation is a prerequisite for recognition under Title IV of the latter Act. The specific requirements for Title IV eligibility are specified at 34 CFR part 600.

In addition, public high schools may also be permitted to enroll under 8 CFR 214.12(a) if the school provides certification from the appropriate public official that the school meets the requirements of the state or local public educational system and the school has been continuously approved by the Service for the last three years for enrollment of F or M nonimmigrant students.

8 CFR 214.12(b) and (c), as added by this interim rule, describes the preliminary enrollment process for eligible schools, which will be conducted through the Internet.

The Interim Certification Rule will establish a review process for all of the currently approved schools, including a new SEVIS certification fee associated with this review. The Interim Certification Rule will govern all schools not eligible for preliminary enrollment under 8 CFR 214.12, and all schools that were eligible but chose not to participate during the preliminary enrollment period. After the close of the preliminary enrollment period, schools previously eligible for preliminary enrollment will be required to apply for a certification review in accordance with the Interim Certification Rule prior to being granted approval to enroll in SEVIS.

Why Is the Service Allowing Preliminary Enrollment?

In the interest of implementing use of SEVIS by schools in a timely manner, the Service has developed a process whereby schools may enroll in SEVIS beginning on July 1, 2002, in advance of the new certification review process. This process necessitates that the Service have some means of assuring that schools allowed preliminary enrollment are in fact bona fide institutions. To be accredited by an agency recognized by the Department of Education, CAPE, or AACS, a school must establish and maintain compliance with rigorous standards of operation. Therefore, accreditation by such an agency is considered to be preliminary establishment of evidence that the school meets the Service requirements for a bona fide institution outlined at 8 CFR 214.3(e). Maintenance of three consecutive years of Service approval to admit nonimmigrant students, evidenced by a valid school code, provides at least a preliminary assurance of the school's familiarity and

compliance with the Service Form I–20 issuance and reporting requirements.

How Does a School Apply for Preliminary Enrollment?

Eligible institutions must request preliminary enrollment by accessing the Internet site, *http://www.ins.usdoj.gov/sevis.* Upon accessing the site, the president, owner, head of the school or designated school official will be asked to enter the following information: The school's name; the first, middle, and last name of the contact person for the school; and the email address and phone number of the contact person. Once this information has been submitted, the Service will issue the school a temporary ID and password, which will be forwarded to the email address listed. When the contact person receives this temporary ID and password, the school will again access the Internet site and will electronically enter the school's information for its Form I–17.

Once a school has electronically submitted the Form I–17 information, a Service officer will review the school's eligibility to verify that the school meets the preliminary enrollment eligibility requirements. If the officer determines that the school is eligible for preliminary enrollment, the officer will update SEVIS and enroll the school. Once SEVIS has been updated by the officer, permanent user IDs and passwords will be automatically generated and issued via email to the DSOs listed on the Form I–17. Schools that are not approved by the Service for preliminary enrollment must apply for certification in accordance with the Interim Certification Rule.

Will There Be a Fee for Preliminary Enrollment?

A school that applies for preliminary enrollment will not have to pay a fee at this time. The Service, however, plans to impose a certification fee on all schools, including those granted preliminary enrollment, in the Interim Certification Rule. Section 502 of the Border Security Act requires the Service to conduct a periodic review of compliance of all Service-approved schools by May 14, 2004. This periodic review will require an on-site visit to help determine whether a school is in compliance with various recordkeeping and reporting requirements. As a result, all schools that are granted preliminary enrollment in SEVIS under the terms of 8 CFR 214.12, will be required to apply for a certification review under the Interim Certification Rule, and pay a certification fee, prior to May 14, 2004.

Any school that is ineligible for preliminary enrollment, or that applies after the close of the preliminary enrollment period, will be required to pay the certification fee in accordance with the Interim Certification Rule before it can be enrolled in SEVIS.

What if a School Is Not Eligible for Preliminary Enrollment?

If a school falls under one of the following categories, it is not eligible for preliminary enrollment: (1) Schools that are not accredited by CAPE, AACS, or an agency recognized by the Department of Education; (2) schools that have not been participating as a Service approved school for three years; and (3) flight schools even if they have been accredited by an agency recognized by the Department of Education and have been participating as a Service approved school for three years. Schools that do not meet the criteria for preliminary enrollment will not be eligible to apply for access to SEVIS until they apply for certification under the Interim Certification Rule and undergo a full-scale review by the Service. Prior to this review, such schools must continue to comply with the recordkeeping and reporting requirements as provided in 8 CFR 214.2(f) and (m) and 8 CFR 214.3.

What if a School That Is Eligible for Preliminary Enrollment Chooses Not To Enroll During the Preliminary Enrollment Period?

Schools that are eligible for preliminary enrollment in SEVIS, under 8 CFR 214.12(a), but do not apply for such enrollment before the close of the preliminary enrollment period will be required to apply for certification and pay the certification fee, just as for schools not eligible for preliminary enrollment. The fee for certification is the same for all schools whether eligible for preliminary enrollment or not. However, in recognition of the status of schools that are properly accredited and have been recognized by the Service for the last three years, the Service, after a review of the application, will be authorized to approve the enrollment of such a school in SEVIS prior to completion of the required on-site visit. If such schools are granted enrollment in SEVIS without undergoing on-site review, they will be required to complete the on-site visit prior to May 2004, in accordance with the mandate for school review set forth in the Border Security Act.

Must Schools Use SEVIS Once They Have Been Approved for Preliminary Enrollment?

Once a school is approved for preliminary enrollment in SEVIS, the school will be required to utilize SEVIS to generate any new Forms I–20 for new students, as well as in any circumstance where a currently-enrolled student must be issued a new Form I–20 (for example, for an extension of the student's approved program of study). Schools enrolling in SEVIS should refer to the provisions of the proposed rule published by the Service at 67 FR 34862 (May 16, 2002), for information on the requirements that will be applicable to SEVIS, once that rule is adopted in final form.

Schools that preliminarily enroll in SEVIS prior to the final SEVIS compliance date are not required to enter all data for their current students into SEVIS at that time, but may do so until the use of SEVIS is mandatory. However, any action taken on the part of a current or a new student that involves a change or update to the information on the Form I–20 must be done using SEVIS.

Good Cause Exception

This rule is effective on publication in the **Federal Register**. The Service finds that good cause exists both for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553, and for making this rule immediately effective, rather than having it enter into force 30 days after publication. The USA Patriot Act, Public Law 107–56, mandates that the SEVIS be fully implemented and expanded prior to January 1, 2003. Further, the Border Security Act requires the Service to review all schools within 2 years of its enactment. In order to meet the mandate for complete functionality of SEVIS while maintaining the integrity of data in SEVIS, a timely review of all schools is necessary prior to allowing a school to access SEVIS. To accomplish this action, the Service must allow a portion of eligible schools to preliminarily enroll in SEVIS. The provision for review of all approved schools is an important part of helping to safeguard against the abuse of the traditional American openness to foreign students by foreign terrorists. Because of the vital national security concerns that underpin the USA Patriot Act, and the Border Security Act, it would be contrary to the public interest to observe the requirements of 5 U.S.C. 533(b) and (d).

Regulatory Flexibility Act

The Commissioner, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. Preliminary enrollment is voluntary and applies to those schools that have the capability to electronically enroll in SEVIS. The information a school must submit is information that should be readily available to the school. In addition, any expenditure required by the school can easily be recouped by the school in student fees. Accordingly, any economic impact will not be ''significant.''

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Under Executive Order 12866, section 6(a)(3)(B)–(D), this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

The information collection requirement to electronically enroll in SEVIS has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act. The OMB Control number for this collection is 1115–0252.

List of Subjects in 8 CFR Part 214

Administrative practice and procedures, Aliens, Employment.

Accordingly, part 214 of chapter I of title 8, Code of Federal Regulations, is amended as follows:

PART 214—[AMENDED]

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note and 1931 note, respectively; 8 CFR part 2.

2. Section 214.12 is added, to read as follows:

§ 214.12 Preliminary enrollment of schools in the Student and Exchange Visitor Information System (SEVIS).

(a) Private elementary and private secondary schools, public high schools, post-secondary schools, language schools, and vocational schools are eligible for preliminary enrollment in Student and Exchange Visitor Information System (SEVIS), beginning on or after July 1, 2002, but only if the school is accredited by an accrediting agency recognized by the United States Department of Education, CAPE, or AACS, or in the case of a public high school, the school provides certification from the appropriate public official that the school meets the requirements of the state or local public educational system and has been continuously approved by the Service for a minimum of three years, as of July 1, 2002, for the admission of F or M nonimmigrant students. A school may establish that it is accredited by showing that it has been designated as an eligible school under Title IV of the Higher Education Act of 1965.

(b) Preliminary enrollment in SEVIS is optional for eligible schools. The preliminary enrollment period will be open from July 1, 2002, through August 16, 2002, or, if later, until the Service begins the SEVIS full scale certification process. The process for eligible schools to apply for preliminary enrollment through the Internet is as follows:

(1) Eligible institutions must access the Internet site, *http://www.ins.usdoj.gov/sevis.* Upon accessing the site, the president, owner, head of the school or designated school official will be asked to enter the following information: the school's name; the first, middle, and last name of the contact person for the school; and the e-mail address and phone number of the contact person.

(2) Once this information has been submitted, the Service will issue the school a temporary ID and password, which will be forwarded to the e-mail address listed. When the contact person receives this temporary ID and password, the school will again access the Internet site and will electronically enter the school's information for its Form I–17.

(c) The Service will review the information by a school submitted as provided in paragraph (b) of this section, and will preliminarily enroll a school in SEVIS, if it is determined to be eligible under the standards of paragraph (a) of this section. If the officer determines that the school is eligible for preliminary enrollment, the officer will update SEVIS and enroll the school and permanent user IDs and passwords will be automatically generated via e-mail to the DSOs listed on the Form I–17. Schools that are not approved by the Service for preliminary enrollment will be notified that they must apply for certification in accordance with the Interim Certification Rule. A school that is granted preliminary enrollment will have to use SEVIS for the issuance of any new Form I–20 to a new or continuing student.

(d) Schools granted preliminary enrollment in SEVIS will not have to apply for certification at this time. However, all such schools will be required to apply for certification, and pay the certification fee, prior to May 14, 2004.

(e) Eligible schools that meet the standards of paragraph (a) of this section, but do not apply for preliminary enrollment in SEVIS prior to the close of the preliminary enrollment period will have to apply for certification review under the Interim

Certification Rule and pay the certification fee before enrolling in SEVIS. However, once a school meeting the standards of paragraph (a) of this section applies for certification review, the Service will have the discretion, after a review of the school's application, to allow the school to enroll in SEVIS without requiring an on-site visit prior to enrollment. If the Service permits such a school to enroll in SEVIS prior to completion of the on-site visit, the on-site visit must be completed prior to May 14, 2004.

(f) Schools that are not eligible to apply for preliminary enrollment in SEVIS under this section—including flight schools—will have to apply for certification under the Interim Certification Rule, pay the certification fee, and undergo a full certification review including an on-site visit, prior to being allowed to enroll in SEVIS.

Dated: June 27, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–16676 Filed 6–27–02; 4:23 pm]

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LIST OF PUBLIC LAWS

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S. 2431/P.L. 107–196
Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 (June 24, 2002; 116 Stat. 719)

H.R. 3275/P.L. 107–197
To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes. (June 25, 2002; 116 Stat. 721)

Last List June 21, 2002

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–048–00001–1)	9.00	Jan. 1, 2002
3 (1997 Compilation and Parts 100 and 101)	(869–048–00002–0)	59.00	[1] Jan. 1, 2002
4	(869–048–00003–8)	9.00	[4] Jan. 1, 2002
5 Parts:			
1–699	(869–048–00004–6)	57.00	Jan. 1, 2002
700–1199	(869–048–00005–4)	47.00	Jan. 1, 2002
1200–End, 6 (6 Reserved)	(869–048–00006–2)	58.00	Jan. 1, 2002
7 Parts:			
1–26	(869–048–00001–1)	41.00	Jan. 1, 2002
27–52	(869–048–00008–9)	47.00	Jan. 1, 2002
53–209	(869–048–00009–7)	36.00	Jan. 1, 2002
210–299	(869–048–00010–1)	59.00	Jan. 1, 2002
300–399	(869–048–00011–9)	42.00	Jan. 1, 2002
400–699	(869–048–00012–7)	57.00	Jan. 1, 2002
700–899	(869–048–00013–5)	54.00	Jan. 1, 2002
900–999	(869–048–00014–3)	58.00	Jan. 1, 2002
1000–1199	(869–048–00015–1)	25.00	Jan. 1, 2002
1200–1599	(869–048–00016–0)	58.00	Jan. 1, 2002
1600–1899	(869–048–00017–8)	61.00	Jan. 1, 2002
1900–1939	(869–048–00018–6)	29.00	Jan. 1, 2002
1940–1949	(869–048–00019–4)	53.00	Jan. 1, 2002
1950–1999	(869–048–00020–8)	47.00	Jan. 1, 2002
2000–End	(869–048–00021–6)	46.00	Jan. 1, 2002
8	(869–048–00022–4)	58.00	Jan. 1, 2002
9 Parts:			
1–199	(869–048–00023–2)	58.00	Jan. 1, 2002
200–End	(869–048–00024–1)	56.00	Jan. 1, 2002
10 Parts:			
1–50	(869–048–00025–4)	58.00	Jan. 1, 2002
51–199	(869–048–00026–7)	56.00	Jan. 1, 2002
200–499	(869–048–00027–5)	44.00	Jan. 1, 2002
500–End	(869–048–00028–3)	58.00	Jan. 1, 2002
11	(869–048–00029–1)	34.00	Jan. 1, 2002
12 Parts:			
1–199	(869–048–00030–5)	30.00	Jan. 1, 2002
200–219	(869–048–00031–3)	36.00	Jan. 1, 2002
220–299	(869–048–00032–1)	58.00	Jan. 1, 2002
300–499	(869–048–00033–0)	45.00	Jan. 1, 2002
500–599	(869–048–00034–8)	42.00	Jan. 1, 2002
600–End	(869–048–00035–6)	61.00	Jan. 1, 2002
13	(869–048–00036–4)	47.00	Jan. 1, 2002
14 Parts:			
1–59	(869–048–00037–2)	60.00	Jan. 1, 2002
60–139	(869–048–00038–1)	58.00	Jan. 1, 2002
140–199	(869–048–00039–9)	29.00	Jan. 1, 2002
200–1199	(869–048–00040–2)	47.00	Jan. 1, 2002
1200–End	(869–048–00041–1)	41.00	Jan. 1, 2002
15 Parts:			
0–299	(869–048–00042–9)	37.00	Jan. 1, 2002
300–799	(869–048–00043–7)	58.00	Jan. 1, 2002
800–End	(869–048–00044–5)	40.00	Jan. 1, 2002
16 Parts:			
0–999	(869–048–00045–3)	47.00	Jan. 1, 2002
1000–End	(869–048–00046–1)	57.00	Jan. 1, 2002
17 Parts:			
1–199	(869–048–00048–8)	47.00	Apr. 1, 2002
*200–239	(869–048–00049–6)	55.00	Apr. 1, 2002
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–048–00051–8)	59.00	Apr. 1, 2002
400–End	(869–048–00052–6)	24.00	Apr. 1, 2002
19 Parts:			
1–140	(869–048–00053–4)	57.00	Apr. 1, 2002
141–199	(869–048–00054–2)	56.00	Apr. 1, 2002
200–End	(869–048–00055–1)	29.00	Apr. 1, 2002
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–048–00059–3)	39.00	Apr. 1, 2002
100–169	(869–048–00060–7)	46.00	Apr. 1, 2002
170–199	(869–048–00061–5)	47.00	Apr. 1, 2002
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
*500–599	(869–048–00064–0)	46.00	Apr. 1, 2002
600–799	(869–048–00065–8)	16.00	Apr. 1, 2002
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–048–00069–1)	43.00	Apr. 1, 2002
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–048–00071–2)	57.00	Apr. 1, 2002
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–048–00073–9)	29.00	Apr. 1, 2002
*700–1699	(869–048–00074–7)	58.00	Apr. 1, 2002
1700–End	(869–048–00075–5)	29.00	Apr. 1, 2002
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–048–00079–8)	55.00	Apr. 1, 2002
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–044–00081–4)	58.00	Apr. 1, 2001
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
*§§ 1.851–1.907	(869–048–00085–2)	57.00	Apr. 1, 2002
*§§ 1.908–1.1000	(869–048–00086–1)	56.00	Apr. 1, 2002
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–048–00090–9)	39.00	Apr. 1, 2002
40–49	(869–048–00091–7)	26.00	Apr. 1, 2002
50–299	(869–048–00092–5)	38.00	Apr. 1, 2002
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–048–00095–0)	16.00	Apr. 1, 2002
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
*200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
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8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
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1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–044–00203–5)	21.00	Oct. 1, 2001
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		290.00	2000
Complete set (one-time mailing)		247.00	1999

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2002

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	July 16	July 31	August 15	August 30	Sept 30
July 2	July 17	August 1	August 16	Sept 3	Sept 30
July 3	July 18	August 2	August 19	Sept 3	Oct 1
July 5	July 22	August 5	August 19	Sept 3	Oct 3
July 8	July 23	August 7	August 22	Sept 6	Oct 7
July 9	July 24	August 8	August 23	Sept 9	Oct 7
July 10	July 25	August 9	August 26	Sept 9	Oct 8
July 11	July 26	August 12	August 26	Sept 9	Oct 9
July 12	July 29	August 12	August 26	Sept 10	Oct 10
July 15	July 30	August 14	August 29	Sept 13	Oct 15
July 16	July 31	August 15	August 30	Sept 16	Oct 15
July 17	August 1	August 16	Sept 3	Sept 16	Oct 15
July 18	August 2	August 19	Sept 3	Sept 16	Oct 16
July 19	August 5	August 19	Sept 3	Sept 17	Oct 17
July 22	August 6	August 21	Sept 5	Sept 20	Oct 21
July 23	August 7	August 22	Sept 6	Sept 23	Oct 21
July 24	August 8	August 23	Sept 9	Sept 23	Oct 22
July 25	August 9	August 26	Sept 9	Sept 23	Oct 23
July 26	August 12	August 26	Sept 9	Sept 24	Oct 24
July 29	August 13	August 28	Sept 12	Sept 27	Oct 28
July 30	August 14	August 29	Sept 13	Sept 30	Oct 28
July 31	August 15	August 30	Sept 16	Sept 30	Oct 29