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Presidential Documents

Title 3—

The President

Proclamation 7587 of August 30, 2002

National Ovarian Cancer Awareness Month, 2002

By the President of the United States of America

A Proclamation

During National Ovarian Cancer Awareness Month, Americans renew their commitment to learning more about the causes of this deadly disease, so that we can detect it early and treat it effectively.

Ovarian cancer continues to cause more deaths than any other cancer of the female reproductive system. It is estimated that this year alone, more than 23,000 women in the United States will be diagnosed with ovarian cancer, and that almost 14,000 women will die from this disease. In cases where ovarian cancer is found and treated in its earliest stages, the 5-year survival rate is 95 percent. However, most women who suffer from this cancer are not diagnosed until it has become more advanced, because their symptoms may be easily confused with other diseases. Since early detection and treatment can often mean the difference between life and death, developing an effective screening test is a great priority.

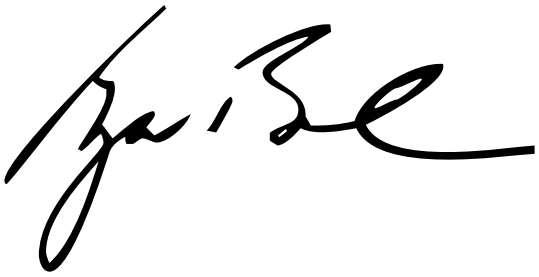
Scientists have identified specific substances in the blood that may help indicate whether a woman has ovarian cancer before she shows any symptoms. Additionally, researchers at the National Cancer Institute and the Food and Drug Administration have been working to develop a new type of blood test that may be able to diagnose this disease, and eventually help save the lives of millions of women. By analyzing protein patterns in a single drop of blood, this test was able to recognize ovarian cancer in both its early and late stages. I join thousands of American women and their families in hoping that this promising research will help us in overcoming this terrible disease.

By increasing awareness of ovarian cancer and its causes, we can better prepare women who face the threat of this illness. Researchers have learned that age, alterations in genes, and certain hormonal and reproductive factors are linked to ovarian cancer risk. Women and their doctors should weigh all the risks and benefits of different therapies and make informed choices about health care.

I commend the strength and courage of the women who persevere in the face of this serious illness, and I encourage our scientists and researchers to redouble their efforts to find more effective prevention, diagnostic, and treatment strategies to combat ovarian cancer. Additionally, I urge those who suffer from this cancer, and those who may be at risk, to talk with their healthcare providers about participating in clinical trials for new medical therapies designed to combat ovarian cancer. By taking part in these clinical trials, you can make important contributions to the knowledge of this disease and benefit from cutting edge medical research. As we increase awareness of ovarian cancer and advance in our research, we can help bring hope to our citizens and draw closer to winning the war on cancer.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2002 as National Ovarian Cancer Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

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



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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–03–AD; Amendment 39–12868; AD 2002–17–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, a Division of Textron Canada, Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Bell Helicopter Textron, A Division of Textron Canada (BHT), Model 407 helicopters. This action requires a fuel filler cap assembly shimming and electrical bonding procedure. This amendment is prompted by the FAA's determination, based on information from the manufacturer, that electrical bonding may be inadequate. The actions specified in this AD are intended to prevent a lack of electrical bonding that could result in an electrical arc, ignition of fuel vapors, and an onboard fire.

DATES: Effective September 20, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 20, 2002.

Comments for inclusion in the Rules Docket must be received on or before November 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–03–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHT Model 407 helicopters. Transport Canada advises that electrical bonding may be inadequate between the retainer assembly, the fuel filler cap and adapter assembly, and the fuel cell fitting, which can cause arcing while refueling as a result of static discharge. This could ignite the fuel vapor.

BHT has issued Bell Helicopter Textron Alert Service Bulletin No. 407–01–41, dated May 23, 2001, which specifies the shimming of gaps and adding electrical bonding tape to ensure no gaps exist between the retainer assembly, part number (P/N) 206–062–304–101, the fuel filler cap and adapter assembly, P/N 206–362–002–103, and the fuel cell fitting. Transport Canada classified this service bulletin as mandatory and issued AD No. CF–2001–34, dated September 20, 2001, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent a lack of electrical bonding that could result in an electrical arc, ignition of fuel vapors, and an onboard fire. This AD requires the shimming of gaps and adding electrical bonding tape to ensure that no gaps exist between the retainer assembly, the fuel cap and adapter assembly, and the fuel cell fitting. The actions must be accomplished in accordance with the alert service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition could result in substantial damage to a helicopter due to a fire. Some of the affected model helicopters may exceed 50 hours time-in-service (TIS) within a very short period of time. Therefore, the shimming of gaps and adding electrical bonding tape to ensure no gaps exist between the retainer assembly, the fuel filler cap and adapter assembly, and the fuel cell fitting is required within 50 hours TIS, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 291 helicopters will be affected by this AD, that it will take approximately 8 work hours to accomplish the shimming and adding the electrical bonding tape, and that the average labor rate is $60 per work hour. The cost of parts is $111 for the kit required for each of 242 helicopters in the fleet, and $21 for the kit required for the remaining 49 helicopters in the fleet. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $167,571.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by

submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2002–SW–03–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it 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. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–17–03 Bell Helicopter Textron, a Division of Textron Canada: Amendment 39–12868. Docket No. 2002–SW–03–AD.

Applicability: Model 407 helicopters, with serial numbers less than 53480, certificated in any category.

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

Compliance: Required within 50 hours time-in-service, unless accomplished previously.

To prevent a lack of electrical bonding that could result in an electrical arc, ignition of fuel vapors, and an onboard fire, accomplish the following:

(a) Perform the fuel filler cap shimming and electrical bonding procedure in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 407–01–41, dated May 23, 2001.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

(d) The shimming and electrical bonding procedure shall be done in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 407–01–41, dated May 23, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on September 20, 2002.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–2001–34, dated September 20, 2001.

Issued in Fort Worth, Texas, on August 21, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–22174 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–256–AD; Amendment 39–12873; AD 2002–18–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 and A321 series airplanes, that requires an inspection to detect trapped water in the elevator sandwich structure, reprotection of the elevator, and corrective actions if necessary. This action is necessary to prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection, and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 10, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes was published in the **Federal Register** on February 22, 2002 (67 FR 8212). That action proposed to require an inspection to detect trapped water in the elevator sandwich structure, reprotection of the elevator, and corrective actions if necessary.

Comments

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

Request To Extend Compliance Time

One commenter requests that the proposed AD be revised to extend the compliance time threshold for the inspection from the proposed 18 months to 24 months. The commenter states that the proposed compliance time is not adequate to support a fleet campaign without operators requiring additional spare units at a cost of approximately $360,000 per set. The commenter estimates a total turnaround time for obtaining each elevator set at an average of 35 days. The commenter notes that the current requirements of the Maintenance Review Board Report (MRBR) for elevators are general visual inspections every 24 months and special detailed inspections every 60 months. The commenter concludes that a compliance time of 24 months would accommodate its fleet during scheduled maintenance visits without additional spares expense and would be within the safety guidelines of the MRBR.

The FAA does not agree with the commenter's request. In developing an appropriate compliance time for this AD, we considered not only the safety implications, but the manufacturer's recommendations, the French airworthiness authority's recommendations, the availability of spare parts, and the practical aspect of accomplishing the inspection within an interval of time that parallels normal scheduled maintenance for affected operators. In consideration of all of these factors, we have determined that the compliance time, as proposed, represents an appropriate interval in which the inspection can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety. However, under the provisions of paragraph (c) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. No change to the final rule is necessary in this regard.

Request to Revise Cost Impact Estimate

One commenter states that the cost estimate presented in the preamble to the proposed AD is understated and does not include the cost of repairs for unit shop visits. The commenter also states the cost of these repairs would increase the per airplane estimate to approximately $75,000.

From this comment, we infer that the commenter is requesting that the cost impact estimate be revised. We do not agree. The economic analysis of the AD is limited only to the cost of actions actually required by the rule. It does not consider the costs of ''on condition'' actions, such as repairing a crack if one is detected during a required inspection (''repair, if necessary''). Such ''on-condition'' repairs actions would be required to be accomplished—regardless of AD direction—in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. Therefore, no change to the final rule is necessary in the regard.

Conclusion

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

Cost Impact

The FAA estimates that 91 airplanes of U.S. registry will be affected by this AD, that it will take approximately 52 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $283,920, or $3,120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–18–01 Airbus: Amendment 39–12873. Docket 2001–NM–256–AD.

Applicability: Model A320 and A321 series airplanes, certificated in any category; having elevator part and serial numbers listed in Airbus Service Bulletin A320–55–1024, dated January 13, 1999; excluding those modified per Airbus Modification 23558.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage caused by water ingress into the elevator, which could lead to debonding of the elevator skins and degradation of the initial protection and consequent reduced structural integrity of the airplane, accomplish the following:

Inspection and Follow-on/Corrective Actions

(a) Within 18 months after the effective date of this AD, or within 10 years after the date of manufacture of the airplane, whichever occurs later: Perform a thermographic inspection to detect trapped water in the elevator sandwich structure, in accordance with Airbus Service Bulletin A320–55–1024, dated January 13, 1999.

(1) If no water is detected: Before further flight, reprotect the elevator in accordance with the service bulletin.

(2) If any water is detected: Before further flight, evaluate the damage, perform applicable repair of any damaged area, and reprotect the elevator, in accordance with the service bulletin. If any damage is detected for which the service bulletin specifies to contact Airbus for appropriate action: Before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Note 2: Airbus Service Bulletin A320–55–1024 refers to Airbus Service Bulletin A320–55–1022, Revision 01, dated March 30, 2001, as an additional source of service information for enlarging the drainage holes in the elevator.

Spares

(b) As of the effective date of this AD, no person may install on any airplane an elevator having a part number and serial number listed in Airbus Service Bulletin A320–55–1024, dated January 13, 1999, unless the requirements of this AD have been accomplished on that elevator.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) Unless otherwise indicated in this AD, the actions shall be done in accordance with Airbus Service Bulletin A320–55–1024, dated January 13, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001–062(B), dated February 21, 2001.

Effective Date

(f) This amendment becomes effective on October 10, 2002.

Issued in Renton, Washington, on August 26, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–22175 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–344–AD; Amendment 39–12874; AD 2002–18–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, that requires a one-time inspection to determine whether the lower bearing support of the aileron transfer mechanism directly below the first officer's control column has a ''pocket,'' and follow-on corrective actions, if necessary. The actions specified by this AD are intended to prevent jamming of the first officer's control wheel due to the presence of a foreign object on the lower bearing support of the transfer mechanism, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 10, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 2002.

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

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Doug Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1506; fax (425) 227–1181.

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the

Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes was published in the **Federal Register** on February 11, 2002 (67 FR 6212). That action proposed to require a one-time inspection to determine whether the lower bearing support of the aileron transfer mechanism directly below the first officer's control column has a ''pocket,'' and follow-on corrective actions, if necessary.

Comments

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

Support for the Proposed AD

One commenter fully supports the proposed actions.

Request To Revise Cost Impact

Two commenters (the manufacturer and an operator) request that the proposed AD be revised to include estimated costs necessary to replace the lower bearing support, which would be required if a pocket is found. The commenters consider this information important in this case although they recognize that such conditional requirements are not always included in the Cost Impact section of AD actions. The operator cites existing AD 2002–04–08, amendment 39–12665 (67 FR 9395, March 1, 2002), as an example of an AD that does include costs associated with correcting a discrepant condition. Although the replacement is not mandatory on all airplanes (*i.e.*, not all airplanes will have the discrepant condition), the commenters expect a considerable number of airplanes to have a pocket on the lower bearing support, requiring replacement. The operator adds that, based on service experience, a more realistic work-hour estimate is 20 to 28 work hours, rather than the 8.5 work hours specified by the alert service bulletin.

The FAA partially agrees. Because the discrepant condition is expected to be found on a considerable number of airplanes, the FAA recognizes that information regarding the estimated cost to replace the lower bearing support would be helpful for operators in planning and scheduling the work. The Cost Impact section in the final rule has been revised accordingly. However, those costs may vary from operator to operator based on work hours required; this AD reflects the work hour estimate specified in Boeing Alert Service Bulletin 737–27A1238, described in the proposed AD.

Request To Revise Compliance Time for Follow-on Actions

Boeing requests an extension of the proposed compliance time for the follow-on actions specified by paragraph (b) of the proposed AD. As stated, that paragraph would have required replacement or modification of the lower bearing support before further flight after a pocket is detected. Boeing suggests that a period of 3 months (after a pocket is detected) will satisfy the intent of the proposed AD and allow operators adequate time to order the parts and schedule the work. Boeing adds that the presence of a pocket by itself does not cause the first officer's control wheel to jam.

The FAA agrees with Boeing's request and rationale to extend the compliance time. In further justification, the FAA notes that there are system overrides between the captain's and first officer's control wheels that allow for aileron control if the first officer's control wheel jams. In light of this situation, and in consideration of the Model 737 service history, the FAA has determined that allowing 3 months to initiate the required follow-on actions will accommodate the time necessary for affected operators to order, obtain, and install the required parts—without adversely affecting safety. The compliance time in paragraph (b) of the final rule has been revised accordingly.

Request To Revise Certain Conditional Requirements

Boeing requests that the proposed corrective action for cracking and non-normal resistance (paragraph (c) of the proposed AD) be revised to cite specific methods of repair, rather than requiring FAA approval for repair methods. Boeing suggests that the FAA require that any cracked bearing support be replaced with a new, improved part; and that any non-normal resistance be fixed according to established Boeing Aircraft Maintenance Manual (AMM) procedures. Boeing suggests this change may reduce the delays often associated with pending FAA approval of repair methods.

The FAA agrees with the request, finding that procedures in the alert service bulletin and AMM adequately define the necessary follow-on corrective actions. Directing operators to these specific references for corrective action will reduce the workload for operators and the FAA by eliminating the need to request and approve alternative methods of compliance. The final rule has been revised to require replacement of cracked bearing supports according to the alert service bulletin and repair of any non-normal resistance according to the Boeing 737 AMM.

Request To Revise Spares Paragraph

One commenter requests that paragraph (d) (''Spares'') of the proposed AD be revised to distinguish actions that apply to the ''lower bearing support'' from those that apply to the ''aileron transfer mechanism'' (the higher level assembly of the bearing support). According to the commenter, the part numbers (P/Ns) for the aileron transfer mechanism (P/Ns 65–54200–6 through –8), using lower bearing supports (P/N 65–55476–1 or 65–55476–9), should also be prohibited from installation after the effective date of the AD. The commenter adds that the alert service bulletin does not provide instructions for accomplishing the inspection and corrective action for the higher assembly aileron transfer mechanisms. The operator states that operators' inventory tracking systems may not track the lower-level (P/N 65–55476–1 or 65–55476–9) lower bearing supports, but will track the higher assembly (P/Ns 65–54200–6 through –8) aileron transfer mechanisms. The commenter notes that it is possible that higher assembly aileron transfer mechanisms with lower bearing supports with pockets may be installed in airplanes.

The FAA does not agree with the request to revise paragraph (d) of this AD. The Boeing Component Maintenance Manuals (CMMs) and Illustrated Parts Catalogs (IPCs) show that a lower bearing support having P/N 65–55476–9 is used on aileron transfer mechanisms having P/Ns 65–54200–6 through -8. The FAA finds that, even if some operators' tracking systems did not list the 65–55476 ''dash'' numbers, those operators would find them in the CMMs and IPCs. The intent of paragraph (d) of the AD is to prohibit the lower bearing supports (P/Ns 65–55476–1 and 65–55476–9) from being installed after the effective date of the AD. No change to the final rule is necessary in this regard.

Clarification of Modification Requirements

After reviewing paragraph (b) of the proposed AD, the FAA finds it

necessary to distinguish the actions associated with the modification from those associated with the optional bearing support replacement. The final rule separates paragraph (b)(1) into two subparagraphs to reflect the two options, and clarifies in paragraph (b)(2) that follow-on actions must be done following either the modification or the replacement.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 3,101 Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,244 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $74,640, or $60 per airplane.

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

If a lower bearing support is found to have a pocket, the FAA estimates that it will take about 9 work hours per airplane to remove the discrepant parts and replace them with acceptable parts. Required replacement parts would cost an estimated $931. Based on these figures, the cost impact of this AD is estimated to be increased by $1,471 for an airplane having a pocket.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

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

2002–18–02 Boeing: Amendment 39–12874. Docket 2001–NM–344–AD.

Applicability: Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; line numbers 1 through 3132 inclusive; 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 (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 jamming of the first officer's control wheel due to the presence of a foreign object on the lower bearing support of the transfer mechanism for the aileron, which could result in reduced controllability of the airplane, accomplish the following:

Detailed Inspection

(a) Within 2 years after the effective date of this AD, do a one-time detailed inspection to determine whether the lower bearing support of the aileron transfer mechanism directly below the first officer's control column has a ''pocket,'' according to Boeing Alert Service Bulletin 737–27A1238, dated July 13, 2000. (The upper surface has a raised stop at the end opposite the rig pin hole.) If no pocket is found, no further action is required by this AD.

Note 2: ''Pocket'' is the term given to the area on the upper surface of the lower bearing support, aft of the bearing in the area of the rig pin holes, that is surrounded by the ribs of the lower bearing support.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Follow-On Actions

(b) If a pocket is found on the lower bearing support of the transfer mechanism for the aileron during the inspection required by paragraph (a) of this AD: Within 3 months after the inspection, do paragraphs (b)(1) and (b)(2) of this AD according to Boeing Alert Service Bulletin 737–27A1238, dated July 13, 2000, except as provided by paragraph (c) of this AD.

(1) Do the actions specified by either paragraph (b)(1)(i) or (b)(1)(ii) of this AD.

(i) Do all actions associated with the modification of the ribs of the lower bearing support (including performing a dye-penetrant inspection for cracking of the lower bearing support and any necessary corrective actions, machining the ribs, and changing the part number of the lower bearing support); or

(ii) Replace the lower bearing support with a new, improved support.

(2) Do the follow-on actions to the modification or replacement required by paragraph (b)(1) of this AD, including a functional test of the transfer mechanism, a test of the aileron control mechanism for interference, and corrective actions, if necessary.

Corrective Actions

(c) If any cracking of the lower bearing support is found during the dye-penetrant inspection specified in paragraph (b)(1)(i) of this AD: Before further flight, replace the cracked part either with a new part that does not have a pocket or with a reworked, crack-free part, according to Boeing Alert Service

Bulletin 737–27A1238, dated July 13, 2000. If any resistance is found during the test of the aileron control mechanism required by paragraph (b)(2) of this AD: Before further flight, fix the resistance according to established Boeing 737 Aircraft Maintenance Manual procedures.

Spares

(d) As of the effective date of this AD, no person may install a lower bearing support, part number 65–55476–1 or 65–55476–9, on any airplane, unless the actions specified in paragraphs (a), (b), and (c) of this AD, as applicable, have been accomplished.

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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permits

(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.

Incorporation by Reference

(g) Except as required by paragraph (c) of this AD: The actions shall be done in accordance with Boeing Alert Service Bulletin 737–27A1238, dated July 13, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on October 10, 2002.

Issued in Renton, Washington, on August 26, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–22177 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 401

Final Rule; Amendment to the Delaware River Basin Commission's Administrative Manual—Rules of Practice and Procedure Concerning Fees Associated With Freedom of Information Act Requests

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: The Delaware River Basin Commission's (''Commission's'') schedule of fees associated with responses to requests for information under FOIA was promulgated in 1975 and has not been updated since. Over the past quarter of a century, computer technologies have introduced new methods of recording and reproducing information that were not contemplated by the 1975 regulation, and administrative costs have increased. This action amends the Commission's *Administrative Manual—Rules of Practice and Procedure* to reflect current technologies and costs associated with responding to Freedom of Information Act requests.

DATES: This rule is effective September 5, 2002.

ADDRESSES: The complete *Administrative Manual—Rules of Practice and Procedure* as amended is available on the Commission's Web site at *http://www.drbc.net* or upon request from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628–0360.

FOR FURTHER INFORMATION CONTACT: For further information, contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, Delaware River Basin Commission, 609–883–9500 ext. 203.

SUPPLEMENTARY INFORMATION: On March 20, 2002 the Commission published on its web site a Notice of Proposed Rulemaking to amend the fee schedule associated with Commission responses to Freedom of Information Act (''FOIA'') requests. Notice was published in the **Federal Register** on March 15, 2002 (67 FR 11680), the *Delaware Register of Regulations* on April 1, 2002, the *New Jersey Register* on April 15, 2002, the *New York State Register* on March 13, 2002 and the *Pennsylvania Bulletin* on March 30, 2002. A public hearing was held on May 31, 2002, and the public was invited to comment, either in person at the hearing or in writing through the close of the hearing. No written or oral comments were received. The Commission approved the amended rule, as proposed, at the conclusion of its hearing on May 31, 2002.

List of Subjects in 18 CFR Part 401

Freedom of information.

For the reasons set forth in the preamble, amend part 401 of title 18 of the Code of Federal Regulations as follows:

PART 401—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for subpart H of part 401 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. In § 401.110, revise paragraph (a) to read as follows:

§ 401.110 Fees.

(a) Unless waived in accordance with the provisions of § 401.111, the following fees shall be imposed for production of any record pursuant to this part.

(1) *Administrative fees.* (i) Charges for administrative fees include staff time associated with:

(A) Processing FOIA requests;

(B) Locating and reviewing files;

(C) Monitoring file reviews;

(D) Generating computer records (electronic print-outs); and

(E) Preparing logs of records deemed non-public.

(ii) Administrative charges will be calculated as follows: Administrative charges will be billed to the requester per quarter hour following the first quarter hour. These charges will be billed at the current, hourly paygrade rate (pro-rated for quarter hour increments) of the personnel performing the service. Administrative charges will be in addition to any copying charges.

(iii) Appointment rescheduling/cancellation. Requesters that do not reschedule or cancel appointments to view files at least one full business day in advance of the appointment may be subject to the administrative charges incurred by the Commission in preparing the requested records. The Commission will prepare an itemized invoice of these charges and mail it to the requester for payment.

(2) *Photocopying fees.* The following are charges for photocopies of public records made by Commission personnel:

(i) *Standard sized, black and white copies.* The charge for copying standard sized, black and white public records shall be $0.15 per printed page (*i.e.*, single-sided copies are $0.15 and double-sided copies are $0.30). This charge applies to copies on the following standard paper sizes:

(A) 8.5″ × 11″;

(B) 8.5″ × 14″;

(C) 11″ × 17″.

(ii) *Color copies/printouts.* The charge for color copies or color printouts shall be as follows:

(A) 8.5″ × 11″—$1.00 per page;

(B) 8.5″ × 14″—$1.50 per page;

(C) 11″ × 17″—$2.00 per page;

(D) The charge for all color copies larger than 11″ × 17″ (including, but not limited to: photographic imagery, GIS print-outs, and maps) shall be calculated at the rate of $2.50 per square foot.

(iii) *Electronically generated records.* Charges for copying records maintained in electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: magnetic tape, diskette, or compact disc costs) and administrative costs.

(iv) *Other copying fees.* The Commission, at its discretion, may arrange to have records copied by an outside contractor if the Commission does not have the resources or equipment to copy such records. In this instance, the requester will be liable for payment of these costs.

(3) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

* * * * *

Dated: August 29, 2002.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 02–22576 Filed 9–4–02; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–054]

RIN 2115–AE47

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Long Beach Bridge, at mile 4.7, across Reynolds Channel, New York. This temporary final rule allows the bridge to operate only one lift span for openings to be granted at specific times after a one-hour notice is given. The bridge will also be closed at night from 11 p.m. to 5 a.m., daily. Two five-day bridge closures between September 30, 2002 and April 30, 2003, will be required. This action is necessary to facilitate structural repairs at the bridge.

DATES: This temporary final rule is effective from September 3, 2002 through June 30, 2003.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–02–054) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 6:30 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard has determined that good cause exists under the Administrative Procedure Act (5 U.S.C. 553) for making this rule effective in less than thirty days after publication in the **Federal Register**.

The Coast Guard believes that good cause exists to make this rule effective in less than thirty days after publication because the bridge owner and the Coast Guard coordinated this temporary operating schedule with the mariners to minimize the impact to the marine transit system and this work is necessary work that must be performed to insure safe reliable operation of the bridge. Furthermore, the notice of proposed rulemaking advised the public this rule would take effect September 3, 2002. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest.

On May 30, 2002, we published a notice of proposed rulemaking (NPRM) entitled; Drawbridge Operation Regulations Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, New York, in the **Federal Register** (67 FR 37744). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background

The Long Beach Bridge has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water. The existing regulations are listed at 33 CFR 117.799(g).

The bridge owner, Nassau County Department of Public Works, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge. The bridge will not be able to open both spans at all times for vessel traffic during these repairs and will be closed to marine traffic during other periods. Single-leaf openings will occur on the even hours 8 a.m. to 4 p.m., daily, after a one-hour notice is given and the bridge will be closed daily from 11 p.m. and 5 a.m. Additionally, two consecutive, Monday through Friday, five day closures will be required between September 30, 2002 and April 30, 2002, to perform several phases of the bridge structural repairs. The single span, timed opening schedule, advance notice and closure periods are necessary in order to perform the required repair work.

Discussion of Comments and Changes

No comments were received and no changes will be made to this temporary final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that there have been few requests to open the bridge historically.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''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 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 conclusion is based on the fact that there have been few requests to open the bridge historically.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for the temporary final rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From September 3, 2002 through June 30, 2003, § 117.799 is amended by suspending paragraph (g) and adding a new paragraph (k) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(k) The Long Beach Bridge, mile 4.7, across Reynolds Channel, shall open on signal; except that:

(1) Only one lift span need be opened for vessel traffic, on the even hour, 8 a.m. to 4 p.m., daily, after at least a one-hour advance notice is given by calling the number posted at the bridge.

(2) The draw need not open for vessel traffic from 11 p.m. to 5 a.m., daily.

(3) The draw need not open for vessel traffic for two periods of five consecutive days between September 30, 2002, and April 30, 2003, to be announced in the Local Notice to Mariners and in a Broadcast Notice to Mariners.

Dated: August 26, 2002.

V.S. Crea,

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

[FR Doc. 02–22631 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–099]

RIN 2115–AA97

Safety Zone; Oilrig Construction Project Portland Harbor, Portland, ME

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of Portland Harbor within a one hundred (100) yard radius of a large oilrig under construction at the former Bath Iron Works (BIW) Pier 2. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the limited maneuverability of vessels working during this construction process, and the safety concerns associated with fastening together two sections of this large oilrig. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective from August 28, 2002 until September 18, 2002.

ADDRESSES: Documents as indicated in this preamble are available for

inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m. Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) R. F. Pigeon, Waterways Safety Branch, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the complex planning and coordination involved, final details of construction were not provided to the Coast Guard until July 23, 2002, leaving insufficient time to draft and publish a NPRM or to publish the rule 30 days prior to its effective date.

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**. Any delay in implementing this regulation would be contrary to the public interest since immediate action is needed to protect the maritime community from the hazards associated with the limited maneuverability of vessels working during this construction process, and the safety concerns associated with fastening together two sections of this large oilrig. The barge L400 will have to be maneuvered between the columns of the pontoon section (hull) of the oilrig that will be ballasted down in the former dry-dock basin southeast of the former BIW Pier 2. A loaded barge of this size will have limited maneuverability, and will involve precise movements while positioning the barge between the columns of the pontoon section of the rig. There will be less than two feet of clearance between the barge and the pontoon columns.

Background and Purpose

Cianbro Corporation, of Pittsfield, Maine is completing construction of two large oilrigs known as Amethyst 4 and Amethyst 5. The work is being conducted at the former Bath Iron Works Shipyard in Portland, Maine. The first of these rigs was transported to Portland, Maine in two sections from a shipyard in Pascagoula, Mississippi and underwent the mating in June 2002. The second oilrig pontoon section, which is the hull of the oilrig, arrived in June 2002. It has been undergoing preparation work for mating with the larger deck box section, which is the tower of the oilrig, which arrived August 9, 2002.

The mating operation will be conducted in two phases. First, the pontoon section, measuring 250 by 180 feet, will be moved into the deep basin (formerly used by the BIW floating dry-dock) on August 8, 2002. Several vessels will be involved with properly mooring and anchoring the pontoons in the basin. Once in place, the pontoon section will be ballasted and partially submerged.

The second phase will involve placing the deck box of the oilrig, measuring 250 feet square, on top of the columns of the pontoon section. The barge L400, which is loaded with the deck box section, will be maneuvered between the columns of the pontoon section. This is expected to take place on August 28, 2002 and will take approximately four hours to complete. The deck box section will then be partially welded to the pontoon columns. The welding is expected to take approximately one to two weeks to complete.

Due to the precise movements necessary to complete this maneuver, the limited maneuverability of the barge while loaded with the deck box, the need of the barge to maneuver in the main channel for a short duration, and the safety concerns while fastening the deck box to the columns of the pontoon section, this safety zone will be needed to ensure the safety of the maritime community during all portions of this evolution.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant for several reasons: the impact on the federal channel should only last for approximately four hours, there is ample room for vessels to navigate around the zone and broadcast notifications will be made to the local maritime community informing the public of the boundaries of the zone.

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. For the reasons enumerated in the Regulatory Evaluation section above, this safety zone will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Public Law 104–121], we offer to assist small entities in understanding this temporary final rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business, organization or governmental jurisdiction would be affected by this rule, and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) R. F. Pigeon, Marine Safety Office Portland, Maine, at (207) 780–3251.

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 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 require 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 section 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.

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 Administer 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 regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–099 to read as follows:

§ 165.T01–099 Safety Zone; Oilrig Construction Project Portland Harbor, Portland, ME.

(a) *Location.* All waters of Portland Harbor within a one hundred yard (100 yard) radius of the barge L400, the pontoon section of the oilrig Amethyst 5 (under construction), assist tugs and participating vessels during the movement of the pontoons and barge from the former Bath Iron Works Pier 2, Portland, Maine to the former dry-dock basin on the southeast edge of Pier 2, and during fastening of the deck box, loaded on the barge L400, to the pontoon section.

(b) *Effective date.* This rule is effective from August 28, 2002 until September 18, 2002.

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

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

Dated: August 27, 2002.

M.P. O'Malley,

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

[FR Doc. 02–22551 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7272–1]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds 19 new sites to the NPL; 18 to the General Superfund Section of the NPL and one to the Federal Facilities Section of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 7, 2002.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, ''Availability of Information to the Public'' in the ''Supplementary Information'' portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center; Office of Emergency and Remedial Response (mail code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' (''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases 42 U.S.C. 9601(23).)

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c),

added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (*see* 42 U.S.C. 9605(a)(8)(B)); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 13, 2001 (66 FR 47583).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which that contamination has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.*, the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (*e.g.*, it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.*, where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the name ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a remedial investigation/feasibility study (RI/FS) as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

As of August 20, 2002, the Agency has deleted 259 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of August 20, 2002, EPA has deleted 31 portions of 28 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.*, institutional controls); or (3) the site qualifies for deletion from the NPL.

As of August 20, 2002, there are a total of 818 sites on the CCL. For the most up-to-date information on the CCL, see EPA's Internet site at *http://www.epa.gov/superfund.*

II. Availability of Information to the Public

A. Can I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. The Headquarters docket also contains comments received, and the Agency's responses to those comments. The Agency's responses are contained in the ''Support Document for the Revised National Priorities List Final Rule—September 2002.''

C. What Documents Are Available for Review at the Regional Dockets?

The Regional dockets contain all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional dockets.

D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room B102, Washington, DC 20004, 202/566–0276.

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Lauren Brantley, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8127.

Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7570.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3092.

Robert Phillips, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–6699.

E. How Can I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/* (look under the Superfund sites category) or by contacting the Superfund Docket (see contact information above).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds 19 sites to the NPL; 18 to General Superfund Section of the NPL and one to the Federal Facilities Section. Table 1 presents the 18 sites in the General Superfund Section Table 2 presents the site in the Federal Facilities Section. Sites in the tables are arranged alphabetically by State.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION

State	Site name	City/county
CA	Del Amo	Los Angeles.
IA	Railroad Avenue Groundwater Contamination	Des Moines.
MA	Hatheway and Patterson Company	Mansfield.
ME	Callahan Mine	Brooksville.
MO	Oak Grove Village Well	Oak Grove Village.
NC	Reasor Chemical Company	Castle Hayne.
NJ	Atlantic Resources Corporation	Sayreville.
NJ	Diamond Head Oil Refinery Div.	Kearny
NJ	Quanta Resources	Edgewater.
NM	McGaffey and Main Groundwater Plume	Roswell.
NY	Cayuga County Ground Water Contamination	Cayuga County.
NY	Crown Cleaners of Watertown, Inc.	Carthage.
NY	Ellenville Scrap Iron and Metal	Ellenville.
PA	Franklin Slag Pile (MDC)	Philadelphia.
TX	Brine Service Company	Corpus Christi.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county
TX	Patrick Bayou	Deer Park.
UT	Eureka Mills	Eureka.
WI	Ashland/Northern States Power Lakefront	Ashland.

Number of Sites Added to the General Superfund Section: 18.

TABLE 2.—NATIONAL PRIORITIES LIST FINAL RULE, FEDERAL FACILITIES SECTION

State	Site name	City/county
MD	Curtis Bay Coast Guard Yard	Anne Arundel County.

Number of Sites Added to the Federal Facilities Section: 1.

B. Status of NPL

With the 19 new sites added to the NPL in today's final rule; the NPL now contains 1,239 final sites; 1,080 in the General Superfund Section and 159 in the Federal Facilities Section. With a separate rule (published elsewhere in today's **Federal Register**) proposing to add 7 new sites to the NPL, there are now 62 sites proposed and awaiting final agency action, 56 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,301. (These numbers reflect the status of sites as of August 20, 2002. Site deletions occurring after this date may affect these number at time of publication in the **Federal Register**.)

C. What Did EPA Do With the Public Comments It Received?

EPA reviewed all comments received on the sites in this rule. The Diamond Head Oil Refinery Division site was proposed on July 27, 2000 (65 FR 46131). The Del Amo and Ashland/Northern States Power Lakefront sites were proposed on December 1, 2000 (65 FR 75215). The Quanta Resources site was proposed on January 11, 2001 (66 FR 2380). The Patrick Bayou and Eureka Mills sites were proposed June 14, 2001 (66 FR 32287). The remaining sites were proposed on September 13, 2001 (66 FR 47612).

EPA responded to all relevant comments received on the following sites: Diamond Head Oil Refinery Division, Quanta Resources, Ashland/Northern States Power Lakefront, Patrick Bayou, Eureka Mills, and Del Amo. EPA's responses to site-specific public comments are addressed in the ''Support Document for the Revised National Priorities List Final Rule—September 2002.''

For the remaining sites. EPA received no comments or only comments supporting the listing of the sites to the NPL and therefore, EPA is placing them on the final NPL at this time.

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Is This Final Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Final Rule?

No, EPA has determined that this rule does not contain a Federal mandate that

may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied With the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of a hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Possible Changes to the Effective Date of the Rule

A. Has This Rule Been Submitted to Congress and the General Accounting Office?

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 has submitted 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

B. Could the Effective Date of This Final Rule Change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

C. What Could Cause the Effective Date of This Rule To Change?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha*, 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA*, 86 F.3d 1214,1222 (DC Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

VIII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–

113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

IX. Executive Order 12898

A. What Is Executive Order 12898?

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to This Final Rule?

No. While this rule revises the NPL, no action will result from this rule that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

X. Executive Order 13045

A. What Is Executive Order 13045?

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.

B. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

XI. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Final Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XII. Executive Orders on Federalism

What Are the Executive Orders on Federalism and Are They Applicable to This Final Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of 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 proposed 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 proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XIII. Executive Order 13175

A. What Is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

B. Does Executive Order 13175 Apply to This Final Rule?

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 final rule.

XIV. Executive Order 13211

A. What Is Executive Order 13211?

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

B. Is This Rule Subject to Executive Order 13211?

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 (See discussion of Executive Order 12866 above.)

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 27, 2002.

Marianne Lamont Horinko,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Table 1 and Table 2 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes[a]
*	*	*	*
CA	Del Amo	Los Angeles	
*	*	*	*
IA	Railroad Avenue Groundwater Contamination	Des Moines	
*	*	*	*
MA	Hatheway and Patterson Company	Mansfield	
*	*	*	*
ME	Callahan Mine	Brooksville	
*	*	*	*
MO	Oak Grove Village Well	Oak Grove Village	
*	*	*	*
NC	Reasor Chemical Company	Castle Hayne	
*	*	*	*
NJ	Atlantic Resources Corporation	Sayreville	
*	*	*	*
NJ	Diamond Head Oil Refinery Div	Kearny	
*	*	*	*
NJ	Quanta Resources	Edgewater	
*	*	*	*
NM	McGaffey and Main Groundwater Plume	Roswell	
*	*	*	*
NY	Cayuga County Ground Water Contamination	Cayuga County	
*	*	*	*
NY	Crown Cleaners of Watertown, Inc	Carthage	
*	*	*	*
NY	Ellenville Scrap Iron and Metal	Ellenville	

TABLE 1.—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/County	Notes[a]
*	*	*	*
PA	Franklin Slag Pile (MDC)	Philadelphia	
*	*	*	*
TX	Brine Service Company	Corpus Christi	
*	*	*	*
TX	Patrick Bayou	Deer Park	
*	*	*	*
UT	Eureka Mills	Eureka	
*	*	*	*
WI	Ashland/Northern States Power Lakefront	Ashland	
*	*	*	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤28.50).
C = Sites on Construction Completion list.
S = State top priority (included among the 100 top priority sites regardless of score).
P = Sites with partial deletion(s).

TABLE 2.—FEDERAL FACILITIES SECTION

State	Site name	City/County	Notes[a]
*	*	*	*
MD	Curtis Bay Coast Guard Yard	Anne Arundel County	
*	*	*	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤28.50).
C = Sites on Construction Completion list.
S = State top priority (included among the 100 top priority sites regardless of score).
P = Sites with partial deletion(s).

[FR Doc. 02–22538 Filed 9–4–02; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1217–02; I.D. 082902B]

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

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

ACTION: Closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landing (TAL) available to the Part-time category has been harvested. Commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the golden tilefish management unit for the remainder of the 2002 fishing year (through October 31, 2002). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, September 5, 2002, through 2400 hrs local time, October 31, 2002.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, at (978) 281–9252.

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the tilefish management unit. The golden tilefish management unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the United States-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, the remaining TAL is distributed among three limited access permit categories, Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2002 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2002 fishing year. Thus, the Part-time category quota for the 2002 fishing year, which is equal to 19 percent of the TAL, is 360,098 lb (163,337 kg).

The Regional Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access category is projected to be harvested. NMFS is required to publish a notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial

quota is available for harvesting tilefish by that category for the remainder of the year, from within the golden tilefish management unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2002 tilefish TAL for the Part-time category has been harvested. Therefore, effective 0001 hrs local time, September 5, 2002, further landings of tilefish harvested from within the golden tilefish management unit by tilefish vessels holding Part-time category Federal fisheries permits are prohibited through October 31, 2002. The 2003 fishing year for commercial tilefish harvest will open on November 1, 2002. Federally permitted dealers are also advised that, effective September 5, 2002, they may not purchase tilefish from Part-time category federally permitted tilefish vessels who land tilefish harvested from within the golden tilefish management unit, for the remainder of the 2002 fishing year (through October 31, 2002).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2002.

Virginia M. Fay,

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

[FR Doc. 02–22617 Filed 8–30–02; 4:26 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 082602A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands

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

ACTION: Inseason adjustment; request for comments; closures and openings.

SUMMARY: NMFS is opening the B season for Atka mackerel with gears other than jig in the Eastern Aleutian District (area 541) and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI) for 12 hours only. This action is necessary to prevent exceeding the 2002 total allowable catch (TAC) of Atka mackerel in these areas and to allow the harvest limitation area (HLA) fisheries in the Central (area 542) and Western (area 543) Aleutian Districts to begin after the closure of the Eastern Aleutian District and Bering Sea subarea fishery. NMFS is also announcing the opening and closure dates of the first and second directed fisheries within the HLA in areas 542 and 543. These actions are necessary to prevent exceeding the B season HLA limits established for area 542 and area 543.

DATES: The opening of directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District and the Bering Sea subarea is effective 2400 hrs, A.l.t., September 1, 2002, until 1200 hrs, A.l.t., September 2, 2002.

The first directed fishery in the HLA in area 542 opens effective 1200 hrs, A.l.t., September 4, 2002, and closes 1200 hrs, A.l.t., September 8, 2002. The first directed HLA fishery in area 543 opens effective 1200 hrs, A.l.t., September 4, 2002, and closes 1200 hrs, A.l.t., September 9, 2002.

The second directed fishery in the HLA in area 542 opens effective 1200 hrs, A.l.t., September 11, 2002, and closes 1200 hrs, A.l.t., September 15, 2002. The second directed fishery in the HLA in area 543 opens effective 1200 hrs, A.l.t., September 11, 2002, and closes 1200 hrs, A.l.t., September 16, 2002.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 20, 2002.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228; andy.smoker@noaa.gov.

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

The 2002 TAC of Atka mackerel for gears other than jig in the Eastern Aleutian District and the Bering Sea subarea is 5,037 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002, and 67 FR 34860, May 16, 2002). See § 679.20(a)(8)(ii).

As of August 10, 2002, 2,000 mt remain in the 2002 Eastern Aleutian District and Bering Sea subarea TAC of Atka mackerel for gears other than jig. Current information shows that the catching capacity of vessels expected to be catching Atka mackerel in area 541 of the BSAI is about 2,500 mt per day. Section 679.23 paragraph (b) specifies that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. The Administrator, Alaska Region, NMFS, has determined that the B season allowance of the Atka mackerel TAC could be exceeded if a 24–hour fishery were allowed to occur. NMFS intends that the seasonal allowance not be exceeded and, therefore, will not allow a 24–hour directed fishery.

NMFS, in accordance with §§ 679.25(a)(1)(i) and 679.25(2)(i), is adjusting the B season for Atka mackerel in the Eastern Aleutian District and Bering Sea subarea by opening the fishery for 12 hours. Regulations at § 679.20(a)(8)(iii)(C) require the HLA fisheries in areas 542 and 543 open 48 hours after the seasonal closure of area 541. To provide for a 12 hour opening and for openings in the subsequent HLA fisheries at 1200 hrs, A.l.t., the fishery in the Eastern Aleutian District (area 541) and Bering Sea subarea is being opened at 2400 hrs, A.l.t., September 1, 2002, and closed at 1200 hrs, A.l.t., September 2, 2002.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1200 hrs, A.l.t., September 2, 2002, after a 12 hour opening is the least restrictive management adjustment to achieve the 2002 Atka mackerel TAC in Eastern Aleutian District and Bering Sea subarea and will allow other fisheries to continue in noncritical areas and time periods. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

In accordance with § 679.20(a)(8)(iii)(C), the Regional Administrator is opening the first directed fisheries for Atka mackerel within the HLA in areas 542 and 543. The opening is to occur 48 hours after

the closure of the area 541 Atka mackerel directed fishery. The Regional Administrator has established the opening date for the second HLA directed fisheries as 48 hours after the closure of the first HLA fishery in 543. NMFS is opening directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under the **DATES** section of this notice.

In accordance with § 679.20(a)(8)(iii), vessels using trawl gear for directed fishing for Atka mackerel have previously registered with NMFS to fish in the HLA fisheries in areas 542 and/or 543. NMFS has randomly assigned each vessel to the platoon or platoons associated with the directed fishery or fisheries for which they have registered. NMFS has notified each vessel as to which platoon each vessel has been assigned by NMFS. The notification was filed with the Office of the Federal Register on August 28, 2002, with a publication date of September 3, 2002.

In accordance with § 679.20(a)(8)(ii)(C)(1), the B season harvest limit of the seasonal TAC in areas 542 and 543 are 6,605 mt and 5,467 mt, respectively. Based on those seasonal apportionments and the proportion of the number of vessels in each platoon compared to the total number of vessels participating in the HLA directed fishery for area 542 or 543 during the B season, the harvest limit for each HLA directed fishery for areas 542 and 543 are as follows: For the first directed fishery in area 542, 3,302 mt; for the first directed fishery in area 543, 2,733 mt; for the second directed fishery in area 542, 3,302 mt; for the second directed fishery in area 543, 2,733 mt. In accordance with § 679.20(a)(8)(iii)(E), the Regional Administrator has established the closure dates of the Atka mackerel directed fisheries in the HLA for areas 542 and 543 based on the amount of the harvest limit and on the estimated fishing capacity of the vessels assigned to the platoons participating in the respective fisheries. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under the **DATES** section of this notice.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and, therefore, reduce the public's ability to use the fishery resource. The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea of the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 20, 2002.

This action is required by §§ 679.20, 679.22 and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2002.

Virginia M. Fay,

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

[FR Doc. 02–22618 Filed 8–30–02; 4:26 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 172
Thursday, September 5, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. This proposal would require one-time inspections to detect discrepancies of electrical wiring installations in various areas of the airplane, and corrective action if necessary. This action is necessary to prevent smoke and fire in various areas of the airplane due to heat damage and/or electrical arcing of wiring that was improperly installed during manufacture or maintenance of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–150–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Elvin K. 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.

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–150–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of several incidents of damaged wiring insulation and chafed wiring in various areas on McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. Investigation revealed that the damage and chafing might be attributed to improper wire installations and/or maintenance practices. This condition, if not corrected, could lead to heat damage and/or electrical arcing of the wiring, which could result in fire and smoke in various areas of the airplane.

Related Rulemaking

The FAA, in conjunction with Boeing and operators of Model DC–9 series airplanes, is continuing to review all aspects of the service history of those

airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This proposed AD is one of a series of actions identified during that process. The process is continuing, and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Relevant Service Information

The FAA has reviewed and approved five related McDonnell Douglas service bulletins that describe procedures for a one-time nonintrusive inspection to detect discrepancies of exposed electrical wiring installations in various areas of the airplane, and corrective actions if necessary. The service bulletins are described in the following table:

Service bulletin	Inspection area
MD80–24–178, Revision 01, including Appendix, dated June 12, 2001.	Forward passenger compartment from stations Y=218.000 to Y=846.000.
MD80–24–179, Revision 01, including Appendix, dated June 12, 2001.	Aft passenger compartment from stations Y=846.000 to Y=1338.000.
MD80–24–180, Revision 01, including Appendix, dated June 12, 2001.	Forward and mid cargo compartments from stations Y=218.000 to Y=811.000.
MD80–24–181, Revision 01, including Appendix, dated June 12, 2001.	Aft cargo compartment from stations Y=1033.000 to Y=1338.000.
MD80–24–182, Revision 01, including Appendix, dated June 12, 2001.	Forward accessory compartment from stations Y=41.000 to Y=70.000.

The specific discrepancies include:

- Dust, drill shavings, and other foreign object debris.
- Cracks, splits, or tears in the wiring insulation.
- Wire chafing.
- Improper adhesion of nylon grommets to the structure or surface.
- Loose sta-straps, clamps and wire bundles.
- Contact between the heads of plastic sta-straps and adjacent wiring.
- Insufficient slack of the wiring and coaxial cables.
- Improper clamp installation.
- Excessive distortion of electrical grommets.
- Loose wire terminations of the flag lug bus bar.
- Evidence that the wire terminals have overheated.
- Contact between the wiring and the access doors or adjacent structure when the doors are opened and closed.
- Insufficient clearance between wiring and brackets, between wiring and pulleys, and between wiring and control cables.
- An improper gap where the wiring is routed over structural frames.
- Improper routing of open wire runs.
- An uncovered end opening of a conduit when the conduit end is installed at any upward angle from horizontal.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletins

The service bulletins specify accomplishment of ''visual'' inspections. The FAA has determined that the inspections described in the service bulletins constitute ''detailed inspections.'' Therefore, this proposed AD would require accomplishment of detailed inspections. Note 3 of this proposed AD defines such inspections.

Also, Appendix A of each service bulletin contains a form to report inspection findings. This proposed AD would not require that operators submit such a report.

Cost Impact

There are approximately 1,191 airplanes of the affected design in the worldwide fleet. The FAA estimates that 732 airplanes of U.S. registry would be affected by this proposed AD. Estimates of the costs to accomplish the proposed actions, based on the service bulletins described previously, are provided in the following table:

Service bulletin	Work hours per airplane	Labor rate per hour	Per-airplane cost	Number of U.S. airplanes affected	U.S. fleet cost
MD80–24–178	8	$60	$480	732	$351,360
MD80–24–179	8	60	480	732	351,360
MD80–24–180	8	60	480	732	351,360
MD80–24–181	6	60	360	732	263,520
MD80–24–182	3	60	180	732	131,760

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

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship

between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2000–NM–150–AD.

Applicability: All Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

Note 2: The FAA recommends that the actions required by this AD be accomplished after replacing the metallized polyethyleneteraphthalate (MPET) insulation blankets, as required by AD 2000–11–02, amendment 39–11750.

To prevent smoke and fire in various areas of the airplane due to heat damage and/or electrical arcing of wiring that was improperly installed during manufacture or maintenance of the airplane, accomplish the following:

Inspection

(a) Within 5 years after the effective date of this AD: Perform a detailed inspection to detect discrepancies of exposed electrical wiring installations as specified in paragraphs (a)(1) through (a)(5) of this AD. Specific discrepancies are listed in paragraph 3.B.3. of each service bulletin. Prior to further flight thereafter, perform corrective actions in accordance with the service bulletin, as applicable.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) Inspect the forward passenger compartment from stations Y=218.000 to Y=846.000, in accordance with McDonnell Douglas Service Bulletin MD80–24–178, Revision 01, dated June 12, 2001. Accomplishment of the inspection before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD80–24–178, dated July 14, 2000, is acceptable for compliance with the requirements of paragraph (a)(1) of this AD.

(2) Inspect the aft passenger compartment from stations Y=846.000 to Y=1338.000, in accordance with McDonnell Douglas Service Bulletin MD80–24–179, Revision 01, dated June 12, 2001. Accomplishment of the inspection before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD80–24–179, dated July 14, 2000, is acceptable for compliance with the requirements of paragraph (a)(2) of this AD.

(3) Inspect the forward and mid cargo compartments from stations Y=218.000 to Y=811.000, in accordance with McDonnell Douglas Service Bulletin MD80–24–180, Revision 01, dated June 12, 2001. Accomplishment of the inspection before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD80–24–180, dated July 14, 2000, is acceptable for compliance with the requirements of paragraph (a)(3) of this AD.

(4) Inspect the aft cargo compartment from stations Y=1033.000 to Y=1338.000, in accordance with McDonnell Douglas Service Bulletin MD80–24–181, Revision 01, dated June 12, 2001. Accomplishment of the inspection before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD80–24–181, dated July 14, 2000, is acceptable for compliance with the requirements of paragraph (a)(4) of this AD.

(5) Inspect the forward accessory compartment from stations Y=41.000 to Y=70.000, to detect discrepancies, in accordance with McDonnell Douglas Service Bulletin MD80–24–182, Revision 01, dated June 12, 2001. Accomplishment of the inspection before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD80–24–182, dated July 14, 2000, is acceptable for compliance with the requirements of paragraph (a)(5) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on August 27, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–22435 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 193

[Docket No. FAA–2002–13237]

Flight Operational Quality Assurance Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Order Designating Information as Protected from Disclosure.

SUMMARY: The FAA is proposing that information provided to the agency from a voluntary Flight Operational Quality Assurance (FOQA) Program be

designated by an FAA order as protected from public disclosure in accordance with the provisions of 14 CFR Part 193. Under 49 U.S.C. 40123, the FAA is required to protect the information from disclosure to the public, including disclosure under the Freedom of Information Act (5 U.S.C. 552) or other laws, following issuance of such order. The designation is intended to encourage sharing of FOQA information between the FAA and operators participating in the program.

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation Room Plaza 401, 400 Seventh St., SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–13237 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing comments to this proposed designation in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Longridge, Flight Standards Service, AFS–230, Federal Aviation Administration, 800 Independence Ave, SW., Washington, DC 20591, telephone (703) 661–0275.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to comment on the proposed designation by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposal in this notice are also invited. Substantive comments should be accompanied by cost estimates, where appropriate. Comments should identify the notice number and should be submitted in duplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed designation will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed designations. Comments filed late will be considered as far as possible without incurring expense or delay. The proposal contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowlege receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to the Docket No. FAA–2001–XXXX.'' The postcard will be date stamped and mailed to the commenter.

Availability of This Proposed Designation

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may access the FAA's Web page containing this notice at *http://www.faa.gov/avr/afs/asap* or may go to the GPO's Web page at *http://www.access.gpo.gov/nara* for access to recently published notices.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Ave, SW., Washington, DC 20591, or by calling (202) 267–8166. Communications must identify the docket number and title of this designation.

Background

Under 49 U.S.C. 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA. The FAA must first issue an order specifying why the agency finds that the information should be protected in accordance with that section. The FAA's rules for implementing that section are in 14 CFR part 193. If the Administrator issues an order designating information as protected under section 40123, that information will not be disclosed under the Freedom of Information Act (5 U.S.C. 552) or other laws except as provided in section 40123, part 193, and the order designating the information as protected. This proposed order is issued under 14 CFR 193.11, which sets out the notice procedure for designating information as protected.

Description of the Proposed Information Sharing Program

FOQA is a voluntary program for the routine collection and analysis of digital flight data for the purpose of identifying adverse safety conditions, and, where appropriate, for proactively initiating corrective action before such conditions can lead to accidents. The information provided by FOQA can be used by aircraft operators to improve the effectiveness of operational procedures, maintenance and engineering procedures, safety, and training. FOQA information can be used by aircraft manufacturers to improve system design, efficiency, and safety. FOQA aggregate information, including reports prepared by an individual operator, or by the FAA, based on analysis of the individual operator's FOQA data or aggregate data pursuant to an FAA approved FOQA program, can be used by the FAA to monitor national trends in flight operations, assess the effectiveness of NAS management procedures, improve aircraft certification procedures, and, where appropriate, provide an objective source of supplementary information for national policy and rulemaking purposes. FOQA trend information offers tremendous potential for the enhancement of safety in U.S. airline operations.

In a January 1995 Department of Transportation (DOT) ''Zero Accidents'' Aviation Safety Conference, it was recommended that the FAA sponsor FOQA demonstration studies, in cooperation with industry, to develop guidelines for such programs and to develop information regarding the appropriate use and protection of recorded flight data. In July 1995, the FAA initiated a FOQA Demonstration Project that has been highly successful in facilitating the growth of voluntary FOQA programs for U.S. operators.

In December 1998, the FAA Administrator issued a FOQA Policy Statement that the FAA will not use de-identified FOQA information obtained from voluntary FOQA programs to undertake enforcement actions against airlines or their employees, except in egregious cases (which are defined as those which would fail to qualify for protection under the NASA Aviation Safety Reporting Program). In order to qualify for the protection afforded by this FOQA policy statement, airlines must obtain FAA approval of their FOQA Implementation and Operations

(I&O) Plan. The I&O Plan must describe how the airline intends to operate its FOQA program, and its organizational procedures for assuring corrective action is taken to address negative trends revealed by analysis of the data. It must also describe the airline's provisions for allowing the FAA to have access to de-identified FOQA aggregate trend data on the airline's premises. Further information on FAA procedures for approving and monitoring FOQA programs is provided in a Joint Flight Standards Service Handbook Bulletin for Air Transportation (HBAT) and Airworthiness (HBAW), entitled *Flight Operations Quality Assurance (FOQA) Program Approval Procedures and Continued Program Monitoring*, Bulletin Number HBAT–00–11/HBAW–00–10.

A Notice of Proposed Rulemaking (NPRM) which addressed the extent to which the FAA could use FOQA information obtained from voluntary FOQA programs for enforcement purposes, and which also addressed provisions for sharing aggregate FOQA information from FAA approved FOQA programs with the FAA, was published in the **Federal Register** on July 5, 2000. Based on analysis of the comments received on that NPRM, the FAA published a final FOQA rule on October 31, 2001 (66 FR 55042) addressing these matters (14 CFR 13.401).

Under 14 CFR 13.401, no operator is required to obtain FAA approval to initiate, conduct, or terminate a FOQA program. However, an operator who seeks the protection offered by the FAA from the use of information obtained from a FOQA program for enforcement purposes must obtain FAA approval of its FOQA I&O Plan, and must adhere to that plan in the operation of its FOQA program. This proposed order to protect FOQA information from disclosure would only apply to operators who have an FAA approved FOQA I&O Plan.

Summary of the FOQA Voluntary Information Sharing Program

A. *Who may participate:* Aircraft operators who have an FAA approved FOQA Implementation and Operations Plan.

B. *What voluntarily provided information would be protected from disclosure under this proposed designation:*

1. FOQA data, which is defined as any digital flight data that has been collected from an individual aircraft pursuant to an FAA approved FOQA program, regardless of the electronic format of that data (Note: Operators are not expected or required to provide the FAA with FOQA data as a condition for approval of a FOQA I&O Plan. However, if an operator elects on its own initiative to voluntarily provide such information to the FAA, it will be protected from disclosure under this proposed order of designation.).

2. The identities of pilots associated with any FOQA data submitted to the FAA (Note: the FAA does not anticipate that FOQA data containing pilot identity information, or information that could be employed to enable the determination of pilot identity, will be submitted to the agency. However, if such information is submitted to the agency, it will be protected from disclosure under this proposed order of designation.).

3. Aggregate FOQA data from an individual operator, which is defined as summary statistical indices based on analysis of FOQA data from multiple aircraft operations, when such data is obtained pursuant to an FAA approved FOQA program.

4. Reports prepared by an individual operator, or by the FAA, based on analysis of the individual operator's FOQA data or aggregate data pursuant to an FAA approved FOQA program.

5. The identity of an individual operator associated with specific FOQA data, specific aggregate FOQA data, or a specific report derived from analysis of the individual operator's FOQA data, pursuant to an FAA approved FOQA program.

6. The specific results of any FAA analysis of FOQA aggregate data from an individual operator, or from multiple operators, when such data is obtained pursuant to an FAA approved FOQA program.

7. The specific corrective actions initiated by the operator of an FAA approved FOQA program to correct an adverse safety trend revealed by analysis of that operator's FOQA data.

8. A database of aggregate FOQA data over time from an individual operator's approved FOQA program.

9. A database of reports, events, and outcomes over time from an individual operator's approved FOQA program.

C. *How persons would participate:* An operator participates by obtaining FAA approval of its FOQA I&O Plan, by adhering to that approved plan, and by voluntarily sharing data and information from their FOQA program with the FAA.

D. *Duration of this information sharing program:* This information sharing program would continue in effect for a given operator until its FOQA I&O Plan is terminated by the operator or until approval of the operator's FOQA I&O Plan is withdrawn by the FAA.

Proposed Findings

The FAA proposes to designate information received from an approved FOQA program as protected under 49 U.S.C. 40123 and 14 CFR 193.7 based on the following findings:

(1) *Summary of why the FAA finds that the information will be provided voluntarily.*

The FAA finds that the information will be provided voluntarily. No operator is required to have a FOQA program. No operator who has a FOQA program is required to obtain FAA approval of that program. Any operator who has an FAA approved FOQA program may terminate that program at the operator's discretion. The FAA anticipates that information from an operator's approved FOQA program will be shared with the FAA, because the voluntary establishment of an approved FOQA program constitutes a partnership between the FAA and the operator in the interest of achieving joint goals for the improvement of safety and efficiency.

(2) *Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety or security related.*

The FAA anticipates that the types of information that may be voluntarily provided under the program would be: (a) Summary statistical indices based on analysis of an individual operator's FOQA data, (b) graphical depictions of trend information obtained from analysis of an individual operator's FOQA data, (c) written findings that describe the results of FOQA data analysis, and that identify any adverse safety trends revealed by that data, (d) corrective actions planned, in process, or completed to correct adverse safety trends revealed by FOQA data, and (e) the results of FOQA analysis conducted to determine the effectiveness over time of corrective action accomplished by the operator.

The FAA finds that this information is safety related because FOQA data and FOQA aggregate data provide objective information on the extent to which aircraft are operated in accordance with established procedures and acceptable margins of safety.

(3) *Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information.*

The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Operators are reluctant to share information from FOQA programs with the FAA, if such information might be

subject to public disclosure. A significant impediment to the sharing of FOQA information with the FAA is the aviation industry's concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes which constitute the primary reason for the establishment of such programs. As a result, U.S. airlines participating in FAA approved FOQA programs to date have not permitted aggregate FOQA data, and any written information derived from analysis of such programs, to leave the airline's premises. At present, no FOQA aggregate data is being submitted to the FAA. This information is considered to be confidential by the participating operators and their pilots. Withholding such information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, the FAA will not receive the information. If the FAA does not receive the information, the FAA and the public will be deprived of the opportunity to make the safety improvements that receipt of the information otherwise enables. The FAA finds that reports prepared by an individual operator, or by the FAA, based on analysis of the individual operator's FOQA data or aggregate data, should be protected from public disclosure because, when such reports are based on an individual operator's FOQA data, the identity of the operator may be derived from that information. Unless the FAA can assure protection of identity information, either such reports will not be submitted by the operator, or specific information which could enhance the safety value of the report will not be included in the submission.

(4) *Summary of why the receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities.*

The FAA finds that receipt of FOQA information aids in fulfilling the FAA's safety and security responsibilities. Because of its capacity to provide early objective information on emerging adverse safety trends, thereby enabling remedial intervention, FOQA offers significant potential for incident and accident avoidance. FAA experience to date has clearly established that a FOQA program can produce objective safety-related data that is not available from any other source. For example, FOQA data concerning the frequency of unstable approaches on landing as a function of specific airport and runway environment could identify areas where improvements are needed in airline approach and landing checklists, airline training, air traffic control procedures, and in published airport approach and landing procedures. Receipt of this hitherto unavailable objective information would provide the FAA with an improved basis for modifying procedures, policies, and regulations in order to improve safety and efficiency. To the extent that operators would voluntarily supporting providing the FAA with aggregate FOQA data, the FAA could also better serve as a national safety information resource for aircraft operators.

(5) *Summary of why withholding such information from disclosure would be consistent with the FAA's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the FAA's safety and security responsibilities. as described in 14 CFR 193.9.*

The FAA finds that withholding FOQA data or aggregate FOQA data provide to the FAA from an approved FOQA program is consistent with the FAA's safety responsibilities. An approved FOQA I&O Plan specifically provides that correction action for adverse safety trends will be initiated by the operator, and that the operator will inform the FAA concerning that action. Correction action under FOQA can be accomplished without disclosure of protected information. For example, an operator could modify its pilot training program to place greater emphasis on approach and landing procedures, and inform the FAA of that training program modification.

The FAA will release FOQA information submitted to the agency as specified in part 193 and this proposed order. In order to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclouse de-identified (no operator or pilot identity), summarized information that has been derived from FOQA aggregate data or extracted from the protected information listed above under *What voluntarily provided information would be protected from disclosure under this proposed designation.* The FAA may disclose de-identified, summarized FOQA information that identifies a systemic problem in the aviation system, when other persons need to be advised of the problem so that they can take corrective action. The FAA may release the names of operators who have approved FOQA I&O Plans.

(6) *Summary of how the FAA will distinguish information protected under Part 193 from information the FAA receives from other sources.*

An operator's approved FOQA I&O Plan must specifically identify what digital flight data will be included in the program, how that data is defined, and provisions for FAA access to aggregate FOQA data. Any FOQA data or aggregate FOQA data that is shared with the FAA will be distinguished from information received from other sources, by virtue of that information having been clearly pre-defined as FOQA information in the FAA approved FOQA I&O Plan. Moreover, there do not exist any provisions other than those provided under an approved FOQA I&O Plan for sharing aggregate FOQA data with the FAA. Therefore, with regard to aggregate FOQA data, it is not anticipated that there will be other sources of that information.

The FAA acknowledges that operators are highly reluctant to share sensitive FOQA information with the FAA, in part because of concerns that even if the information is designated as protected under part 193, it may still be inappropriately released by someone in the agency. Therefore, the FAA anticipates that to be successful, any program for FOQA information sharing will have to proceed on an incremental basis. It will be incumbent on the FAA to demonstrate on a stepwise basis that the measures it puts in place to protect FOQA information from disclosure are in fact fully effective for that purpose. Initial submissions under part 193 will be accomplished in the form of paper reports consisting of aggregate FOQA information from one or more airlines, with airline identity redacted. All such reports must be clearly labeled as follows in order to be protected under this designation ''WARNING: The Information in this Document Is Protected from Disclosure under 49 U.S.C. 40123 and 14 CFR part 193. This information May Be Released Only With Written Permission of the Associate Administrator for Regulation and Certification.''

However, ultimately the FAA hopes to establish a secure internet based methodology for the electronic acquisition of aggregate FOQA data. Progress toward that goal will be contingent on successful collaboration with industry to test, validate, and participate in the use of such a system. If implemented, the system would employ digital certificates to control access by all industry and FAA participants. Only government personnel who acknowledge in writing their understanding and acceptance of the restrictions on disclosure would be issued digital certificates. The FAA would distinguish FOQA information from other information, by virtue of the

fact that the planned electronic system would be dedicated to the acquisition of aggregate FOQA data. It would automatically include part 193 disclosure warning notices on all opening screen pages, and on each page of any paper printouts.

Proposed Designation

Accordingly, the Federal Aviation Administration hereby proposes to designate the above-described information submitted under an approved FOQA program to be protected under 49 U.S.C. 40123 and 14 CFR part 193.

Issued in Washington, DC, on August 27, 2002.

Nicholas A. Sabatini,

Associate Administrator for Regulation and Certification.

[FR Doc. 02–22269 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 193

[Docket No. FAA–2002–13236]

Aviation Safety Action Programs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Order Designating Information as Protected from Disclosure.

SUMMARY: The FAA is proposing that information provided to the agency from a voluntary Aviation Safety Action Program (ASAP) be designated by an FAA order as protected from public disclosure in accordance with the provisions of 14 CFR part 193. Under 49 U.S.C. 40123, the FAA is required to protect the information from disclosure to the public, including disclosure under the Freedom of Information Act (5 U.S.C. 552) or other laws, following issuance of such order. The designation is intended to encourage participation in the ASAP.

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation Room Plaza 401, 400 Seventh St., SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–13236 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing comments to this proposed designation in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Longridge, Flight Standards Service, AFS–230, Federal Aviation Administration, 800 Independence Ave., SW., Washington DC 20591, telephone (703) 661–0275.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed designation by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposal in this notice are also invited. Substantive comments should be accompanied by cost estimates, where appropriate. Comments should identify the notice number and should be submitted in duplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed designation will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed designations. Comments filed late will be considered as far as possible without incurring expense or delay. The proposal contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to the Docket No. FAA–2002–[INSERT DOCKET NUMBER].'' The postcard will be date stamped and mailed to the commenter.

Availability of This Proposed Designation

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may access the FAA's Web page containing this notice at *http://www.faa.gov/avr/afs/asap* or may go to the GPO's Web page at *http://www.access.gpo.gov.nara* for access to recently published notices.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Ave, SW., Washington, DC 20591, or by calling (202) 267–8166. Communications must identify the docket number and title of this designation.

Background

Under 49 U.S.C. 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA. The FAA must issue an order making certain findings before the information is protected from disclosure. The FAA's rules implementing that section are in 14 CFR part 193. If the Administrator issues an order designating information as protected under section 40123, that information will not be disclosed under the Freedom of Information Act (5 U.S.C. 552) or other laws except as provided in section 40123, part 193, and the order designating the information as protected. This proposed order is issued under 14 CFR 193.11, which sets out the notice procedure for designating information as protected.

Description of the Proposed Information Sharing Program

An Aviation Safety Action Program (ASAP) is entered into voluntarily through a Memorandum of Understanding (MOU) signed by the FAA, an air carrier or a repair station (referred to in this notice as ''certificate holder''), and, if applicable, an employees' labor union. The intent of the program is to encourage defined groups of certificate holder employees to report possible violations, safety issues and events to an ASAP Event Review Committee (ERC) comprised of one representative from each such party. Because of its capacity to provide early identification of needed safety improvements, an ASAP offers significant potential for incident and accident avoidance. FAA experience to date has clearly established that an ASAP can produce safety-related data

that is not available from any other source. FAA limits enforcement actions it takes against employees covered by an ASAP to encourage them to report possible violations and safety problems. In order for a possible violation to be covered under an ASAP, the employee's ASAP report ordinarily must be submitted within a time limit specified in the MOU, any alleged violation must be inadvertent and must not appear to involve an intentional disregard for safety, and the reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. FAA policy and further details concerning the ASAP are addressed in Advisory Circular 120–66, Aviation Safety Action Programs, as amended (the advisory circular may be viewed and/or downloaded from the Internet at *http://www.faa.gov/avr/afs/asap*).

For ASAP reports involving alleged violations, the ERC investigates to determine if independence information from FAA sources is available concerning the event (e.g. air traffic control tapes), and whether the reporting employee may have previously reported similar violations under the ASAP. Except for ASAP reports involving possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, this proposed designation would, if adopted, protect the content of all ASAP reports in the possession of the FAA from public disclosure. Similarly, any other information received by the FAA from the certification holder concerning the content of such ASAP reports, including for example statistical analyses, periodic program review reports, and trend information will be protected from disclosure under this designation, unless the certificate holder authorizes the FAA to disclose that information. Voluntarily provided information listed under paragraph B immediately below that is obtained during periodic FAA audits of ASAP, if any, will be protected from disclosure under this designation.

Summary of the ASAP Voluntary Information Sharing Program

A. *Who may participate:* Certificate holders who have an ASAP and their employees.

B. *Except for ASAP reports involving possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, what voluntarily provided information would be protected from disclosure under this proposed designation:*

1. The content of an employee's ASAP report.

2. The identity of the certificate holder associated with an ASAP report.

3. The name of an employee submitting an ASAP report(s).

4. The findings from other than FAA sources of an ERC investigation concerning an ASAP report.

5. Evidence and other information gathered during an ERC investigation by other than FAA sources.

6. Statistical analysis and trend information provided by the certificate holder based on events reported under a particular certificate holder's ASAP.

7. A database of reports and events over time from a particular certificate holder's ASAP.

C. *How persons would participate:* Certificate holders participate by executing an ASAP MOU with the FAA, and by voluntarily sharing information from the ASAP with the FAA. Employees covered under the ASAP MOU participate by submitting ASAP reports in accordance with that MOU.

D. *Duration of this information sharing program:* This information sharing program would continue in effect for a given certificate holder until the associated ASAP MOU is terminated by any of the parties to the MOU, or until the order of designation for this program is withdrawn by the FAA.

Proposed Findings

The FAA proposes to designate information received under an ASAP as protected under 49 U.S.C. 40123 and 14 CFR 193.7 based on the following findings:

(1) *Summary of why the FAA finds that the information will be provided voluntarily.*

The ASAP finds that the information will be provided voluntarily. No certificate holder is required to participate in ASAP, and no employee is required to submit reports even if his or her employer participates in ASAP. An ASAP MOU may be terminated at any time by any of the parties to the MOU. The FAA anticipates that information from a certificate holder's ASAP will be shared with the FAA, because the voluntary establishment of an ASAP constitutes a partnership between the FAA and the certificate holder in the interest of achieving joint safety improvement goals.

(2) *Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety or security related.*

An ASAP is specifically created to provide a means for employees to report safety-related events. All individual ASAP reports are clearly labeled as such, and must be signed by each employee seeking the enforcement incentives available under an ASAP. Two types of reports are ordinarily submitted under the ASAP: safety-related reports that appear to involve one or more violations of the regulations (e.g. deviating from an Air Traffic Control (ATC)-assigned altitude); and reports that identify a general safety concern, but do not appear to involve a violation of the regulations (e.g. flight crewmember concerns that the design of a flight checklist could lead to an error). Each ASAP report must contain sufficiently detailed information about a safety event so that it can be evaluated by a third party. If the report is submitted by a flight crewmember, and the safety event involves a deviation from an ATC clearance, the ASAP report would include the date, time, place, altitude, flight number, and ATC frequency, along with a description of the safety-related event. The only types of reports that are expected to be submitted under an ASAP are those that are safety or security related.

(3) *Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information.*

The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Certificate holders and their employees are reluctant to share sensitive safety information with the FAA, including employee self-reports of alleged violations, if such submissions might be subject to public disclosure. A significant impediment to the sharing of ASAP information with the FAA is the aviation industry's concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes for which the ASAP was created. As a result, certificate holders have not permitted ASAP reports and related information to leave the certificate holder's premises, and except for ASAP information made available for review by the FAA ERC representative at the certificate holder's place of business, no ASAP information is presently submitted to the FAA. This information is considered to be confidential by the participating certificate holders and their employees who are involved in the program. Withholding such information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, the FAA will not receive the information. If the FAA does not receive the information, the FAA and the public will be deprived of the opportunity to

make the safety improvements that receipt of the information otherwise enables. While the FAA does not anticipate receiving ASAP reports for retention in FAA files or in an FAA database, the FAA believes that the extraction and submission of certain categories of information from such reports for trending purposes could benefit safety. For example, an FAA database of perceived contributing factors for runway incursions (extracted from ASAP reports) could be beneficial to the FAA and to airlines in the development of corrective strategies to reduce the probability of such incidents.

(4) *Summary of why the receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities.*

The FAA finds that receipt of ASAP information aids in fulfilling the FAA's safety and security responsibilities. Because of its capacity to provide early identification of needed safety improvements, an ASAP offers significant potential for incident and accident avoidance. FAA experience to date has clearly established that an ASAP can produce safety-related data that is not available from any other source. For example, ASAP reports concerning runway incursions could potentially identify common causal factors in producing such incidents. Receipt of this hitherto unavailable information would provide the FAA with an improved basis for modifying procedures, policies, and regulations in order to improve safety and efficiency. It would also better permit the FAA to serve as a national safety information resource for certificate holders.

(5) *Summary of why withholding such information from disclosure would be consistent with the FAA's safety and security responsibilities, including a statement as to the circumstances under which, and a summary of why, withholding such information from disclosure would not be consistent with the FAA's safety and security responsibilities, as described in 14 CFR 193.9.*

The FAA finds that withholding ASAP information provided to the FAA is consistent with the FAA's safety responsibilities. ASAP specifically provides that corrective action will be taken when necessary. Corrective action under ASAP can be accomplished without disclosure of protected information. For example, for acceptance under the ASAP, the reporting employee must comply with ERC recommendations for corrective action, such as additional training for an employee. If the employee fails to complete corrective action in a manner satisfactory to all members of the ERC, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation, reexamination, and/or enforcement action, as appropriate. In addition, reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate.

The FAA will release information submitted under an ASAP as specified in part 193 and this proposed order. In order to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified (i.e. the identity of the source of the information and the names of the certificate holder, the employee, and other persons redacted) summary information that has been extracted from reports under the ASAP. The FAA may disclose de-identified, summarized ASAP information that identifies a systemic problem in the aviation system, when other persons need to be advised of the problem so that they can take corrective action. The FAA may disclose de-identified aggregate statistical information concerning ASAP activities. The FAA may disclose independently obtained information relating to any event disclosed in an ASAP report. The FAA will not release the content of an excluded ASAP report, unless that excluded report involves criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, in which case it would be contrary to public safety not to disclose such information, because of the egregious nature of such events. The FAA may release the content of ASAP MOU's, including identification of the signatories on such MOUs.

(6) *Summary of how the FAA will distinguish information protected under part 193 from information the FAA receives from other sources.*

All employees ASAP reports are clearly labeled as such, and either a single report must be signed by all employees seeking the enforcement incentives available under an ASAP for the event, or each such employee must submit a separate signed report. Any other information received by the FAA from the certificate holder concerning the content of ASAP reports except for ASAP reports involving possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, such as statistical analyses, program review reports, and trend information, must be clearly labeled as follows in order to be protected under this designation: ''WARNING: The Information in this Document May Be Protected from Disclosure under 49 U.S.C. 40123 and 14 CFR part 193.''

Proposed Designation

Accordingly, the Federal Aviation Administration hereby proposes to designate the above-described information submitted under an ASAP to be protected under 49 U.S.C. 40123 and 14 CFR part 193.

Issued in Washington, DC, on August 14, 2002.

Nicholas A. Sabatini,

Associate Administrator for Regulation and Certification.

[FR Doc. 02–22270 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–222C]

RIN 1117–AA64

Chemical Mixtures Containing Gamma-butyrolactone

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: On July 19, 2002, the Drug Enforcement Administration (DEA) published an Advance Notice of Proposed rulemaking in the **Federal Register** requesting information regarding chemical mixtures containing the List I chemical gamma-butyrolactone (GBL) (67 FR 47493). This document contained an inaccurate U.S. Code citation. This document corrects this error.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, , Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION: On July 19, 2002, the Drug Enforcement Administration (DEA) published an Advance Notice of proposed Rulemaking (ANPRM) in the **Federal Register** regarding chemical mixtures containing the List I chemical gamma-butyrolactone. Within this ANPRM, on page 47493, in the second column, five lines from the bottom, in the sentence

that reads: ''Until regulations which delineate criteria and procedures for exempting specific GBL-containing chemical mixtures are finalized, according to 21 U.S.C. 802(39)(4)(v), DEA has treated GBL-containing chemical mixtures as being exempt from the chemical regulatory requirements of the CSA.'', DEA inadvertently miscited the U.S. Code citation. The sentence should read: ''Until regulations which delineate criteria and procedures for exempting specific GBL-containing chemical mixtures are finalized, according to 21 U.S.C. 802(39)(A)(v), DEA has treated GBL-containing chemical mixtures as being exempt from the chemical regulatory requirements of the CSA.'' This document corrects this citation.

Dated: August 21, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 02–22555 Filed 9–4–02; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 861

RIN 0701–AA67

Department of Defense Commercial Air Transportation Quality and Safety Review Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to revise the Department of Defense Commercial Transportation Quality and Safety Review Program. The current version of the program is being updated to reflect current and anticipated policies. The public is invited to submit comments on these changes to the point of contact listed below.

DATES: Submit comments on or before September 20, 2002.

ADDRESSES: Address all comments concerning this proposed rule to Mr. Merlin Lyman, Air Mobility Command, HQ AMC/DOB, 402 Scott Drive, Unite 3A1, Scott AFB, IL 62225–5302.

FOR FURTHER INFORMATION CONTACT: Mr. Merlin Lyman, 618–229–4801.

SUPPLEMENTARY INFORMATION: This action is authorized by 10 U.S.C. 8013 and 10 U.S.C. 2640. The Department of the Air Force has determined that this rule is not a major rule because it will not have an annual effect on the economy of $100 million or more. The Secretary of the Air Force has certified that this rule is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 to 612, because this rule does not have a significant economic impact on small entities as defined by the Act, and does not impose any obligatory information requirements beyond internal Air Force use. This document proposes extensive revisions and should be reviewed in its entirety.

List of Subjects in 32 CFR Part 861

Administrative practice and procedure, Air carriers, Aviation safety, Military air transportation.

For the reasons set forth in the preamble, the Air Force is proposing to revise 32 CFR Part 861 to read as follows:

PART 861—DEPARTMENT OF DEFENSE COMMERCIAL AIR TRANSPORTATION QUALITY AND SAFETY REVIEW PROGRAM

Sec.
861.1 References.
861.2 Purpose.
861.3 Definitions.
861.4 DOD commercial air transportation quality and safety review program.
861.5 DOD Commercial Airlift Review Board procedures.
861.6 DOD review of foreign air carriers.
861.7 Disclosure of voluntarily provided safety-related information.

Authority: 10 U.S.C. 2640, 8013.

§ 861.1 References.

The following references apply to this part:

(a) 10 U.S.C. 2640, Charter Air Transportation of Members of the Armed Forces.

(b) Department of Defense Directive 4500.53, *Department of Defense Commercial Air Transportation Quality and Safety Review Program.*

§ 861.2 Purpose.

Department of Defense Directive 4500.53, *Department of Defense Commercial Air Transportation Quality and Safety Review Program,* charges the Commander-in-Chief (CINC), United States Transportation Command (USTRANSCOM), with ensuring the establishment of safety requirements and criteria for evaluating civil air carriers and operators (hereinafter collectively referred to as ''air carriers'') providing air transportation and operational support services to the Department of Defense (DOD). It also charges the CINC with ensuring the establishment of a Commercial Airlift Review Board (CARB) and providing policy guidance and direction for its operation. This part establishes DOD quality and safety criteria for air carriers providing or seeking to provide air transportation and, at the discretion of the CARB or higher authority, operational support services to the DOD. This part also includes the operating procedures of the CARB. The CARB has the authority to suspend air carriers from DOD use or take other actions when issues of air carrier quality and air safety arise.

§ 861.3 Definitions.

(a) *Air carrier.* Individuals or entities that operate commercial fixed and rotary wing aircraft in accordance with the Federal Aviation Regulations (14 CFR chapter I) or equivalent regulations issued by a country's Civil Aviation Authority (CAA) and which provide air transportation or operational support services. Commercial air carriers under contract with, or operating on behalf of the DOD shall have a FAA or CAA certificate.

(b) *Air transportation services.* The transport of DOD personnel or cargo by fixed or rotary wing commercial aircraft, where such services are acquired primarily for the transportation of DOD personnel and cargo, through donation or any form of contract, tender, blanket ordering agreement, Government charge card, Government or commercial transportation request (TR), bill of lading, or similar instruments. Air transportation services also include medical evacuation services, paratrooper drops, and charter airlift and group travel arranged by the Military Service Academies, foreign military sales, nonappropriated fund instrumentalities by other DOD and non-DOD activities for DOD personnel. All air carriers providing air transportation services to DOD must have a FAA or CAA certificate. The policy contained in this Directive shall not apply to individually procured, discretionary air travel, such as that associated with military leave or pass.

(c) *Civil Aviation Authority (CAA).* The CAA refers to the organization within a country that has the authority and responsibility to regulate civil aviation. The term CAA is used throughout this part since these requirements are applicable to both U.S. and foreign carriers doing business with DOD. The term CAA thus includes the U.S. Federal Aviation Administration (FAA).

(d) *Code sharing.* Code sharing is a marketing arrangement in which an air carrier places its designator code on a

flight operated by another air carrier and sells tickets for that flight.

(e) *DOD approval.* DOD approval in the context of this part refers to the process by which air carriers seeking to provide passenger or cargo airlift services (hereinafter referred to as air transportation services) to the DOD must be screened and evaluated by the DOD Air Carrier Survey and Analysis Office or other entity authorized by the CARB, and approved for DOD use by the CARB. Once initial approval is obtained, a DOD approved air carrier must remain in an approved status to be eligible for DOD business. Although not generally required, the CARB or higher authority may, on a case-by-case basis, require DOD approval of air carriers providing operational support services to DOD.

(f) *DOD air carrier safety and quality review process.* Includes four possible levels of review with increasing authority. The responsibilities of each are described in more detail in the reference in § 861.1(b). These levels consist of the:

(1) DOD Air Carrier Survey and Analysis Office;

(2) DOD Commercial Airlift Review Board (CARB);

(3) Commander-in-Chief, U.S. Transportation Command, or USCINCTRANS; and

(4) Secretary of Defense. (Note: A DOD-level body, the Commercial Airlift Review Authority, or CARA, provides advice and recommendations to the Secretary of Defense.)

(g) *Federal Aviation Administration (FAA) International Safety Assessment (IASA) program and categories.* The FAA IASA program assesses the ability of a foreign country's CAA to adhere to international standards established by the United Nations' technical agency for aviation, the International Civil Aviation Organization (ICAO). The FAA has established ratings for the status of countries as follows:

(1) *Category 1—Does Comply with ICAO Standards.* A country's CAA has been found to license and oversee air carriers in accordance with ICAO aviation safety standards.

(2) *Category 2—Does Not Comply with ICAO Standards.* A country's CAA does not meet ICAO standards for aviation oversight. Operations to the U.S. by a carrier from a Category 2 country are limited to those in effect at the time a country is classified as Category 2 and are subjected to heightened FAA surveillance. Expansion or changes in services to the U.S. are not permitted while a country is in Category 2 status unless the carrier arranges to have new services conducted by an air carrier from a Category 1 country. Category 2 countries that do not have operations to the U.S. at the time of the FAA assessment are not permitted to commence such operations unless it arranges to have its flights conducted by an air carrier from a Category 1 country.

(3) *Non-rated.* A country's CAA is labeled ''non-rated'' if it has not been assessed by the FAA.

(h) *GSA City Pair Program.* A program managed by the General Services Administration in which U.S. air carriers compete for annual contracts awarding U.S. government business for specific domestic and international scheduled service city pair routes.

(i) *Group travel.* Twenty-one or more passengers on orders from the same organization traveling on the same date to the same destination to attend the same function.

(j) *Letter of Warning.* A notice to a DOD approved air carrier of a failure to satisfy safety or airworthiness requirements which, if not remedied, may result in temporary nonuse or suspension of the air carrier by the DOD. Issuance of a *Letter of Warning* is not a prerequisite to a suspension or other action by the CARB or higher DOD authority.

(k) *On-site Capability Survey.* The most comprehensive evaluation performed by DOD's Air Carrier Survey and Analysis Office. Successful completion of this evaluation is required of most air carriers before they may be approved to provide air transportation services to DOD. Once approved, air carriers are subject to periodic On-site Capability Surveys, as specified at Enclosure 3 of the reference in § 861.1(b).

(l) *Operational support services.* Missions performed by air carriers that use fixed or rotary-winged aircraft to provide services other than air transportation services as defined in paragraph (b) of this section. Examples include, but are not limited to, range instrumentation and services, target-towing, sling loads, and electronic countermeasures target flights. Air carriers providing only operational support services do not require advance DOD approval and are not subject to the initial or periodic on-site survey requirements under this part, unless directed by the CARB or higher authority. All air carriers providing operational support services to DOD must have a FAA or CAA certificate and are required to maintain applicable FAA or CAA standards absent deviation authority obtained pursuant to 14 CFR 119.55 or similar CAA rules.

(m) *Performance assessments.* Reviews conducted by U.S. air carriers when evaluating foreign air carriers with which they have code share arrangements, using performance-based factors. Such assessments include reviewing a variety of air carrier data including history, safety, scope/size, financial condition, equipment, flight operations and airworthiness issues.

(n) *Performance evaluations.* Reviews conducted by DOD as directed in the references in § 861.1(a) and (b). These evaluations include a review of air carrier flight operations, maintenance departments, safety programs and other air carrier areas as necessary. Performance evaluations are not conducted on-site, but rely on information collected primarily from the FAA and the National Transportation Safety Board (NTSB).

(o) *Preflight safety inspection.* A visual safety inspection of the interior and exterior of an air carrier's aircraft performed by DOD personnel in accordance with the references in § 861.1(a) and (b).

(p) *Suspension.* The exclusion of an air carrier from providing services to the DOD. The period of suspension will normally:

(1) Remain in effect until the air carrier furnishes satisfactory evidence that the conditions causing the suspension have been remedied and has been reinstated by the CARB; or

(2) Be for a fixed period of time as determined at the discretion of the CARB.

(q) *Temporary nonuse.* The immediate exclusion of a DOD approved air carrier from providing services to the DOD pending a decision on suspension. Normally, temporary nonuse will be for a period of 30 days or less. However, by mutual agreement of the CARB and the air carrier involved, a suspension hearing or decision may be delayed and the air carrier continued in a temporary nonuse status for an extended period of time.

(r) *Voluntarily provided safety-related information.* Information which consists of nonfactual safety-related data, reports, statements, and other information provided to DOD by an air carrier at any point in the evaluation process described in this Part. It does not include factual safety-related information, such as statistics, maintenance reports, training records, flight planning information, and the like.

§ 861.4 DOD commercial air transportation quality and safety review program.

(a) *General.* The DOD, as a customer of air transportation and operational support services, expects air carriers used by DOD to employ programs and

business practices that not only ensure good service but also enhance the safety, operational, and maintenance standards established by applicable Civil Aviation Authority (CAA) regulations. Accordingly, and as required by the references in § 861.1(a) and (b), the DOD has established a set of quality and safety criteria and requirements that reflect the type programs and practices DOD seeks from air carriers providing services to DOD. Air carriers must meet and maintain these requirements in order to be eligible for DOD business. Air carriers providing air transportation services to DOD either directly by contract or agreement, or indirectly through the General Services Administration (GSA) City Pair Program or some other arrangement, must be approved by DOD prior to providing such services and remain in an approved status throughout the contract, agreement, or arrangement performance period. This approval entails successful completion of initial and recurring on-site surveys as well as periodic performance evaluations in accordance with the reference in § 861.1(b). The quality and safety criteria and requirements set forth in this part complement rather than replace the CAA criteria applicable to air carriers. Air carriers normally remain fully subject to applicable CAA regulations (CARs) while performing business for the DOD, even when the aircraft involved is used exclusively for DOD missions. The inspection and oversight criteria set forth in this part do not, as a general rule, apply to air carriers providing only operational support services to DOD. However, in the event concerns relating to the safety of such a carrier arise, the CARB or higher authority may, on a case-by-case basis, direct an appropriate level of oversight under the authority of this part.

(b) *Applicability.* (1) The evaluation, quality and safety criteria and requirements set forth in this part apply to air carriers providing or seeking to provide air transportation services to DOD.

(2) Foreign air carriers performing portions of GSA City Pair routes awarded to U.S. air carriers under a code-sharing arrangement, as well as foreign air carriers providing individually-ticketed passenger service to DOD personnel traveling on official business, may be subject to limited oversight and review pursuant to § 861.6.

(3) The inspection and oversight requirements, as well as the quality and safety criteria of this part may, on a case-by-case basis and at the discretion of the CARB or higher authority, be applied to air carriers seeking to provide or providing operational support services as defined in § 861.3(l).

(4) The inspection and oversight requirements of this part do not apply to aircraft engaged in medical transport services if procured under emergency conditions to save life, limb or eyesight. Likewise, the inspection and oversight requirements of this part are not applicable when DOD is not involved in the procurement of the medical transportation services. For example, when specific medical treatment is obtained on an individual basis by or for DOD personnel with medical transportation provided, as needed, at the direction of the non-DOD medical care giver. This includes situations where DOD, through TRICARE or otherwise, pays for such transportation as part of the costs of medical services provided.

(c) *Scope and nature of the evaluation program.* (1) *Evaluation requirement.* The provision of air transportation services under a contract or agreement with or on behalf of DOD, requires the successful completion of an initial on-site survey and approval by the CARB under this part in order to be eligible for DOD business. In addition, U.S. air carriers awarded contracts under the GSA City Pair Program, including those that perform part of the contract under a code-sharing arrangement with the U.S. air carrier awarded the contract, must successfully complete an initial on-site survey and be approved by the CARB for DOD use under this part prior to beginning performance of the GSA contract. Once approved by DOD, air carriers providing air transportation services are subject to recurring on-site surveys and performance evaluations and assessments throughout the duration of the relevant contract or agreement. The frequency and scope of these surveys and performance reviews will be in accordance with Enclosure 3 of the reference in § 861.1(b).

(2) *Office of primary responsibility.* Evaluations are performed by the DOD Air Carrier Survey and Analysis Office located at Scott Air Force Base, Illinois. The mailing address of this office is HQ AMC/DOB, 402 Scott Drive Unit 3A1, Scott AFB IL 62225–5302. The website address is *https://public.scott.af.mil/hqamc/dob/index.htm.*

(3) *Items considered in the evaluation process.* The specifics of the applicable DOD contract or agreement (if any), the applicable CAA regulations, and the experienced judgment of DOD personnel will be used to evaluate an air carrier's capability to perform services for DOD. The survey may also include, with the air carrier's coordination, observation of cockpit crew performance, as well as ramp inspections of selected company aircraft. In the case of air carriers seeking to provide air transportation services, after satisfactory completion of the initial survey and approval by the CARB as a DOD air carrier, follow-up surveys will be conducted on a recurring basis and when otherwise required to validate adherence to DOD quality and safety requirements. DOD personnel will also assess these quality and safety requirements when conducting periodic air carrier performance evaluations. The size of an air carrier, along with the type and scope of operations will be considered during the on-site survey. For example, while an air taxi operator may not have a formal flight control function, such as a 24-hour dispatch organization, that same air taxi operator is expected to demonstrate some type of effective flight following capability. On the other hand, a major air carrier is expected to have a formal flight control or dispatch function. Both, however, will be evaluated based on the effectiveness and quality of whatever flight following function they do maintain. In the case of air carriers seeking to provide operational support services, the type, scope and frequency of evaluation, if any, performed by DOD or other entity will be as directed by the CARB or higher authority.

(d) *Status of aircraft performing services for DOD.* All air carriers providing air transportation or operational support services to the DOD shall have FAA or CAA air carrier or commercial operator certificates and shall remain under FAA and/or CAA regulatory and safety oversight during performance of the DOD mission. Aircraft performing services for or on behalf of DOD shall be on the air carrier's operating certificate, and remain on that certificate while performing the DOD mission. The installation of any special equipment needed to perform services for DOD shall be FAA or CAA approved or an appropriate FAA or CAA waiver obtained.

(e) *Evaluation requirements.* The air carrier requirements stated in this part provide the criteria against which would-be DOD and GSA City Pair Program air carrier contractors, as well as air carriers providing services on behalf of DOD, may be subjectively evaluated by DOD. These requirements are neither all-inclusive nor inflexible in nature. They are not replacements for the certification criteria and other regulations established by the CAA. Rather, these requirements complement

CAA certification criteria and regulations and describe the enhanced level of service required by DOD. The relative weight accorded these requirements in a given case, as well as the determination of whether an air carrier meets or exceeds them, is a matter within the sole discretion of the DOD Air Carrier Survey and Analysis Office and the CARB, subject to the statutory minimums provided in the reference in § 861.1(a).

(1) *Quality and safety requirements—prior experience.* U.S. and foreign air carriers applying for DOD approval in order to conduct air transportation services for or on behalf of DOD under a contract or agreement with DOD, the GSA City Pair Program, or by some other arrangement are required to possess 12 months of continuous service equivalent to the service sought by DOD. In applying this requirement, the following guidance will be used by DOD authorities:

(i) ''12 months'' refers to the 12 calendar months immediately preceding the request for DOD approval.

(ii) ''Continuous'' service means the carrier must have performed revenue-generating services of the nature for which DOD approval is sought, as an FAA Part 121, 125, 127, or 135 (14 CFR part 121, 125, 127, or 135) air carrier (or foreign CAA equivalent if appropriate) on a recurring, substantially uninterrupted basis. The services must have occurred with such frequency and regularity as to clearly demonstrate the carrier's ability to perform and support sustained, safe, reliable, and regular services of the type DOD is seeking. Weekly flight activity is normally considered continuous, while sporadic or seasonal operations (if such operations are the only operations conducted by the carrier) may not suffice to establish a carrier's ability to perform and support services in the sustained, safe, reliable, and regular manner required by DOD. The ability of a carrier to perform services of the type sought by DOD may be called into question if there have been lengthy periods of time during the qualifying period in which the carrier has not operated such services. Consequently, any cessation, or nonperformance of the type of service for which approval is sought may, if it exceeds 30 days in length during the qualifying period and depending on the underlying factual circumstances, necessitate ''restarting'' the 12-month continuous service period needed to obtain DOD approval.

(iii) ''Equivalent to the services sought by DOD'' means service offered to qualify for DOD approval must be substantially equivalent to the type of service sought by DOD. The prior experience must be equivalent in difficulty and complexity with regard to the distances flown, weather systems encountered, international and national procedures, the same or similar aircraft, schedule demands, aircrew experience, number of passengers handled, frequency of operations, and management required. There is not a set formula for determining whether a particular type of service qualifies. The performance of cargo services is not considered to be ''substantially equivalent'' to the performance of passenger services, and may not be used to meet the 12 continuous months requirement for passenger services. However, when a carrier already providing cargo services to DOD applies to carry passengers, the CARB may consider the carrier's cargo performance and experience in assessing whether a carrier is qualified to carry passengers on a specific type or category of aircraft, over certain routes or stage lengths, or under differing air traffic control, weather, or other conditions. The following examples are illustrative and not intended to reflect or predict CARB action in any given case:

Example 1: Coyote Air has operated commercial passenger commuter operations in the U.S. for a number of years flying a variety of twin-engine turboprop aircraft. They have also been a DOD-approved cargo carrier, providing international cargo services using DC–10 freighter aircraft. Coyote Air purchases a passenger version DC–10, and seeks DOD approval to provide international passenger service for DOD. The CARB may decide that although Coyote Air has provided passenger services for 12 continuous months, those services are not substantially equivalent to those being sought by DOD. While the carrier may have considerable operational experience with the DC–10, its commuter passenger operations are not substantially equivalent to the service now proposed—international passenger services on large jet aircraft.

Example 2: Acme Air has been a DOD-approved cargo carrier for several years, operating domestic and international missions with MD–11 freighter aircraft. At the same time, Acme has been performing commercial international passenger services with B–757 aircraft. Acme Air purchases a MD–11 passenger aircraft and applies to perform passenger services for DOD using the MD–11. Assuming Acme has performed B–757 passenger service for 12 continuous months immediately preceding its application, the CARB may consider these passenger services substantially equivalent to those proposed since both involve the operation of large multi-engine aircraft in an international environment. The CARB may also consider Acme's operational history with its MD–11 freighter aircraft in determining whether the carrier is competent to provide MD–11 passenger service in the same environment.

(iv) Once approved by DOD, an air carrier's failure to maintain continuous operations of the type for which approval has been granted may, at the discretion of the CARB, be grounds for nonuse or suspension under this part, rendering the carrier ineligible for DOD business during the nonuse or suspension period. Any cessation or nonperformance of the type of service for which approval has been obtained may, if it exceeds 30 days in length and depending on the circumstances, provide the basis for the CARB to take appropriate action.

(2) *Quality and safety requirements—air carrier management.* Management has clearly defined safety as the number one company priority, and safety is never sacrificed to satisfy passenger concern, convenience, or cost. Policies, procedures, and goals that enhance the CAA's minimum operations and maintenance standards have been established and implemented. A cooperative response to CAA inspections, critiques, or comments is demonstrated. Proper support infrastructure, including facilities, equipment, parts, and qualified personnel, is provided at the certificate holder's primary facility and en route stations. Personnel with aviation credentials and experience fill key management positions. An internal quality audit program or other method capable of identifying in-house deficiencies and measuring the company's compliance with their stated policies and standards has been implemented. Audit results are analyzed in order to determine the cause, not just the symptom, of any deficiency. The result of sound fiscal policy is evident throughout the company. Foreign code-sharing air carrier partners are audited at least every two years using DOD-approved criteria and any findings resolved. Comprehensive disaster response plans and, where applicable, family support plans, must be in place and exercised on a regular basis.

(3) *Quality and safety requirements—operations.*

(i) *Flight safety.* Established policies that promote flight safety. These policies are infused among all aircrew and operational personnel who translate the policies into practice. New or revised safety-related data are promptly disseminated to affected personnel who understand that deviation from any established safety policy is unacceptable. An audit system that detects unsafe practices is in place and

a feedback structure informs management of safety policy results including possible safety problems. Management ensures that corrective actions resolve every unsafe condition.

(ii) *Flight operations.* Established flight operations policies and procedures are up-to-date, reflect the current scope of operations, and are clearly defined to aviation department employees. These adhered-to procedures are further supported by a flow of current, management-generated safety and operational communications. Managers are in touch with mission requirements, supervise crew selection, and ensure the risk associated with all flight operations is reduced to the lowest acceptable level. Flight crews are free from undue management pressure and are comfortable with exercising their professional judgment during flight activities, even if such actions do not support the flight schedule. Effective lines of communication permit feedback from line crews to operations managers. Personnel records are maintained and reflect such data as experience, qualifications, and medical status.

(iii) *Flight crew hiring.* Established procedures ensure that applicants are carefully screened, including a review of the individual's health and suitability to perform flight crew duties. Consideration is given to the applicant's total aviation background, appropriate experience, and the individual's potential to perform safely. Freedom from alcohol abuse and illegal drugs is required. If new-hire cockpit crewmembers do not meet industry standards for experience and qualification, then increased training and management attention to properly qualify these personnel are required.

(iv) *Aircrew training.* Training, including recurrent training, which develops and refines skills designed to eliminate mishaps and improve safety, is essential to a quality operation. Crew coordination training that facilitates full cockpit crews training and full crew interaction using standardized procedures and including the principles of Crew Resource Management (CRM) is required. Programs involving the use of simulators or other devices that can provide realistic training scenarios are desired. Captain and First Officer training objectives cultivate similar levels of proficiency. Appropriate emergency procedures training (*e.g.*, evacuation procedures) is provided to flight deck and flight attendant personnel as a total crew whenever possible; such training focuses on cockpit and cabin crews functioning as a coordinated team during emergencies. Crew training—be it pilot, engineer, or flight attendant—is appropriate to the level of risk and circumstances anticipated for the trainee. Training programs have the flexibility to incorporate and resolve recurring problem areas associated with day-to-day flight operations. Aeromedical crews must also be trained in handling the specific needs of the categories of patients normally accepted for transportation on the equipment to be used. Trainers are highly skilled in both subject matter and training techniques. Training received is documented, and that documentation is maintained in a current status.

(v) *Captain upgrade training.* A selection and training process that considers proven experience, decision making, crew resource management, and response to unusual situations, including stress and pressure, is required. Also important is emphasis on captain responsibility and authority.

(vi) *Aircrew scheduling.* A closely monitored system that evaluates operational risks, experience levels of crewmembers, and ensures the proper pairing of aircrews on all flights is required. New captains are scheduled with highly experienced first officers, and new or low-time first officers are scheduled with experienced captains. Except for aircraft new to the company, captains and first officers assigned to DOD charter passenger missions possess at least 250 hours combined experience in the type aircraft being operated. The scheduling system involves an established flight duty time program for aircrews, including flight attendants, carefully managed so as to ensure proper crew rest and considers quality-of-life factors. Attention is given to the stress on aircrews during strikes, mergers, or periods of labor-management difficulties.

(vii) *In-flight performance.* Aircrews, including flight attendants and flight medical personnel, are fit for flight duties and trained to handle normal, abnormal, and emergency situations. They demonstrate crew discipline and a knowledge of aviation rules; use company-developed standardized procedures; adhere to checklists; and emphasize safety, including security considerations, throughout all preflight, in-flight, and postflight operations. Qualified company personnel evaluate aircrews and analyze results; known performance deficiencies are eliminated. Evaluations ensure aircrews demonstrate aircraft proficiency in accordance with company established standards. Flight crews are able to determine an aircraft's maintenance condition prior to flight and use standardized methods to accurately report aircraft deficiencies to the maintenance activity.

(viii) *Operational control/support.* Effective mission control includes communications with aircrews and the capability to respond to irregularities or difficulties. Clear written procedures for mission preparation and flight following aircraft and aircrews are provided. There is access to weather, flight planning, and aircraft maintenance data. There are personnel available who are knowledgeable in aircraft performance and mission requirements and that can correctly respond to emergency situations. There is close interface between operations and maintenance, ensuring a mutual awareness of aircraft operational and maintenance status. Procedures to notify DOD in case of an accident or serious incident have been established. Flight crews involved in such accidents or incidents report the situation to company personnel who, in turn, have procedures to evaluate the flight crew's capability to continue the mission. Aircraft involved in accidents or incidents are inspected in accordance with Civil Aviation Regulations and a determination made as to whether or not the aircraft is safe for continued operations.

(ix) *DOD charter procedures.* Detailed procedures addressing military charter requirements are expected. The level of risk associated with DOD charter missions does not exceed the risks inherent in the carrier's non-DOD daily flight operations. Complete route planning and airport analyses are accomplished, and actual passenger and cargo weights are used in computing aircraft weight and balance.

(4) *Quality and safety requirements—maintenance.* Maintenance supervisors ensure all personnel understand that in spite of scheduling pressure, peer pressure, supervisory pressure, or other factors, the airplane must be airworthy prior to flight. Passenger and employee safety is a paramount management concern. Quality, completeness, and integrity of work are trademarks of the maintenance manager and maintenance department. Nonconformance to established maintenance practices is not tolerated. Management ensures that contracted maintenance, including repair and overhaul facilities, is performed by maintenance organizations acceptable to the CAA.

(i) *Maintenance personnel.* Air carriers are expected to hire and train the number of employees required to safely maintain the company aircraft and support the scope of the maintenance operations both at home station (the company's primary facility)

and at en route locations. These personnel ensure that all maintenance tasks, including required inspections and airworthiness directives, are performed; that maintenance actions are properly documented; and that the discrepancies identified between inspections are corrected. Mechanics are fit for duty, properly certificated, the company verifies certification, and these personnel possess the knowledge and the necessary aircraft-specific experience to accomplish the maintenance tasks. Noncertified and inexperienced personnel received proper supervision. Freedom from alcohol abuse and illegal drugs is required.

(ii) *Quality assurance.* A system that continuously analyzes the performance and effectiveness of maintenance activities and maintenance inspection programs is required. This system evaluates such functions as reliability reports, audits, component tear-down reports, inspection procedures and results, tool calibration program, real-time aircraft maintenance actions, warranty programs, and other maintenance functions. The extent of this program is directly related to the air carrier's size and scope of operation. The cause of any recurring discrepancy or negative trend is researched and eliminated. Action is taken to prevent recurrence of these discrepancies and preventive actions are monitored to ensure effectiveness. The results of preventive actions are provided to appropriate maintenance technicians.

(iii) *Maintenance inspection activity.* A process to ensure required aircraft inspections are completed and the results properly documented is required. Also required is a system to evaluate contract vendors, suppliers, and their products. Inspection personnel are identified, trained (initial and recurrent), and provided guidance regarding inspector responsibility and authority. The inspection activity is normally a separate entity within the maintenance department.

(iv) *Maintenance training.* Training is conducted commensurate with the size and type of maintenance function being performed. Continuing education and progressive experience are provided for all maintenance personnel. Orientation, familiarization, on-the-job, and appropriate recurrent training for all full and part-time personnel are expected. The use of such training aids as mockups, simulators, and computer-based training enhances maintenance training efforts and is desired. Training documentation is required; it is current, complete, well maintained, and correctly identifies any special authorization such as inspection and airworthiness release. Trainers are fully qualified in the subject manner.

(v) *Maintenance control.* A method to control maintenance activities and track aircraft status is required. Qualified personnel monitor maintenance preplanning, ensure completion of maintenance actions, and track deferred discrepancies. Deferred maintenance actions are identified to supervisory personnel and corrected in accordance with the criteria provided by the manufacturer or regulatory agency. Constant and effective communications between maintenance and flight operations ensure an exchange of critical information.

(vi) *Aircraft maintenance program.* Aircraft are properly certified and maintained in a manner that ensures they are airworthy and safe. The program includes the use of manufacturer's and CAA information, as well as company policies and procedures. Airworthiness directives are complied with in the prescribed time frame, and service bulletins are evaluated for applicable action. Approved reliability programs are proactive, providing management with visibly on the effectiveness of the maintenance program; attention is given to initial component and older aircraft inspection intervals and to deferred maintenance actions. Special tools and equipment are calibrated.

(vii) *Maintenance records.* Maintenance actions are well documented and provide a complete record of maintenance accomplished and, for repetitive actions, maintenance required. Such records as aircraft log books and maintenance documentation are legible, dated, clean, readily identifiable, and maintained in an orderly fashion. Inspection compliance, airworthiness release, and maintenance release records, etc., are completed and signed by approved personnel.

(viii) *Aircraft appearance.* Aircraft exteriors, including all visible surfaces and components, are clean and well maintained. Interiors are also clean and orderly. Required safety equipment and systems are available and operable.

(ix) *Fueling and servicing.* Aircraft fuel is free from contamination, and company fuel facilities (farms) are inspected and results documented. Procedures and instructions pertaining to servicing, handling, and storing fuel and oil meet established safety standards. Procedures for monitoring and verifying vendor servicing practices are included in this program.

(x) *Maintenance manuals.* Company policy manuals and manufacturer's maintenance manuals are current, available, clear, complete, and adhered to by maintenance personnel. These manuals provide maintenance personnel with standardized procedures for maintaining company aircraft. Management policies, lines of authority, and company maintenance procedures are documented in company manuals and kept in a current status.

(xi) *Maintenance facilities.* Well maintained, clean maintenance facilities, adequate for the level of aircraft repair authorized in the company's CAA certificate are expected. Safety equipment is available in hangars, shops, etc., and is serviceable. Shipping, receiving, and stores areas are likewise clean and orderly. Parts are correctly packaged, tagged, segregated, and shelf life properly monitored.

(5) *Quality and safety requirements—security.* Company personnel receive training in security responsibilities and practice applicable procedures during ground and in-flight operations. Compliance with provisions of the appropriate standard security program, established by the Transportation Security Administration or foreign equivalent, is required for all DOD missions.

(6) *Quality and safety requirements—specific equipment requirements.* Air carriers satisfy DOD equipment and other requirements as specified in DOD agreements.

(7) *Quality and safety requirements—oversight of commuter or foreign air carriers in code-sharing agreements.* Air carriers awarded a route under the Passenger Standing Route Order (PSRO) program, the GSA City Pair Program, or other DOD program, that includes performance of a portion of the route by a commuter or foreign air carrier with which it has a code-sharing arrangement, must have a formal procedure in place to periodically review and assess the code-sharing air carrier's safety, operations, and maintenance programs. The extent of such reviews and assessments must be consistent with, and related to, the code-sharing air carrier's safety history. These procedures must also provide for actual inspections of the foreign code-sharing air carrier if the above reviews and assessments indicate questionable safety practices.

(8) *Quality and safety requirements—aeromedical transport requirements.* (i) The degree of oversight is as determined by the CARB or higher authority. When an inspection is conducted, DOD medical personnel may also participate to assess the ability to provide the patient care and any specialty care required by DOD. The CARB's review

will be limited solely to issues related to flight safety.

(ii) Portable Electronic Devices (PEDs) used in the provision of medical services or treatment on board aircraft are tested for non-interference with aircraft systems and the results documented to show compliance with 14 CFR 91.21 or other applicable CAA regulations. If there are no CAA regulations, actual use/inflight testing of the same or similar model PED prior to use with DOD patients is the minimum requirement.

§ 861.5 DOD Commercial Airlift Review Board procedures.

(a) This section establishes procedures to be used by the DOD when, in accordance with references in § 861.1(a) and (b):

(1) An air carrier is subject to review or other action by the DOD Commercial Airlift Review Board, or CARB;

(2) A warning, suspension, temporary nonuse, or reinstatement action is considered or taken against a carrier by the CARB; or

(3) An issue involving an air carrier is referred by the CARB to higher authority for appropriate action.

(b) These procedures apply to air carriers seeking to provide or already providing air transportation services to DOD. It also applies to U.S. or foreign air carriers providing operational support services to DOD which, on a case-by-case basis and at the discretion of the CARB or higher authority, require some level of oversight by DOD.

(c) An air carrier's sole remedy in the case of a suspension decision by the CARB is the appellate process under this part.

(d) Quality and safety issues relating to air carriers used, or proposing to be used, by DOD, per reference (b) must be referred to the CARB for appropriate disposition.

(e) *CARB responsibilities.* As detailed in the reference in § 861.1(b), the CARB provides a multifunctional review of the efforts of the DOD Air Carrier Survey and Analysis Office and is the first level decision authority in DOD on quality and safety issues relating to air carriers. Responsibilities include, but are not limited to: the review and approval or disapproval of air carriers seeking initial approval to provide air transportation service to DOD; the review and approval or disapproval of air carriers in the program that do not meet DOD quality and safety requirements; the review and approval or disapproval of air carriers in the program seeking to provide a class of service different from that which they are currently approved; taking action to suspend, reinstate, or place into temporary nonuse or extended temporary nonuse, DOD approved carriers; taking action, on an as needed basis, to review, suspend, reinstate, or place into temporary nonuse or extended temporary nonuse, an air carrier providing operational support services to DOD; and, referring with recommendations, issues requiring resolution or other action by higher authority.

(f) *CARB administrative procedures.* (1) *Membership.* The CARB will consist of four voting members appointed by USCINCTRANS from USTRANSCOM and its component commands. These members and their alternates will be general officers or their civilian equivalent, with experience in the operations, maintenance, transportation, or air safety fields. A Chairman and alternate will be designated. Nonvoting CARB members will be appointed as necessary by USCINCTRANS. A non-voting recorder will also be appointed.

(2) *Decisions.* Decisions of the CARB will be taken by a majority vote of the voting members present, with a minimum of three voting members (or their alternates) required to constitute a quorum. In the event of a tie, the Chair of the CARB will decide the issue.

(3) *Meetings of the CARB.* The CARB may meet either in person or by some electronic means. It will be convened by either USCINCTRANS or the Chair of the CARB. The meeting date, time, and site of the CARB will be determined at the time of the decision to convene the CARB. Minutes of CARB meetings will be taken by the recorder, summarized, and preserved with all other records relating to the CARB meeting. The recorder will ensure the air carrier and appropriate DOD and federal agencies are notified of the CARB's decision(s) and reasons therefore. In the event of a fatal accident, the CARB shall convene as soon as possible but not later than 72 hours after notification by the Chair.

(g) *CARB operating procedures.* (1) *Placing an air carrier into temporary nonuse.* (i) In case of a fatal aircraft accident or for other good cause, two or more voting members of the CARB may jointly make an immediate determination whether to place the air carrier involved into a temporary nonuse status pending suspension proceedings. Prior notice to the air carrier is not required.

(ii) The carrier shall be promptly notified of the temporary nonuse determination and the basis therefore.

(iii) Temporary nonuse status terminates automatically if suspension proceedings are not commenced, as set out in paragraph (g)(2) of this section, within 30 days of inception unless the CARB and air carrier mutually agree to extend the temporary nonuse status.

(2) *Suspension of an air carrier.* (i) On a recommendation of the DOD Air Carrier Survey and Analysis Office or any individual voting member of the CARB, the CARB shall consider whether or not to suspend a DOD approved air carrier.

(ii) If the CARB determines that suspension may be appropriate, it shall notify the air carrier that suspension action is under consideration and of the basis for such consideration. The air carrier will be offered a hearing within 15 days of the date of the notice, or other such period as granted by the CARB, at which the air carrier may be present and may offer evidence. The hearings shall be as informal as practicable, consistent with administrative due process. Formal rules of evidence do not apply.

(iii) The types of evidence which may be considered includes, but is not limited to:

(A) Information and analysis provided by the DOD Air Carrier Survey and Analysis Office.

(B) Information submitted by the air carrier.

(C) Information relating to action that may have been taken by the air carrier to:

(*1*) Correct the specific deficiencies that led the CARB to consider suspension; and

(*2*) Preclude recurring similar deficiencies.

(D) Other matters the CARB deems relevant.

(iv) The CARB's decisions on the reception or exclusion of evidence shall be final.

(v) Air carriers shall have the burden of proving their suitability to safely perform DOD air transportation and/or operational support services by clear and convincing evidence.

(vi) After the conclusion of such hearing, or if no hearing is requested and attended by the air carrier within the time specified by the CARB, the CARB shall consider the matter and make a final decision whether or not to suspend the air carrier or to impose such lesser sanctions as appropriate. The air carrier will be notified of the CARB's decision.

(3) *Reinstatement.* (i) The CARB may consider reinstating a suspended carrier on either CARB motion or carrier motion, unless such carrier has become ineligible in the interim.

(ii) The carrier has the burden of proving by clear and convincing evidence that reinstatement is warranted. The air carrier must satisfy the CARB that the deficiencies, which

led to suspension, have been corrected and that action has been implemented to preclude the recurrence of similar deficiencies.

(iii) Air carrier evidence in support of reinstatement will be provided in a timely manner to the CARB for its review. The CARB may independently corroborate the carrier-provided evidence and may, at its option, convene a hearing and request the participation of the air carrier.

(4) *Appeal of CARB decisions.* (i) An air carrier placed in suspension by the CARB may administratively appeal this action to USCINCTRANS. An appeal, if any, must be filed in writing, with the DOD Air Carrier Survey and Analysis Office, and postmarked within 15 workdays of receipt of notice of the CARB's suspension decision. In the sole discretion of USCINCTRANS, and for good cause shown, the suspension may be stayed pending action on the appeal.

(ii) Air carriers shall not be entitled to a de novo hearing or personal presentation before the appellate authority.

(iii) The decision of the appellate authority is final and is not subject to further administrative review or appeal.

(5) *Referral of issues to higher authorities.* The approval or disapproval of an air carrier for use by DOD, the placing of approved carriers into temporary nonuse status, and the suspension and reinstatement of approved carriers, are all decisions which must be made by the CARB. Other matters may be referred by the CARB to USCINCTRANS for appropriate action, with or without recommendations by the CARB. The CARB will forward for decision, through USCINCTRANS to the Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)), all air carrier use/nonuse recommendations involving foreign air carriers other than those providing charter transportation or operational support service to the Department of Defense.

§ 861.6 DOD review of foreign air carriers.

Foreign air carriers providing or seeking to provide services to DOD shall be subject to review and, if appropriate, approval by DOD. Application of the criteria and requirements of this part and the degree of oversight to be exercised by DOD, if any, over a foreign air carrier depends upon the type of services performed and, in some instances, by the quality of oversight exercised by the foreign air carrier's CAA. The scope and frequency of the review of any given foreign air carrier under this part will be at the discretion of the CARB or higher authority.

(a) *Foreign air carriers seeking to provide or providing air transportation services under a contract or Military Air Transportation Agreement with DOD, or pursuant to another arrangement entered into by, or on behalf of, DOD.* Foreign air carriers seeking to provide or providing air transportation services under a contract or Military Air Transportation Agreement with DOD, must meet all requirements of § 861.4, and be approved by the CARB in accordance with § 861.5. This includes foreign air carriers seeking to provide, or providing, airlift services to DOD personnel pursuant to an arrangement entered into by another federal agency, state agency, foreign government, international organization, or other entity or person on behalf of, or for the benefit of, DOD, regardless of whether DOD pays for the airlift services provided. For purposes of establishing the degree of oversight and review to be conducted under the DOD Commercial Air Transportation Quality and Safety Review Program, such foreign air carriers are considered the same as U.S. carriers. In addition, they must have an operating certificate issued by the appropriate CAA using regulations which are the substantial equivalent of those found in the U.S. FARs, and must maintain such certification throughout the term of the contract or agreement. The CAA responsible for exercising oversight of the foreign air carrier must meet ICAO standards as determined by ICAO, or the FAA under the FAA's International Aviation Safety Assessment Program.

(b) *Foreign air carriers providing passenger services under the GSA City Pair Program.* Foreign air carriers performing any portion of a route awarded to a U.S. air carrier under the GSA City Pair Program pursuant to a code-sharing agreement with that U.S. air carrier, are generally not subject to DOD survey and approval under §§ 861.4 and 861.5. However, DOD will periodically review the performance of such foreign carriers. This review may consist of recurring performance evaluations, periodic examination of the U.S. code-sharing carrier's operational reviews and assessments of the foreign carrier and, where appropriate and agreed to by the air carriers concerned and DOD, on-site surveys of the foreign air carrier. Such carriers must also meet the 12 months prior experience requirement of § 861.4(e)(1). The CARB or higher authority may prescribe additional review requirements. Should circumstances warrant, use of these air carriers by DOD passengers on official business may be restricted or prohibited as necessary to assure the highest levels of passenger safety.

(c) *Other foreign air carriers carrying individually ticketed DOD passengers on official business.* Foreign air carriers carrying individually ticketed DOD passengers on official business are not subject to DOD survey and approval under §§ 861.4 and 861.5. However, the DOD Air Carrier Survey and Analysis Division may periodically review the performance of such carriers. Reviews may include voluntary on-site surveys as directed by the CARB or higher authority. In the event questions relating to the safety and continued use of the carrier arise, the matter may be referred to the CARB for appropriate action.

(d) *Foreign air carriers from countries in which the CAA is not in compliance with ICAO standards.* Unless otherwise authorized, use by DOD personnel on official business of foreign air carriers from countries in which the CAA is not in compliance with ICAO standards is prohibited except for the last leg into and the first leg out of the U.S. on such carriers. This includes foreign air carriers performing any portion of a route awarded to a U.S. air carrier under the GSA City Pair Program pursuant to a code-sharing agreement with that U.S. air carrier.

(e) *On-site surveys.* The scope of the on-site survey of a foreign air carrier will be at the discretion of the CARB. In the event a foreign air carrier denies a request made under this part to conduct an on-site survey, the CARB will consider all available information and make a use/nonuse recommendation to DOD. If placed in nonuse status by DOD, such air carriers will not be used unless, in accordance with the reference in § 861.1(b), in the judgment of the appropriate Combatant Commander, no acceptable alternative to using the carrier exists and the travel is mission essential.

(f) *Foreign carriers providing operational support services to DOD.* Such carriers are subject to DOD oversight, on a case-by-case basis, to the extent directed by the CARB or higher authority.

§ 861.7 Disclosure of voluntarily provided safety-related information.

(a) *General.* In accordance with paragraph (h) of the reference in § 861.1(a), DOD may withhold from public disclosure safety-related information voluntarily provided to DOD by an air carrier for the purposes of this part if DOD determines that—

(1) The disclosure of the information would, in the future, inhibit an air carrier from voluntarily providing such information to DOD or another Federal

agency for the purposes of this part or for other air safety purposes; and

(2) The receipt of such information generally enhances the fulfillment of responsibilities under this part or other air safety responsibilities involving DOD or another Federal agency.

(b) *Processing requests for disclosure of voluntarily provided safety-related information.* Requests for public disclosure will be administratively processed in accordance with 32 CFR Part 806, Air Force Freedom of Information Act Program.

(c) *Disclosure of voluntarily provided safety-related information to other agencies.* The Department of Defense may, at its discretion, disclose voluntarily provided safety-related information submitted under this part by an air carrier, to other agencies with safety responsibilities. The DOD will provide such information to another agency only upon receipt of adequate assurances that it will protect the information from public disclosure, and that it will not release such information unless specifically authorized.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC91

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service has proposed this rule to designate areas where personal watercraft (PWC) may be used in Lake Mead National Recreation Area, Nevada and Arizona. This rule implements the provisions of the National Park Service (NPS) general regulation authorizing parks to allow the use of PWC by promulgating a special regulation. The *NPS Management Policies 2001* require individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, overall management objectives, and consistent with the criteria of the NPS for managing visitor use.

DATES: Comments must be received by November 4, 2002.

ADDRESSES: Comments should be sent to Jim Holland, Management Assistant, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005. E-mail: *LAME_PWCRULE@nps.gov.* FAX: (702) 293–8967.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW, Room 7248, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Kym_Hall@nps.gov.*

SUPPLEMENTARY INFORMATION:

Additional Alternatives

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Draft Lake Management Plan/ Environmental Impact Statement published April 24, 2002. The public should be aware that three other alternatives were presented in the DLMP/EIS, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Purposes of the Park Area

Lake Mead, and later Lake Mohave, and the area surrounding the artificial lakes were managed by the NPS under a cooperative agreement from 1936 to 1964 when Congress formally established Lake Mead National Recreation Area (Lake Mead NRA) (Pub. L. 88–639). The Secretary of Interior was charged to manage this area ''for the general purposes of public recreation, use and benefit . . . and, in a manner that will preserve the scenic, historic, scientific, and other important features of the area . . .'' Boating is a specific example of recreational activities authorized in the enabling legislation. It states that the Secretary may provide for the following activities, *i.e.*, boating, subject to such limitations, conditions, or regulations as he may prescribe. Since 1936, the NPS has managed Lakes Mead and Mohave for a wide spectrum of recreational boating activities with few prohibitions on boat type other than boat length. The General Management Plan that evolved from this mandate reflects a strategy to accommodate visitor use while protecting the area's most outstanding natural and cultural resources.

The NPS has recently completed a ''Draft Lake Management Plan/ Environmental Impact Statement'' that addresses recreational use of the lakes. The planning process began in 1993 with an extensive recreational inventory and visitor use survey that is reported in 1997. During the inventory and planning process, there have been numerous public meetings and presentations concerning the plan. Public scoping identified personal watercraft operating too close as an important issue to be addressed in the preparation of the plan. One of the planning objectives is to provide for a wide variety of recreational settings and to provide for a variety of recreational activities.

Description of the Park Area

Lake Mead NRA was established as a unit of the National Park System on October 8, 1964. Lake Mead NRA contains two artificially-created reservoirs: Lake Mead, created after the completion of Hoover Dam in 1936; and Lake Mohave, created after the completion of Davis Dam in 1953. Lake Mead NRA is the premier, inland water recreation area in the west with 1.5 million acres, of which approximately 13 percent is the lake environment. The major rivers supplying water to the reservoirs are the Colorado, Virgin, and Muddy Rivers. At full pool, Lake Mead has a surface area of 157,900 acres with over 700 miles of shoreline, and Lake Mohave has a surface area of 28,260 acres and 150 miles of shoreline.

Two Federal agencies are cooperatively involved with managing the water resources of the recreation area. The NPS administers the entire recreation area for recreation and resource protection purposes while the Bureau of Reclamation (BOR) is responsible for managing concurrently lake water levels and a 300-foot zone around the shoreline of both lakes. On Lake Mohave, there is an annual 15-foot water fluctuation zone between lake elevations of 630 and 645 feet msl. On Lake Mead, the water fluctuation can be much more significant. In the past ten years water levels have fluctuated between 1175 and 1216 feet msl, and are predicted to drop to 1160 feet msl within the next year.

Lake Mead NRA provides a wide variety of unique outdoor recreation opportunities ranging from warm-water recreation to exploration of rugged and isolated backcountry areas. The recreation area is estimated to generate over 500 million dollars directly for the local economy (''Business Plan, Lake Mead NRA, 2000''). Lake Mead NRA serves as a major focus in the western United States for public outdoor water recreation, which is at a premium in this desert environment. The area is within a day's drive of 20 million people in the Los Angeles Basin and 2.7 million people in the Phoenix Metropolitan Area. Lake Mead is also

within a 20-minute drive of the 1.4 million people in the Las Vegas Valley, which is one of the fastest-growing communities and tourism destinations in the country. Rangers have noted that visitation from Utah and the Salt Lake City area is increasing in the northern parts of the recreation area.

The resources of Lake Mead NRA represent superlative examples of the plants, animals, and physical geography of the Mojave Desert, and the Colorado Plateau and Basin and Range geologic provinces. The park includes many regionally and nationally significant natural resource components including populations of federally listed threatened and endangered species of animals, birds, fish, and rare and sensitive plant species.

Specific to the lake environments, the inflow areas of Lake Mead, including the Virgin and Muddy River inflows on the north end of the Overton Arm, and the Colorado River inflow at Pearce Ferry are of particular importance for park resources. These areas resemble stream riparian and stream communities, with vegetation such as willows, cottonwood, sedges, and rushes. These areas provide excellent habitat to a variety of bird species, including the endangered Southwester willow flycatcher *(Empidonax traillii extimus),* several species of shorebirds, herons, and egrets. Potential habitat for the endangered Yuma clapper rail *(Rallus longirostris yumanensis)* exists in the recreation area at the inflow areas of the Muddy and Virgin River, at Las Vegas Wash upstream from the recreation area, and in the southern portion of the park near Davis Dam. No confirmed sightings have occurred within the recreation area.

In addition to these inflow areas, portions of the shoreline can provide habitat to other rare or sensitive species. The threatened bald eagle *(Haliaeetus leucocephalus)* is a winter visitor to the recreation area, and can be found in large trees and cliffs along the shoreline of both lakes. The Southwestern willow flycatcher has also been recorded along certain shoreline areas of Lake Mohave. Though no nesting has been confirmed, surveys have shown that flycatchers are in the area during nesting periods and could potentially be utilizing shoreline and riparian areas where there is suitable habitat, for nesting. However, the majority of the shoreline in the recreation area is primarily comprised of non-native salt cedar (*Tamarix* spp.), with relatively few areas supporting native vegetation. Fluctuating water levels along the shoreline, particularly on Lake Mead, make restoration of vegetation communities difficult in most situations. In selected areas, salt cedar has been removed and native trees, such as willow and cottonwood, have been transplanted in an attempt to re-establish the native riparian habitat. Where transplants have been successful, and in other areas along Lake Mohave where larger stands of native vegetation exists, there is important habitat for bird species and other wildlife. The Arizona river otter has been reported in these areas, along with beavers, raccoons, and other wildlife species.

Two endemic fish species remain in the lakes, despite the alteration of the riverine environment as a result of the construction of the dams. The razorback sucker *(Xyrauchen texanus)* occurs in both lakes, with the largest remaining population in the Colorado River system inhabiting Lake Mohave. The bonytail chub *(Gila elegans)* exists in Lake Mohave. Both of these fish are listed as Federally Endangered Species. Lakes Mead and Mohave have been designated as critical habitat for the razorback sucker, and Lake Mohave has been designated as critical habitat for the bonytail chub. The humpback chub *(Gila cypha)* and the Colorado squawfish *(Ptychocheilus lucius)* are Federally Endangered Species that potentially could occur within the recreation area, although these species are now not found within the recreation area.

The Virgin River and its 100-year floodplain is proposed critical habitat for the Virgin River chub *(Gila seminuda)* and the woundfin *(Plagopterus argentissimus),* both listed as Endangered Species. The Virgin River chub is presently found in the Virgin and Moapa (Muddy) rivers and the woundfin is found in the Virgin River, and could potentially be found within the recreation area.

The recreation area provides important habitat for the threatened desert tortoise *(Gopherus agassizii).* This habitat is generally in the desert scrub away from the shoreline areas. The relict leopard frog *(Rana onca)* is a species of concern in the recreation area. This species was once thought of as extinct, but has been recently found in certain springs within the recreation area. Some of these springs are located within walking distance of the lakes. However, since most of the critical areas for the frogs are located in areas with thick vegetation, visitors generally avoid these areas and impacts to frogs from recreational use have not occurred.

There are no listed threatened or endangered plant species in the recreation area, though there are a number of sensitive species that could be found along the shoreline and below high water levels. The Las Vegas bearpoppy *(Arctomecon californica),* the sticky ringstem *(Anulocaulis leiosolenus),* the threecorner milkvetch *(Astragalus geyeri* var. *triquetrus),* and the sticky buckwheat *(Eriogonum viscidulum)* are sensitive plant species that have been found around Lake Mead, below the high water level.

The area also represents a continuum of cultural resources from prehistoric to historic sites including several culturally sensitive areas with sacred and traditional significance to contemporary Native Americans. Only a small portion of the recreation area has been archeologically surveyed. These surveys have revealed that significant prehistoric and historic resources are known to occur along the shorelines, and under the waters, of Lake Mead and Mohave. More than 1,500 known archaeological sites exist in the recreation area. Four archaeological complexes, the Grand Wash archaeological district, the Overton Beach archaeological district, the Lost City archaeological sites, and the Grapevine Canyon petroglyphs are listed on the National Register of Historic Places.

Historic resources related to settlement, ranching, mining, exploration, and the construction of Hoover Dam exist in the recreation area. These include more than 55 structures on the List of Classified Structures related to seven sites on the National Register of Historic Places. The recreation area also contains a variety of traditional cultural areas and sacred sites.

Motorized Watercraft

Lake Mead began backing up behind Hoover Dam in 1936. By 1937, the estimated visitor use of Lake Mead was 552,128. In the 1950s, Davis Dam was completed and Lake Mohave began to fill. Area visitation reached one million for the first time in 1946, two million in 1953, and three million in 1963. Water-based recreation during these early periods was primarily divided between shoreline use and boating. Boating activities included exploration of the newly formed reservoirs, and fishing. The early boats were primarily constructed of wood and small in size. They were vulnerable to winds in the open basins of lakes and boat swamping was the predominate boating accident recorded. By the 1970s, visitation had jumped to 6 million and there was a corresponding increase in boating activity. Lake Mead was being discovered as one of the premier, inland water recreation areas. During this period, boat construction was greatly

improved with the majority of boats hulls manufactured with fiberglass. This greatly improved safety and reduced the boat swamping incidents. With the improved safety of boats on the water, the diversity of recreational activities increased. Exploration and fishing continued to be popular, but water skiing and speed boating were increasing as recreational activities on both lakes.

Personal watercraft, primarily stand-up models, were first observed on Lakes Mead and Mohave in the mid-1970s. In the 1980s, the first sit-down one- or two-person models were available. From the mid-1980s through the mid-1990s, sales grew rapidly, then leveled off starting in the mid-1990s. According to visitor use surveys in 1993, use of personal watercraft at Lake Mead NRA during this time comprised 15 percent of the boats on the water at any one time. A rapid increase in personal watercraft was observed at Lake Mead NRA starting in 1994, when use doubled to 30 percent of the boats on the water at any one time. Today there are 11,000 personal watercraft registered in Clark County, Nevada and thousands more in the region surrounding Lake Mead NRA.

Many of the 9 to 10 million yearly visitors to the recreation area participate in water-based recreational activities, mostly between May and September, which are supported at the marina and launch ramp areas. There are six marinas and nine paved launch ramps on Lake Mead, and three marinas and four paved launch ramps on Lake Mohave. These marinas include Lake Mead, Las Vegas Bay, Callville Bay, Echo Bay, Overton Beach, and Temple Bar on Lake Mead, and Willow Beach, Cottonwood Cove, and Katherine Landing on Lake Mohave. The boat ramps are located at Hemenway, Government Wash, and South Cove on Lake Mead, and Princess Cove on Lake Mohave. A variety of services are provided at the marina areas, including boat rentals, personal watercraft rentals, marina slips, dry boat storage, restaurants, campgrounds, and lodging facilities.

Water-based recreation consists of motorboating, houseboating, sailboarding, sailing, canoeing, kayaking, rafting, water-skiing, wakeboarding, fishing, swimming, SCUBA, use of personal watercraft, picnicking, boat touring, nature study, and camping along the lakeshore. Recreationists also participate in land-based activities, such as driving tours, hiking, and camping in NPS or concessioner-operated campgrounds.

An analysis of recreational use of Lake Mead NRA was conducted between Memorial Day 1993 and Labor Day 1994 (Graefe 1997). A component of this study involved aerial and visitor use surveys to determine what recreational activities were occurring at specific locations within the recreation area, and the use levels at these locations. This study showed that the Boulder Basin of Lake Mead, and the Katherine area of Lake Mohave, are consistently the two busiest developed areas in the recreation area.

In addition to the developed areas, there are a number of coves that provide highly desirable recreational settings. Coves such as North and South Telephone, and Nevada Telephone Cove on Lake Mohave, and Government Wash, Boulder Beach, Sandy Cove and Sandy Point, Hamblin Bay and Rufus Bay on Lake Mead had the highest reported usage during the summer months according to the aerial surveys. According to the study, runabouts (defined as less than 24 feet in length) were the most common type of boat recorded, accounting for one-half of all boats on the lakes. Personal watercraft were the next most common type of vessel, accounting for 30 percent of the boats reported by respondents and in the aerial surveys. More personal watercraft were recorded on Lake Mohave (35 percent of all boats) than on Lake Mead (25 percent of all boats). Boating inventories showed that at peak use in the summer, there are over 5,000 boats on Lakes Mead and Mohave. It is estimated at peak use that there can be in excess of 1,000 personal watercraft operating on Lake Mead at any one time and over 700 on Lake Mohave. During the non-summer months, personal watercraft use declines as air and water temperatures decrease. Between November and March, there are few personal watercraft users on the lakes.

Today, personal watercraft are used throughout Lakes Mead and Mohave in numbers roughly equal to or slightly above 1993/1994 numbers, according to annual boat counts performed by the park over Labor Day weekend. The highest densities are observed in the urban interface areas of the lakes—the Boulder Basin of Lake Mead and in the lower portion of Lake Mohave. Today's models are capable of operating at speeds in excess of 60 miles per hour with engines producing 225 horsepower. Personal watercraft are quick and maneuverable. They can be operated at high speeds and are usually operated within ½ mile of the shoreline. They are used for the exploration of the lakes, to travel to popular beaches and coves, and for the speed and thrill of the ride. They can carry up to three passengers, or can pull a skier and carry an observer.

Personal watercraft users often congregate in shoreline accessible areas. A typical party will include two personal watercraft and 6 to 8 individuals. A base camp is established along the shoreline and use is rotated among the group. On Lake Mead, use is concentrated at Horsepower Cove, Saddle Cove, and Government Wash. Each of these sites is accessible by vehicle and within 30 minutes of the Las Vegas Valley. Similarly, on Lake Mohave, use is concentrated at Arizona and Nevada Telephone Coves and Cabinsite Point. Due to the narrow configuration of the lower portion of Lake Mohave, personal watercraft are required to mix with other boats and boating activities.

Personal watercraft are often used as tag-alongs with other boats. It is not uncommon to see personal watercraft being towed behind a houseboat as part of a houseboat vacation. Seldom are personal watercraft seen entering the more remote portions of the lake without the support of another vessel. Towable trailers are available for personal watercraft users that allow personal watercraft to bring camping gear and fuel to support their visit. These trailers are rarely observed on either Lakes Mead or Mohave.

The majority of personal watercraft are powered by conventional carburated two-cycle engines and have a typical operating life of 5–7 years (Correspondence from the Personal Watercraft Industry Association dated May 28, 2002). The newer personal watercraft with fuel injected two-cycle and four-cycle engines are available locally and comprise a significant percentage (60–75%) of new personal watercraft sales (Telephone Conversation of June 3, 2002, with Dan Boyle, Owner of Marine Products Pro Shop, a prominent personal watercraft dealer in Southern Nevada). The newer engines are advertised by manufacturers as being 30 percent more efficient than the earlier models. This means the vessels can travel 30 percent farther and produce 30 percent less emissions than the earlier models.

Incidents

Every year at Lake Mead NRA there are a number of boat accidents, and some involve personal watercraft. In 2000, there were 183 reported boat accidents at Lake Mead NRA, 181 in 1999, and 164 in 1998. Based upon data compiled in 1999 by the Nevada State Boating Law Administrator, who compiles and reports accident figures for all boating enforcement agencies,

personal watercraft were involved in 33 percent of reported Lake Mead NRA boat accidents. Thus, there were approximately 60 personal watercraft-involved boat accidents in 1999. In 1999, there was one motorboat accident fatality at Lake Mead NRA, and no personal watercraft-related fatalities. There were a total of 39 injury boat accidents at Lake Mead NRA in 1999; however, the number of personal watercraft boat accidents resulting in non-fatal injuries at Lake Mead NRA is not available.

Boater inexperience and lack of boater education are common factors in all recreational boat accidents, including accidents by personal watercraft operators. The speed, maneuverability, and the type of use can create dangerous conditions related to personal watercraft use. Often groups of people share several personal watercraft. Many lack the experience and education necessary to safely operate these vessels. Personal watercraft accidents commonly result from operation in close proximity to other personal watercraft, which is reflected in the number of fatalities and injuries related to blunt trauma. Operators of personal watercraft often show social behaviors distinct from operators of motorboats. Personal watercraft operators frequently maneuver close to other family members or friends who are swimming or wading, or on separate personal watercraft. Close-proximity operation among personal watercraft operators often involves chasing, following, ''spraying'', and dodging type activities.

This behavior is reported frequently at Lake Mead NRA by patrol rangers on the lakes, and it can lead to accidents and fatalities. In 1998, at Hemenway Harbor, Lake Mead, a male victim was struck by his son. Both were riding separately on borrowed personal watercraft, traveling in the same direction, the father in front. When the first personal watercraft ran out of fuel, it stalled, and the son struck the father. Neither had experience or formal training. The father died from massive internal injuries to the chest and abdomen. Similar accidents occurred in 2001, where two men were killed, and one man was severely injured, in separate accidents when their personal watercraft were struck by another personal watercraft operated by their respective female companions. In the one accident the operators were attempting to splash each other with their personal watercraft. Lack of experience, knowledge, and training is also a factor in some accidents. In 1998, at Lake Mohave, a male operating a jet ski at night apparently hit some rocks near the shoreline while traveling at a high rate of speed and suffered severe head trauma.

There are statistics for incident reports and water-related offenses for all types of watercraft in the recreation area, but separate data for violation notices issue to personal watercraft operators are not maintained. However, the NPS anticipates modifying existing statistical software to accommodate separate statistics on incidents and notices involving PWC. The National Transportation Safety Board (NTSB) reports that the number of recreational boat accident fatalities have been declining nationwide in recent years; however, the number of personal watercraft-related fatalities have been increasing. A 1998 National Transportation Safety Board report states that personal watercraft boat accidents are the only type of recreational boat accident for which the leading cause of death is not drowning. The report indicates that more persons involved in personal watercraft fatalities die from blunt trauma than from drowning. A 1996 study by the National Association of State Boating Law Administrators indicates that personal watercraft were involved in approximately 36 percent of all boat accidents nationwide. Similarly, information from the National Marine Manufacturers Association (NMMA) and the U.S. Coast Guard for 1996 and 1997 suggest that personal watercraft were involved in 36 percent of all boat accidents nationwide.

State and Local Boating Regulations

State and local boating regulations are addressed here because both federal and state agencies regulate boating on Lakes Mead and Mohave. The NPS enforces both federal regulations for inland waterways, and adopted non-conflicting state regulations of the States of Nevada and Arizona. There are significant differences between the agencies' boating regulations. Examples of these differences are: minimum age of operators, requirements for personal floatation devices, speed in proximity to other vessels and near shore areas, definition of personal watercraft, reckless operation, operation around dive flags, and boating education requirements.

According to the analysis of recreational use, 50 percent of the boaters on Lakes Mead and Mohave originate from California. In addition to the federal boating laws, California boaters must also operate under Nevada and Arizona boating laws. The age to operate a personal watercraft differs in each state; 12 in Arizona, 14 in Nevada (effective January 2003), and 16 in California. Nevada will require proof of boating education in 2003; neither Arizona or California have such a requirement. In addition to knowing the various state and federal laws, boaters must know where they are at any given time on the lakes to know which set of boating laws apply. There is a need for the various agencies to unify the boating laws to reduce the burden on boaters.

Resource Protection and Public Use Issues

The following summarizes the predominant resource protection and public use issues associated with PWC use at Lake Mead National Recreation Area. Each of these issues is discussed in greater detail in the ''Draft Lake Management Plan/Environmental Impact Statement'' released for public review on April 24, 2002.

Wildlife and Wildlife Habitat: Park staff have noted through field observations that bird species can be disturbed from the operation of personal watercraft and boats. This is evident particularly in shallow areas and inflow regions where nesting sites could possibly be disturbed. Access to shoreline wildlife habitat by motorized vessels, including personal watercraft, could disturb wildlife through the interruption of normal activities, alarm or flight, avoidance and displacement of habitat, and nest abandonment. The combination of personal watercraft speed, noise, and ability to access shallow shoreline areas can disrupt riparian habitat areas critical to wildlife. At Lake Mead NRA of particular importance is bird habitat at the inflow areas of the Colorado, Muddy, and Virgin rivers, and along portions of Lake Mohave. The Muddy River inflow has restricted use during three months of the year under the management of the Nevada Division of Wildlife at the Overton Wildlife Management Area.

Aquatic habitat and species would be protected in the inflow area of the Virgin River, by the prohibition of all motorized vessels, including personal watercraft. Prohibiting the use of all motorized vessels in these areas would prevent the disturbance of important aquatic and nesting habitat from this use. This would be a beneficial impact to nesting and migratory bird species.

The added level of protection to the sensitive inflow area of the Virgin River from the prohibition of motorized vessels, including personal watercraft, would assure that wildlife species that rely on this for habitat, such as bird species, would be protected, allowing for the perpetuation of species diversity within these areas of the recreation area. This would benefit bird species that use

these areas on a broad scale as these areas are considered extremely important for migratory birds. Implementing a 100-foot flat-wake zone would slow vessels down to flat-wake speed within 100 feet of all the shoreline areas of Lakes Mead and Mohave. This would provide some protection to shoreline wildlife by reducing the impacts associated with speed, wake, and disturbance.

Threatened and Endangered Species: The use of motorized vessels, including personal watercraft, could disturb threatened and endangered species that occupy habitat close to or within Lake Mead and Lake Mohave. The species of concern that occupy shoreline or lake habitat include the Southwestern willow flycatcher *(Empidonax traillii extimus),* Yuma clapper rail *(Rallus longirostris yumanensis),* bald eagle *(Haliaeetus leucocephalus),* razorback sucker *(Xyrauchen texanus),* and the bonytail chub *(Gila elegans).* Designated critical habitat for the bonytail and razorback sucker would also be affected. Formal section 7 consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, was initiated April 24, 2002, to determine the possible effects of the ''Draft Lake Management Plan/Environmental Impact Statement,'' including components related to the proposed rule.

Motorized use close to Southwestern willow flycatcher habitat could disturb this species and cause them to abandon the area, as described in the previous section under wildlife. Zoning to restrict motorized uses in the inflow area of the Virgin River would protect the most significant willow flycatcher habitat at Lake Mead NRA by eliminating the impacts from noise, wake, and the discharge of gasoline and gasoline-related compounds from motorized vessels. The 100-foot flat-wake zones established along the shoreline of Lake Mohave would also provide additional protection by reducing wake and the disturbance associated with high speed operation of personal watercraft. No further zoning would occur at this time along Lake Mohave at potential willow flycatcher habitat. Although these no confirmed nests have been found at the sites along Lake Mohave, willow flycatchers have been recorded during nesting season and it is likely that nesting is occurring. Monitoring conducted by BOR and NPS biologists would continue along the shoreline of Lake Mohave for willow flycatchers. If nesting sites are found, temporal shoreline zoning to restrict motorized use during nesting season would be imposed. While overall effect of this alternative is beneficial to the species, nesting pairs or individuals could likely be adversely affected by continued recreational use near potential nesting sites along Lake Mohave. Personal watercraft use can not be singled out as a direct impact to this species since the most significant existing habitat and potential habitat occur in inflow areas that are frequented by all motorized users. Additionally, the habitat is very transitory and low lake levels have made motorized access to habitat and potential habitat nearly impossible by any recreational boat users.

No Yuma clapper rails have been recorded within Lake Mead NRA. However, potential Yuma clapper rail habitat would be protected in the Virgin inflow area where motorized use would be eliminated. Potential habitat is also located in Las Vegas Wash. Habitat restoration is ongoing within the forum of the Las Vegas Wash Coordination Committee and in ongoing projects within Lake Mead NRA that further protects and restores potential habitat in Las Vegas Wash. Due to these protective measures, the preferred alternative would not likely adversely affect the Yuma clapper rail.

The bald eagle is a non-breeding winter visitor to Lakes Mead and Mohave. The bald eagle occupies high cliffs and trees adjacent to the lakes. The annual winter bald eagle count has shown increasing numbers for the past several years, with a record 79 bald eagles counted in 2002. Since recreational use of the lakes in the winter is low when the bald eagle is present, and visitation and motorized use, particularly personal watercraft use, during this period is expected to remain low in the future, we have determined that the proposed rule would not likely adversely affect the bald eagle.

The impacts of recreational use, including personal watercraft use, on endangered razorback suckers and bonytail chub, have not been thoroughly studied within the recreation area. Biologists studying the razorback sucker for the past ten years have noted that the use of motorized vessels in and around the razorback sucker spawning aggregations along the shorelines of Lake Mohave causes a great deal of turmoil. Passing watercraft interrupts spawning, displaces staging and spawning fish, disturbs substrates, and generally bothers the fish, their behavior, and their habitat. This is especially a concern where fish are using the shallower shoreline areas where boat motors and their noise and turbulence are in close proximity to the fish. Razorback suckers spawn in January through early April, and occupy specific shoreline areas at this time. It is likely that they are more sensitive to disturbance during this period, however, this is also a period of low visitor use on the lakes.

The use of motorized vessels, including personal watercraft, during the summer would not likely adversely affect razorback suckers since they do not spawn during that time. Increased visitor use during the shoulder seasons at spawning areas could likely adversely affect razorback suckers by interrupting their spawning activities. The NPS would continue to work with area biologists under the coordinated effort of the Native Fish Work Group to determine if temporal zoning of spawning areas should be imposed between January and April. The 100-foot flat-wake zone would provide additional protection for the razorback sucker since spawning areas are close to the shoreline and this would reduce the impacts associated with disturbance.

Bonytail chub are known to spawn during May, when increasing numbers of visitors are using the lakes. It is likely that disturbances associated with the use of motorized vessels occur to this species, particularly during spawning. In addition, since the bonytail is known to spawn in the southern portion of Lake Mohave, where there is concentrated use by motorized vessels along the shoreline, there could be impacts to water quality from the use of motorized vessels. The bonytail chub would continue to be monitored by area biologists. The 100-foot flat-wake zone could reduce recreational use of spawning areas, thus reducing the impacts from motorized use. Future efforts could include temporal zoning of known spawning areas. Under Section 7, the NPS has determined that continued use by motorized vessels in spawning areas would likely adversely affect the razorback sucker and the bonytail chub. Personal watercraft use can not be singled out as a direct impact to these species. The NPS has been working with the Native Fish Work Group for the past ten years to monitor razorback sucker spawning areas. This extensive monitoring program, which includes capture and tagging of adult fish, and a larvae capture and rearing program, will continue into the future. Recreational use has been monitored by observation by the biologists who comprise the Native Fish Work Group. If recreational use increases in spawning areas, them temporal zoning would be imposed to close the spawning sites to all motorized use.

Shoreline Vegetation: Shoreline vegetation along Lake Mead consists

primarily of non-native salt cedar (tamarisk). The shoreline vegetation along Lake Mohave is also dominated by tamarisk, but there are periodic stands of native willows and cottonwood trees. The NPS has instituted a program to remove salt cedar at selected areas around the lakes. Native riparian species are planted at these areas, and native habitat could be restored if transplant efforts are successful. While recreational use along the shoreline areas could impact these species by direct cutting and trampling, personal watercraft use can not be singled out as a direct impact to these species.

Access to shoreline areas by recreationists could lead to the disturbance of sensitive plant species. Sensitive plants species that grow in sandy areas could be trampled by recreational use of these areas. Again, personal watercraft use can not be singled out as the sole source of this impact. This impact is minor compared with the fluctuating lake levels and overall use of the shoreline areas by all types of recreationists.

Water Quality: Two-cycle, non-fuel injected engines, which includes not only the majority of personal watercraft in use today but also other boats, can discharge up to 30 percent of their gas and oil emissions directly into the water (''Water Quality Concerns Related to Personal Watercraft, Final Report'' NPS 1999). Hydrocarbons, benzene, toluene, and xylene are also released, as well as MTBE's. These discharges have the potential to adversely affect water quality where concentrated use occurs. While gasoline compounds do enter the lake from current boating use (including conventional two-cycle engines) and from other sources (such as fuel spills and parking lot runoff), due in part to the volume of the reservoirs and the high volatility of many of these compounds, concentrations have remained well below levels that are known to result in detrimental impacts on the aquatic system of Lakes Mead and Mohave, or on human health.

The Environmental Protection Agency (EPA) has adopted regulations (40 CFR part 91) that require marine engine manufacturers, including manufacturers of personal watercraft, to improve the efficiency of engines by the year 2006. The EPA regulations prohibit the sale after 2006 of any PWCs that do not meet the EPA reduced emissions standards for marine vessel engines. The EPA expects a 50% reduction in hydrocarbon emissions from marine engines from present levels by 2020, and a 75% reduction by 2025 (EPA 1996). This rule, consistent with the conservation mandate in the NPS Organic Act, proposes to prohibit after 2012 the use of personal watercraft not meeting the EPA requirements, thus reducing the amount of gasoline and gasoline additives that are deposited into the lakes and enhancing the water quality of Lakes Mead and Mohave sooner than these benefits would be achieved relying soley on the EPA requirement. Until 2012, any carburated two-cycle engines, including personal watercraft, would continue to be allowed to operate on the lakes, with the exception of the ban on personal watercraft and other motorized uses in the sensitive inflow areas and in the Gypsum Reefs area and Grand Wash Bay. This would allow for those who purchased a new personal watercraft this year to enjoy the anticipated life of that engine and would minimize the economic impact of the restriction for individual owners. After final adoption of the ''Draft Lake Management Plan/Environmental Impact Statement'' the park will propose a similar rule for all watercraft engines. It is the goal to reduce emissions by motorized vessels before the full force of the EPA requirements are in place. In order to enforce such a regulation, the NPS would annually obtain a list of current engines produced by PWC and other boat engine manufacturers that meet the EPA requirements. Any craft not meeting the EPA engine requirements would be removed from the lake and could be ticketed and fined.

It is estimated that up to one-third of the fuel passes through the current two-cycle engines unburned. This can create a visible sheen on the water in high use areas of the lakes. Based on fuel consumption estimates, between 1½ and 3 gallons of fuel is discharged into the water during a two-hour ride on a personal watercraft. During the summer weekends in high use areas, there can be up to 1,700 personal watercraft on the lakes. This could result in 1,275 to 3,400 gallons of unburned fuel discharged per hour into Lakes Mead and Mohave combined. A typical recreation day on Lake Mead is 5.2 hours, which means that on any given summer weekend day, up to 27,000 gallons of unburned fuel could be discharged into the lakes' waters of Lakes Mead and Mohave just from the use of personal watercraft. The EPA has cited studies concluding that approximately 65% of the discharged unburned fuel mixture evaporated from the water surface at air temperatures normally encountered during the boating season.

The elimination of carburated two-cycle engines in 2012 would eventually result in less fuel being discharged into the lakes from these engines. It would reduce the visible sheen on the water in high use coves. Prohibiting the use of motorized vessels in the Virgin River inflow area and the Gypsum Reefs area would likely improve water quality in these areas. However, recent studies have shown that changing from two-cycle carbureted engines to two-cycle fuel injected engines might increase PAH emissions. The full impact of this is not known, but scientific analysis would continue and hopefully resolve this issue. The large size of Lake Mead and Mohave, and the volatile nature of BTEX compounds eliminates the potential for the building of concentrations of chemicals that could result in the impairment of the aquatic system.

At all shoreline accessible sites personal watercraft fueling is an issue. Because the shoreline site used as a base for their visit is distant to a marina, most personal watercraft users bring fuel in containers to the lake. Fueling at the shoreline is dangerous as some spillage is likely to occur into the water. Polluting or contaminating park areas waters or water courses is prohibited (36 CFR 2.14(6)). Higher levels of enforcement of the this regulation and increased education would help reduce the impacts from this activity.

Air Quality: Lake Mead NRA is designated as a class II air quality area under the Clean Air Act. The air quality of the Lake Mead region is in attainment of the national ambient air quality standards; however, some degradation of the air quality is evident throughout the lower elevations of the recreation area. The sources of air pollutants come primarily from outside the park and can concentrate, especially during periods of atmospheric inversion, in the park, causing visible smog. There are sources of air pollutants that are generated within the park, including pollutants contained in the exhaust of motorized vessels. The combustion process of motorized vessels results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO) (EPA). The EPA noted that gasoline outboards and personal watercraft account for approximately 5% of the national mobile sources of volatile organic compounds, which may cause areas with large boat populations to exceed 10% of the regional hydrocarbons inventory (EPA 2000). Some literature suggests that carburated two-cycle outboard engines and personal watercraft use create nearly as much atmospheric pollution as all cars in the United States. In a report on personal watercraft, the Izaak Walton League

(IWL) stated that operating a 100-horsepower personal watercraft for seven hours generated air emissions equivalent to a 1998 passenger car operated for 100,000 miles (IWL 99). However, the personal watercraft groups state that the IWL data originated from tests comparing old technology personal watercraft with automobiles specifically developed to meet California's most stringent emissions standards. In addition, the personal watercraft groups assert that all marine engines combined account for only 3% of the total hydrocarbon emissions in the United States (Seadoo 2000; American Watercraft Association [AWA] 2001). With the new technology, these emissions will eventually be reduced to less that 1%.

Although there is existing data showing that two-cycle engines emit pollutants into the air, there is little data that shows specifically what impacts personal watercraft emissions have on air quality. On Lakes Mead and Mohave, the current impacts from carburated two-cycle engines, including personal watercraft, occur intermittently in high-use areas, primarily between May and September. These impacts include visible smoke and the smell of exhaust and gasoline fumes. These impacts are considered moderate and have not been shown to exceed the national ambient air quality standards under the Clean Air Act or the EPA air quality index. The personal watercraft industry asserts that the highest volume selling models today are the cleaner-burning personal watercraft (PWIA 2001), therefore, there is expected to be some beneficial impacts up through 2012 as older models are replaced by the newer models. Once the proposed 2012 requirement prohibiting carburated two-cycle engines from the recreation area is in place, air quality is expected to improve in the high use coves where carburated two-cycle engines are currently heavily used. The EPA expects a 50% reduction in hydrocarbon emissions from marine engines from present levels by 2020, and a 75% reduction by 2025 (EPA 1996). The NPS proposed to prohibit after 2012 the use of personal watercraft not meeting the EPA requirements, therefore, the expected reductions in hydrocarbon emissions would be achieved in 2012, instead of the later dates as a result of the EPA requirements. After the final adoption of the ''Lake Management Plan/Environmental Impact Statement,'' the park will propose a similar rule for all watercraft engines.

Soundscapes: Most visitors to Lakes Mead and Mohave have expectations of noise from motorized vessels. According to visitor use surveys, more than 60% of all visitors to the recreation area utilized motorized vessels as part of their experience (Graefe and Holland 1997). On a typical summer weekend there are approximately 4,000 boats operating at any one time on the waters of Lakes Mead and Mohave. At peak use this number exceeds 5,000 boats, of which approximately 1,700 are personal watercraft. During these times the sound of boats can be continuous in the urban park and urban natural zones. Boat noise is noticeable in the rural natural zones during periods of high boating activity but there are extended periods when boating noise is not noticeable.

Noise from watercraft operating in excess of the noise decibel requirements could negatively impact visitors. Noise abatement is regulated by the NPS within Lake Mead NRA and other units of the National Park System (36 CFR 3.7). ''Operating a vessel in or upon inland waters so as to exceed a noise level of 82 decibels measured at a distance of 82 feet (25 meters) from the vessel is prohibited.'' These standards are difficult to enforce as they require estimation of distances in addition to monitoring sound. The NPS is proposing to amend 36 CFR 3.7 to a different SAE testing standard in order to make enforcement of our existing decibel level easier.

Boating noise is also regulated by the States of Nevada and Arizona. The respective states have developed standards relative to boat noise and these standards are enforced by state law enforcement officers on Lakes Mead and Mohave. Nevada has promulgated a new rule that includes a noise standard at any location in addition to the specific standards at specific distances. This standard is 75 dbl at any speed or distance. Unaltered pre-1998 personal watercraft technology and current personal watercraft technology will meet this standard. The NPS will also be working with the states to try to develop a consistent noise standard that would be utilized by all enforcement officers.

The nature of the noise generated from personal watercraft may be more disturbing than other watercraft operating at similar decibels due to rapid changes in acceleration and direction typical of the operation of personal watercraft. These craft typically have a higher pitched engine sound and because the exhaust is emitted beneath the vessels, there are times when the pitch varies as the bottom of the craft is exposed. This occurs during turns or as the craft bounces on the water. The changes in pitch can be annoying to some visitors, but are within the federal and state noise standards described above. Some literature suggests that noise from personal watercraft could have a greater impact on wildlife in the inflow areas because of their speed and ability to access shallow-water areas more readily than other types of watercraft. This could force waterfowl and other shorebirds from their nests and habitat, causing nest abandonment, stress, and associated behavior changes.

The prohibition of all motorized vessels in the Virgin River inflow area and the Gypsum Reefs area would provide an area of the lake where human-generated noise is minimal. This could improve visitor experience for those seeking natural quiet, and would protect wildlife in these areas from the impacts associated with noise. The 100-foot flat-wake zone could also reduce noise impacts particularly from personal watercraft use close to the shoreline as personal watercraft would be forced to slow to flat-wake in those areas, thus slightly reducing the noise generated from their use.

In addition, manufacturers of personal watercraft are aware of the concerns of the public related to the noise of their operation. Although there is currently no legal requirement, manufacturers are currently taking steps to reduce the noise by using more rubber in construction and eliminating vibrations. It is anticipated the personal watercraft manufacturers will continue to reduce the noise associated with personal watercraft. As the existing fleet is converted to the newer engine technology by the year 2012, noise will also be significantly reduced since a secondary benefit of the EPA compliant engines is reduced noise emissions.

Visitor Use, Conflicts, and Safety: The objectives of the ''Draft Lake Management Plan/Environmental Impact Statement'' as they relate to visitor use, conflicts, and safety, are to provide a range of water-oriented recreational opportunities, provide a quality recreational setting, while reducing water and shoreline conflicts and protecting the natural and cultural resources of the recreation area. Visitor use surveys at Lake Mead NRA showed that some visitors believe that personal watercraft use creates conflicts among recreational user groups, mainly due to their noise, speed, and type of use (Graefe and Holland 1997). Other visitors believe that personal watercraft are no different from other motorized vessels. Nevertheless, conflict can occur between personal watercraft users and other recreationists, and this can lead to visitor dissatisfaction.

Personal watercraft would continue to be authorized in the majority of Lakes

Mead and Mohave, except in the Virgin River inflow area and the Gypsum Beds areas (where all motorized use would be eliminated), Black Canyon above Willow Beach, Grand Wash, and where prohibited elsewhere with buoys or signs. These restrictions would provide for a range of recreational opportunities, and would eliminate conflict in these areas between personal watercraft users and other recreationists. This will be particularly evident in the Black Canyon area, where the highest level of non-motorized use occurs in the recreation area.

The use of motorized vessels, including personal watercraft, can lead to unsafe conditions in certain circumstances, including reckless operation, operation at high speeds, operation in storms or inclement weather conditions, unsafe operation in high density boating areas, and operation by uneducated and/or inexperienced users. The operation of personal watercraft can be dangerous due to the nature of the watercraft. Personal watercraft have limited turning capabilities when not under propulsion. This has been one of the chief factors in personal watercraft-related accidents. Manufacturers are working to resolve this issue. In addition, personal watercraft can operate at high speeds close to the shoreline. This can create unsafe conditions and a safety hazard to other users, including swimmers, canoeists, kayakers, etc. The 100-foot shoreline flat-wake zone would improve the visitor experience by reducing the potential for accidents in shoreline areas and improve the safety of boaters, swimmers, and recreationists at the water's edge. It would eliminate the high-speed operation of personal watercraft within 100-feet of the shoreline of both lakes.

Authorizing PWC Use

Under the Preferred Alternative (Alternative C) of the ''Draft Lake Management Plan/Environmental Impact Statement'' and proposed rule, personal watercraft, along with other types of motorized vessels, would be allowed to operate at Lakes Mead and Mohave except areas closed for appropriate management reasons. Unrestricted motorized use would be allowed in the Rural Natural, Urban Natural and Urban Park zones. All motorized use, including personal watercraft use, would be prohibited in the Primitive Zones. Motorized use of the Semi-Primitive Zones would be limited to 65 horsepower or less. These actions would prohibit use of personal watercraft in approximately 2 percent of the lake waters.

Specific areas affected by this zoning would be Grand Wash Bay, Gypsum Bay and Reefs, and Black Canyon from below the dam to the Willow Beach area. Black Canyon would be temporally zoned for the nine month period from Labor Day to Memorial Day to allow engines with less than 65 horsepower to operate in the zone five days per week and prohibiting all engines two days each week. Personal watercraft would be prohibited from this area because their engines are greater than 65 horsepower. There would also be boating prohibitions at the confluence of the Virgin River with Lake Mead. This area is relatively small and only include the mixing zones between the rivers and the lake. Use in this area would be restricted due to the sensitive nature of the habitat in these locations. Personal watercraft would also be prohibited in areas zoned for specific uses such as designated fishing areas and SCUBA areas. These specific zones are located in the urban interface areas associated with the Boulder Basin on Lake Mead and in the Katherine Landing area of Lake Mohave. A 100-foot flat-wake zone would be established around the shoreline of both Lakes Mead and Mohave, primarily for safety purposes, but could provide some minimum protection for shoreline wildlife.

As mentioned above the Environmental Protection Agency, as directed by the Clean Air Act, has adopted regulations for all marine engines, including personal watercraft. By the year 2006, all newly manufactured personal watercraft engines must meet specific emission requirements. It is estimated by the Personal Watercraft Industry Association the life of a personal watercraft is five to seven years(PWIA 2002). The ''Draft Lake Management Plan/Environmental Impact Statement'' should be finalized in 2002. Therefore, allowing a ten-year transition period, by the year 2012, all two-cycle engines used at Lake Mead NRA would be required to meet the 2006 emission standards. This would allow for those who purchased a new personal watercraft this year to enjoy the anticipated life of that engine and would minimize the economic impact of the restriction for individual owners.

History of Public Involvement

Public meetings were initiated in January 1993 to help identify and summarize significant issues related to the management of recreation on Lakes Mead and Mohave. A notice of intent to prepare the ''Lake Management Plan'' and Environmental Impact Statement was published in the **Federal Register** (58 FR 26344) on May 3, 1993. Between January 1993 and September 2000, more than 100 public scoping meetings, public information meetings, and presentations on the development of a ''Lake Management Plan'' for Lake Mead NRA, were held throughout the area. Presentations were made to various groups, including local, county, state, and federal agencies, tribal representatives, concessioners, and various clubs. A mailing list of interested parties was compiled from attendees at the meetings and from any written comments received at the recreation area. In addition, a detailed visitor use inventory and survey of lake users was completed in 1994. In December 1996, a scoping issues newsletter was mailed to interested parties to provide an update on the issues related to the development of the plan. Public information meetings were held from May through July 1998, to provide more information on the development of the plan.

During this first comment period, Lake Mead NRA received more than 1,000 comment letters, the majority of them directly related to personal watercraft use. Comments ranged from the support of the continued use of personal watercraft throughout the recreation area, to a total ban on personal watercraft use, to restrictions in selected areas of the recreation area. Issues generated during the comment period included visitor safety concerns related to illegal and reckless operation of personal watercraft, conflicts among different user groups, educational requirements for all boaters, potential impacts to sensitive resources, and questions concerning the impacts of personal watercraft use related to other motorized vessels.

The Lake Mead NRA ''Draft Lake Management Plan and Environmental Impact Statement'' was made available for public review on April 24, 2002. The draft plan was available in hard copy, on computer disk, and on the park's website at *www.nps.gov/lame/lmpdraft/home.htm.* Public meetings were held with the release of the draft plan and proposed rule for personal watercraft use. These meetings were held at various locations to discuss the components of the ''Draft Lake Management Plan/Environmental Impact Statement,'' and solicit public response related to all aspects of the plan, including the proposed rule for personal watercraft use. Public comments on the plan were excepted through June 26, 2002. This proposed rule is based on the preferred alternative in the ''Draft Lake Management Plan/Environmental Impact Statement'' and

the comments submitted on the DLMP/EIS have not been incorporated into this proposed rule. Comments on both documents will be incorporated into the Final Lake Management Plan/Environmental Impact Statement and final rule.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This determinate is based upon the findings in a report prepared by the National Park Service entitled ''Economic Analysis of Personal Watercraft Regulations in Lake Mead National Recreation Area'' (Law Engineering and Environmental Services, Inc., March 2002). The focus of this study was to document the impact of this rule on a variety of small entities including PWC dealerships and repair shops, PWC rental business, and other local businesses that provide services to PWC users.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule raises novel legal or policy issues. This rule is among the first of its kind for managing PWC use in National Park Units and the first for managing use in a National Recreation Area. The National Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirements of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). See economic insert above.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The National Park Service has completed an economic analysis to make this determination. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have a significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.This rule is an agency specific rule and imposes no other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared a draft Environmental Impact Statement (EIS). The draft EIS was made available for public review and comment on April 24, 2002. A copy of the Draft EIS is available by contacting the Superintendent, Lake Mead National Recreation Area.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2: We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example § 7.48 Lake Mead National Recreation Area). (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW,

Washington, DC 20240. You may also email the comments to this address: *Exsec@ios.doi.gov.*

Drafting Information: The primary authors of this regulation were Jim Holland, Park Planner; Nancy Hendricks, Resource Management Specialist; and Kevin Hendricks, Assistant Chief Ranger, Lake Mead National Recreation Area.

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail written comments to: Jim Holland, Management Assistant, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, Nevada 89005. You may also comment via the Internet to *lame_pwcrule@nps.gov.* Please also include ''PWC rule'' in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Jim Holland at the above address. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

2. Section 7.48 is amended by adding paragraph (g) to read as follows:

§ 7.48 Lake Mead National Recreation Area.

* * * * *

(g) *Personal watercraft* (1) Personal watercraft may operate, transit and launch in park waters or beach on park land except in the following Primitive and Semi-primitive areas as described below and illustrated on the park management zones map:

(i) Arizona T33N;R16W Portions of sections 16, 17, 21, 22, 27, 28, 29, 33 and 34, and T32½ N;R16W Portions of Sections 32 and 33 known as Grand Wash Bay;

(ii) Arizona T31N;R20W Portions of sections 2, 3, 10 and 11 known as The Gypsum Beds;

(iii) Nevada T36N;R68E Portions of Sections 25, 26, 34, 35, 36 known as the Virgin River Bowl;

(iv) Nevada T22S;R65E Portions of Sections 32; T23S;R65E Portions of Sections 5, 8, 17, 20, 21, 28, 29, 34; T23½S;R65E Portions of Sections 34; T23S;R65E Portions of Sections 1, 2, and 12. Arizona T30N;R23W Portions of Sections 3, 10, 15, 22, 27, 34; T29N;R23W Portions of Sections 2, 12, 13; T29N;R22W Portions of Sections 18, 19, 20, 29; known as Black Canyon.

(2) Personal watercraft may not be operated at a speed in excess of flat-wake within 100 feet of any shoreline.

(3) Personal watercraft that do not meet the 2006 emission standards set by EPA for the manufacturing of two-cycle engines will be prohibited from operating within Lake Mead NRA after December 31, 2012. All personal watercraft that meet the EPA 2006 emission standards through the use of direct-injection two-cycle or four-cycle engines shall not be affected by this prohibition and will be allowed to operate as described in paragraphs (g)(1) and (2) of this section.

(4) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: August 29, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–22630 Filed 9–4–02; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7272–2]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 38

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'' or ''the Act''), requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule proposes to add new sites to the NPL; all to the General Superfund Section of the NPL.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 4, 2002.

ADDRESSES: *By Postal Mail:* Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office, (Mail Code 5305T), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

By Express Mail or Courier: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office, 1301 Constitution Avenue, EPA West, Room B102, Washington, DC 20004.

By E-Mail: Comments in ASCII format only may be mailed directly to *superfund.docket@epa.gov.* E-mailed comments must be followed up by an original and three copies sent by mail or express mail.

For additional Docket addresses and further details on their contents, see

section II, ''Public Review/Public Comment,'' of the Supplementary Information portion of this preamble.

FOR FURTHER INFORMATION CONTACT:

Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA, section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites that are owned or operated by other Federal agencies (the ''Federal Facilities Section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as a appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to

pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (*see* 42 U.S.C. 9605(a)(8)(B)); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 13, 2001 (66 FR 47583).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.*, the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (*e.g.*, it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.*, where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the problem presented by the release'' will be determined by a Remedial Investigation/Feasibility Study (''RI/FS'') as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met: (i) Responsible parties or other persons have implemented all appropriate response actions required; (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate. As of August 20, 2002, the Agency has deleted 259 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of August 20, 2002, EPA has deleted 31 portions of 28 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.*, institutional controls); or (3) The site qualifies for deletion from the NPL.

As of August 20, 2002, there are a total of 818 sites on the CCL. For the most up-to-date information on the CCL, see EPA's Internet site at *http://www.epa.gov/superfund.*

II. Public Review/Public Comment

A. Can I Review the Documents Relevant to This Proposed Rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this rule are contained in dockets located both at EPA Headquarters in Washington, DC and in the Regional offices.

B. How Do I Access the Documents?

You may view the documents, by appointment only, in the Headquarters or the Regional dockets after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters docket: Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room B102, Washington, DC 20004, 202/566–0276. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364

Lauren Brantley, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8127

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SMR–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/353–5821

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/972–3092

Robert Phillips, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop ECL–110, Seattle, WA 98101; 206/553–6699

You may also request copies from EPA Headquarters or the Regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

C. What Documents Are Available for Public Review at the Headquarters Docket?

The Headquarters docket for this rule contains: HRS score sheets for the proposed sites; a Documentation Record for the sites describing the information used to compute the score; information for any sites affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

D. What Documents Are Available for Public Review at the Regional Dockets?

The Regional dockets for this rule contain all of the information in the Headquarters docket, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional dockets.

E. How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section. Please note that the addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What Happens to My Comments?

EPA considers all comments received during the comment period. Significant comments will be addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What Should I Consider When Preparing My Comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988)). EPA will not address voluminous comments that are not specifically cited by page number and referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. Can I Submit Comments After the Public Comment Period Is Over?

Generally, EPA will not respond to late comments. EPA can only guarantee that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

I. Can I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes.

J. Can I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to

the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

With today's proposed rule, EPA is proposing to add 7 new sites to the NPL; all to the General Superfund of the NPL. All of the sites in this proposing rulemaking are being proposed based on HRS scores of 28.50 or above. The sites are presented in Table 1 which follows this preamble.

B. Status of NPL

A final rule published elsewhere in today's **Federal Register** finalizes 19 sites to the NPL; resulting in an NPL of 1,239 final sites; 1,080 in the General Superfund Section and 159 in the Federal Facilities Section. With this proposal of 7 new sites, there are now 62 sites proposed and awaiting final agency action, 56 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,301. (These numbers reflect the status of sites as of August 20, 2002. Site deletions occurring after this date may affect these numbers at time of publication in the **Federal Register**.)

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Is This Proposed Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Proposed Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied With the Regulatory Flexibility Act (RFA)?

This proposed rule listing sites on the NPL, if promulgated, would not impose any obligations on any group, including small entities. This proposed rule, if promulgated, also would establish no standards or requirements that any small entity must meet, and would impose no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this proposed rule, if promulgated, would not impose any requirements on any small entities. For the foregoing reasons, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

VII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Proposed Rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

VIII. Executive Order 12898

A. What Is Executive Order 12898?

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to This Proposed Rule?

No. While this rule proposes to revise the NPL, no action will result from this proposal that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

IX. Executive Order 13045

A. What Is Executive Order 13045?

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.

B. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

X. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Proposed Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XI. Executive Orders on Federalism

What Are The Executive Orders on Federalism and Are They Applicable to This Proposed Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of 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 proposed 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 proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the

requirements of section 6 of the Executive Order do not apply to this rule.

XII. Executive Order 13175

A. What Is Executive Order 13175?

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

B. Does Executive Order 13175 Apply to This Proposed Rule?

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

XIII. Executive Order 13211

A. What Is Executive Order 13211?

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

B. Is This Rule Subject to Executive Order 13211?

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866 (*See* discussion of Executive Order 12866 above.)

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 38, GENERAL SUPERFUND SECTION

State	Site name	City/county
FL	United Metals, Inc	Marianna.
NC ...	Ward Transformer.	Raleigh.
OH ..	Lammers Barrel ..	Beavercreek.
OR ..	Harbor Oil	Portland.
PR ...	Pesticide Warehouse III.	Manati.
TX ...	Falcon Refinery ..	Ingleside.
TX ...	Gulfco Marine Maintenance.	Freeport.

Number of Sites Proposed to General Superfund Section: 7.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: August 27, 2002.

Marianne Lamont Horinko,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 02–22539 Filed 9–4–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 010413093–2190–02; I.D. 032301C]

RIN 0648–AP18

American Lobster; Intent to Prepare an Environmental Impact Statement

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

ACTION: Advance Notice of Proposed Rulemaking (ANPR), Notice of Intent (NOI) to combine rulemaking and prepare an Environmental Impact Statement (EIS); request for comments.

SUMMARY: NMFS announces its intent to consider revisions to the Federal lobster regulations in response to the recommendations of the Atlantic States Marine Fisheries Commission (Commission) in Addendum III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP), and prepare one EIS to assess the impact on the human environment of potential management measures for the American lobster fishery in the U.S. Exclusive Economic Zone (EEZ) as recommended by the Commission in Addenda II and III to Amendment 3 of the ISFMP (Addendum II and Addendum III; Addenda II and III). Written comments are requested from the public regarding issues that NMFS should address in the EIS relative to Addenda II and III. NMFS is also soliciting comments with this notification of potential modifications to parts of the current Federal lobster regulations to clarify these rules, assist with their enforcement, and better describe the inter-relationship between the Federal lobster regulations, the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), and other applicable laws.

DATES: Written comments on the intent to prepare the EIS relative to Addenda II and III and on the potential modifications to parts of the current lobster regulations must be received no later than 5 p.m. Eastern Standard Time on or before October 7, 2002.

ADDRESSES: Written comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9117.

Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Peter Burns, (978) 281–9144, fax (978) 281–9117, e-mail *peter.burns@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS proposes to combine measures related to Addenda II and III to Amendment 3 into one rulemaking. Addenda II and III are both designed to address overfishing of lobster by increasing egg production, and as such, lend themselves to a single rulemaking.

In response to the Commission's recommendation that NMFS implement regulations in the EEZ that are compatible with Addendum II to Amendment 3 of the ISFMP for American Lobster, NMFS published an ANPR (66 FR 28726) on May 24, 2001, and an NOI (66 FR 48853) on September 24, 2001. These documents solicited written comments and informed the public of NMFS' intent to develop an EIS relative to Addendum II. Subsequently, the Commission adopted Addendum III to Amendment 3 which modified Addendum II and included new measures for the majority of the lobster conservation management areas (LCMA). The Commission has recommended that NMFS implement regulations compatible with Addendum III as well.

Addenda II and III are part of an overall management regime set forth in Amendment 3 to the ISFMP. The intent of Amendment 3, approved by the Commission in December of 1997, is to achieve a healthy American lobster resource and to develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides for the cooperative development of conservation measures by all stakeholders. Amendment 3 employed a participatory management approach by creating the seven LCMAs, each with its own lobster conservation management team (LCMT) comprised of industry members.

Amendment 3 tasked the LCMTs with providing recommendations for area-specific management measures to the Commission's American Lobster Management Board (Board) to meet the lobster egg production and effort reduction goals of the ISFMP. The effort reduction measures of the area plans were approved by the Board in August of 1999 as part of Addendum I to Amendment 3 (Addendum I). The Board then released the egg production measures as Addenda II and III in February 2001 and February 2002, respectively, and recommended that NMFS implement complementary Federal regulations. NMFS has the authority under the ACFCMA to implement regulations in Federal waters that are compatible with the effective implementation of the ISFMP and consistent with the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act. These Federal regulations are promulgated pursuant to ACFCMA and are codified at 50 CFR part 697.

The requirements of the two addenda are summarized in the following sections.

Addendum II Summary

Specific measures under Addendum II to help achieve the egg production goals of the ISFMP included a series of minimum gauge size increases (increases to the minimum legal length of the carapace, defined as the unsegmented body shell of the American lobster) and an increase in the minimum escape vent size of lobster trap gear fished in state and Federal waters of LCMA 2 (inshore Southern New England), LCMA 3 (offshore area, comprised entirely of Federal waters), LCMA 4 (nearshore Northern Mid-Atlantic), LCMA 5 (nearshore Southern Mid-Atlantic), and the Outer Cape Management Area (nearshore waters east of Cape Cod). However, Addendum II did not require the implementation of these specific measures to either LCMA 1 (Gulf of Maine) or LCMA 6 (Long Island Sound).

Addendum II required the states to promulgate regulations to increase the minimum allowable harvest size of American lobster in LCMAs 2, 3, 4, 5 and the Outer Cape LCMA from 3 1/4 inches (in) (8.26 cm) to 3 9/32 in (8.33 cm) by December 31, 2001, and to increase 1/32 in (0.08 cm) by the end of each calendar year from 2002 through 2004 to an ultimate minimum size of 3 3/8 in (8.57 cm). If the LCMA 3 egg production targets of the ISFMP are not reached by 2004, Addendum II requires additional annual minimum gauge size increases in LCMA 3 of 1/32 in (0.08 cm), until 2008, to an ultimate minimum size of 3 and one-half (8.89 cm). The Commission recommended that the Secretary of Commerce take action to implement gauge increases in the Federal waters of the associated LCMAs consistent with this same schedule. The current minimum allowable harvest size for American lobster in all Federal waters is 3 1/4 in (8.26 cm). This gauge increase schedule was revised under Addendum III.

Addendum II required all lobster traps fished either commercially or recreationally in LCMAs 2, 3, 4, 5 and the Outer Cape LCMA to have in place by 2003, at least one rectangular escape vent measuring 2 in (5.08 cm) by 5 3/4 in (14.61 cm) per trap, or at least two circular escape vents per trap, measuring 2 and one-half in (6.35 cm) in diameter. The Commission recommended that NMFS implement these new lobster trap escape vent size requirements in Federal waters. At the current time, Federal regulations require that all lobster trap gear have a rectangular portal with an unobstructed opening not less than 1 15/16 in (4.92 cm) by 5 3/4 in (14.61 cm); or two circular portals with unobstructed openings not less than 2 7/16 in (6.19 cm) in diameter. The escape vent size requirement was not modified further in Addendum III.

Addendum II also recommended that the lobster trap reduction schedule previously adopted for LCMA 3 in Addendum I be updated to account for the elapsed time between the two addenda. Implementation of the updated lobster trap reduction schedule for LCMA 3 is contingent upon Federal rulemaking procedures currently underway to address historical participation in the lobster trap fishery as recommended by the Commission in Addendum I.

Addendum II, furthermore, recommended that NMFS require LCMA 3 lobstermen to maintain vessel logbooks to record lobster harvest. Current Federal lobster regulations do not require vessel logbooks. No additional modifications were adopted in Addendum III regarding the LCMA 3 trap reduction schedule or vessel logbook requirement.

Addendum III Summary

Addendum III updates the implementation dates for the minimum gauge size increases initially approved in Addendum II, includes additional management measures for LCMAs 2, 3, 4, 5 and the Outer Cape Area, and adopts management programs for LCMAs 1 and 6, neither of which submitted LCMT plans for Board approval under Addendum II..

Addendum III carries forward the Addendum II gauge increase schedule with some modification. Consistent with Addendum II, the initial 1/32 in (0.08 cm) gauge increase must be implemented by the associated states for LCMAs 2, 3, and the Outer Cape Management Area by December 31, 2001. However, Addendum III modifies the implementation date to July 1 (formerly December 31 as presented in Addendum II) for gauge increases in each of the subsequent years through 2004 until the 3 3/8 in (8.57 cm) minimum size is reached (or through

2008 if increases up to 3 and one-half in (8.89 cm) are necessary in LCMA 3 and the Outer Cape LCMA).

Additionally, Addendum III allows LCMAs 4 and 5 the option to either follow this same gauge increase schedule, or take no action in 2001 and implement a 1/16 in (0.16 cm) gauge size increase to 3 5/16 in (8.42 cm) by July 1, 2002, and implement the subsequent annual 1/32 in (0.08 cm) increases consistent with the approved Addendum III gauge increase schedule in the following years (July 1, 2003, and July 1, 2004).

Addendum III also includes additional (new) minimum gauge size increases for the Outer Cape LCMA, if necessary to meet the egg production targets of the ISFMP. After annual implementation of the first four gauge increases up to 3 3/8 in (8.57 cm) from 2001 through 2004, a 1/32 in (0.08 cm) increase would be implemented by July 1 annually during the subsequent 4–year period (2005 through 2008), to a final minimum gauge size in the Outer Cape LCMA of 3 and one-half in (8.89 cm).

In addition to the modifications of existing measures adopted under Addendum II, Addendum III includes several new management measures. Those new measures are detailed in this section for each LCMA. As written in Addendum III, some of the new measures need only be implemented if it is determined in subsequent years that a particular LCMA is not on target to achieve the egg production goals of the ISFMP. These contingent measures were provided as a safety net by some of the LCMTs to ensure that the necessary level of egg production is met. However, review of the LCMT plans by the Commission's Lobster Technical Committee (Technical Committee) concluded that all the contingent measures identified are, in fact, necessary to achieve the egg production goals based on the most recent 2000 lobster stock assessment. Subsequent to the next lobster stock assessment scheduled for late 2003, it is anticipated that the Technical Committee will reassess the need for the contingent provisions for each LCMA.

LCMA 1

Several new measures were adopted into the LCMA 1 management program in Addendum III:

Escape Vent Size Increase. If necessary, all lobster traps fished either commercially or recreationally in LCMA 1 must, by July 1, 2007, have at least one escape vent per trap measuring 2 in (5.08 cm) by 5 3/4 in (14.61 cm) or two circular vents with a diameter measuring 2 and one-half in (6.35 cm).

Zero-Tolerance V-Notching. Addendum III establishes a zero-tolerance approach to the determination of a v-notched female and defines a v-notched female lobster in LCMA 1 as any female lobster bearing a v-shaped notch of any size in the flipper immediately to the right of the center flipper as viewed when the underside of the lobster is down and its tail is toward the person making the determination. In the context of Addendum III, V-notched female lobster also means any female that is mutilated in a manner which could hide, obscure or obliterate such a mark.

Mandatory V-notching Requirement. All LCMA 1 lobster fishers are required by Addendum III to v-notch all egg-bearing female lobsters caught in the process of lobstering. This facet of the LCMA 1 plan was approved by the Board with the understanding that the Commonwealth of Massachusetts Division of Marine Fisheries (MA DMF) will monitor the percentage of v-notched egg-bearing female lobster in commercial catches during 2002. If the observed percentage of v-notched females does not reach 50 percent by the end of 2002, MA DMF will consider additional measures in 2003 to help achieve the goals of the ISFMP. In this situation, at a minimum, all regulations promulgated to implement Addendum III in LCMAs 2, 3 and the Outer Cape LCMA would be expanded to include the Massachusetts portion of LCMA 1. Other entities of LCMA 1 may also consider additional management measures in 2003 to achieve the goals of Adde ndum III.

LCMA 2

No new measures were adopted for LCMA 2 under Addendum III. However, as previously described, the implementation date for annual increases of 1/32 in (0.08 cm) to the minimum gauge size as required under Addendum II was changed from December 31 to July 1 for calendar years 2002 through 2004.

LCMA 3

Mandatory V-Notch Requirement. All vessels fishing in LCMA 3 north of 42° 30′ N. lat. are required to v-notch all egg-bearing female lobsters caught while lobster fishing.

Overlap Boundary Between LCMA 3 and LCMA 5. Addendum III adopted a 5–mile (8.05 km) overlap along the entire length of the boundary between LCMAs 3 and 5. This overlap area is defined by the following coordinates:

LMCA 3/LCMA 5 OVERLAP BOUNDARY AREA

POINT	CURRENT COORDINATES (LAT/LONG)	OVERLAP COORDINATES (LAT/LONG)
V	39°50′ N/73°01′ W	39°48′ N/72°55′ W
X	38°39′ N/73°40′ W	38°38.2′ N/73°33.8′ W
Y	38°12′ N/73°55′ W	38°10.4′ N/73°49′ W
Z	37°12′ N/74°44′ W	37°10.6′ N/74°38′ W
ZA	35°34′ N/74°41.′ W	35°31.9′ N/74°45.5′ W
ZB	35°14.5′ N/75°31′ W	35°10.3′ N/75°27.7′ W

From point V, current coordinates extending out to new overlap coordinates, back to point ZB

Choose and Use Provision. This measure would require those vessels qualifying for access under a historical participation effort reduction program, if implemented under Federal regulations in LCMA 3, to designate LCMA 3 each year on the vessel's Federal permit, or else forego subsequent participation in the LCMA 3 lobster trap fishery.

LCMA 4

Maximum Gauge Size. The maximum gauge size for American lobster in LCMA 4 shall be no greater than 5 1/4 in (13.34 cm) beginning July 1, 2002. A 5 in (12.7 cm) maximum gauge size may also be considered if, following an updated stock assessment, it is deemed necessary to meet the lobster management plan goals and objectives. If maximum gauge sizes are not in place in adjacent management areas, then LCMA 4 fishermen may v-notch female lobsters above the maximum size.

LCMA 5

Maximum Gauge Size. The maximum gauge size for American lobster in LCMA 5 shall be no greater than 5 and one-half in (13.97 cm) beginning July 1, 2004. The 5 and one-half in (13.97 cm) maximum size will be implemented in LCMA 5 if, following an updated stock assessment, this measure is considered necessary to meet the lobster management plan goals and objectives. If maximum gauge sizes are not in place in adjacent management areas, then LCMA 5 fishermen may v-notch female lobsters above the maximum size.

Vessel Upgrade Limit. This measure restricts the limit on increases in vessel length to no more than 10 percent and limits increases in vessel horsepower through upgrading or replacement by no more than 20 percent.

LCMA 6

A combination of minimum gauge size increases and escape vent size increases has been approved for LCMA 6 in Addendum III. Although LCMA 6 is comprised entirely of New York and Connecticut state waters within Long Island Sound, Federal lobster permit holders authorized by these states to fish for lobster in this LCMA will be affected by these measures.

Minimum Gauge Size. The minimum gauge size for American lobster in LCMA 6 shall be no lower than the minimum carapace length identified in the following table. The implementation date for associated regulations mandating each gauge increase is also indicated.

LMCA 6

July 1, 2004*–3 9/32 in (8.33 cm)
July 1, 2005*–3 5/16 in (8.42 cm)

* NOTE–LCMA 6 will implement minimum size increases beyond 3 1/4 in (8.26 cm) at the rate of 1/32 in (0.08 cm) per year, beginning in 2004, until a final minimum size of 3 5/16 in (8.42 cm) is reached, if, following an updated stock assessment, it is necessary to meet lobster management plan goals and objectives.

LCMT 6 will choose among two possible paths for lobster management beyond 2005. Regulations for these measures must be in place according to the following implementation schedule.

PATH 1

YEAR	ACTION
July 1, 2006	Elevate gauge increase and effort reduction from trap tag buy back program
July 1, 2007*	Implement 1 32 in (0.08 cm) gauge size increase, and or 2 in (5.08 cm) escape vent size increase, and or V-notch some percentage of female lobsters, and or establish a maximum gauge size*
July 1, 2008*	Implement 1/32 in (0.08 cm) gauge size increase, and/or 2 in (5.08 cm) escape vent size increase, and/or V-notch some percentage of female lobsters, and/or establish a maximum gauge size

NOTE: LCMA 6 will implement the above management measures, if, following an updated stock assessment, it is necessary to meet lobster management plan goals and objectives.

OR

PATH 2

YEAR	ACTION
July 1, 2006	Implement a 2 in (5.08 cm) escape vent size if a gauge increase was implemented in 2005
July 1, 2007	Evaluate with new information, confirm that the overfishing threshold has been met or exceeded
July 1, 2008	Evaluate with new information, confirm that the overfishing threshold has been met or exceeded

If Path 2 is selected for implementation, then all lobster traps in LCMA 6, whether fished commercially or recreationally, must contain at least one rectangular escape vent per trap or at least two circular escape vents according to the following schedule. Regulations must be implemented in accordance with the dates indicated.

	One rectangular Vent	Two Circular vents
July 1, 2006*	2 in (5.08 cm) by 5 3/4 in (14.61 cm)	2 and one-half in (6.35 cm)

*NOTE: LCMA 6 will implement a 2 in (5.08 cm) escape vent size if a gauge size increase is implemented in 2005, as outlined in Section 2.1.5.1 of Addendum III.

Outer Cape LCMA

Minimum Gauge Size Increases. Addendum II adopted increases to the minimum gauge size for lobster harvested in the Outer Cape LCMA that would result in achievement of a 3 3/8 in (8.57 cm) minimum size in 2004. Addendum III mandates implementation of additional 1/32 in (0.08 cm) increases annually beginning July 1 of each year from 2005 through 2008 to a final minimum size of 3 ½ in (8.89 cm) if such measures are deemed necessary to meet the egg production goals of the ISFMP.

Trap Reduction Schedule. To control expansion of fishing effort, the overall total number of traps allowed to be fished in the Outer Cape LCMA will be established from the sum of the individual maximum traps reported by each Outer Cape lobster fisherman on their 1998 MA DMF catch report. Addendum III mandates that beginning in 2002 and extending through 2008, a 20 percent reduction of the total number of traps allowed to be fished will occur in the Outer Cape LCMA. An additional 5–percent reduction of the number of the total number of traps allowed to be fished per year may be employed in 2006 and 2007, if necessary, to meet lobster egg production goals and objectives. The initial trap allocations for each lobsterman will be based on catch report statistics from MA DMF and will be reduced annually during the reduction period. Those who fished in the Outer Cape LCMA in 2001 but have no prior fishing history there (in other words, have not submitted MA DMF catch reports) will be issued a trap allocation based on proof of documentation of the number of traps they fished during 2001. In such situations, allocations will be apportioned from a percentage of the overall trap cap number, not to exceed 2 percent of that total. Those who received a transferred license with an Outer Cape LCMA fishing history (based on submission of MA DMF catch reports) will receive an initial trap allocation based on that history.

Annual Trap Transfer Period and Passive Reductions. Trap transfers are allowed annually from January 1 through March 31. Trap tags may be transferred among Outer Cape lobster

fishers to allow individual operations to build up or down within the maximum allowable 800 trap limit. For each trap tag transfer event, a 10 percent passive reduction in traps will occur for that allocation. For example, a 100-trap tag transaction will result in a net amount of 90 tags transferred. The overall Outer Cape trap cap will be reduced accordingly through active and or passive trap reduction measures until the fishing mortality rate in the Outer Cape LCMA is reduced to a level consistent with the egg production goals of the ISFMP. Each time a lobster license is transferred within this LCMA, the trap tag allocation associated with that license will be reduced by 10 percent. No new participants will be allowed to participate in the Outer Cape lobster fishery unless they receive trap tags through a transfer from fishermen operating under the established total trap cap. A trap haul-out period is also established under Addendum III for the Outer Cape LCMA from January 1 through March 31 annually to assist in the enforcement of the trap cap. No trap gear will be allowed in the Outer Cape LCMA during this period.

Additional Issues for Consideration

NMFS seeks comments on the following potential changes to the Federal lobster regulations, in addition to those as described in Addenda II and III to Amendment 3 of the ISFMP, to more effectively express their initial intent and facilitate enforcement:

(1) Modification of 50 CFR 697.4(a)(7)(iv), *Vessel permits and trap tags*, to allow a change to a vessel's lobster trap area designations on the Federal limited access lobster permit when the vessel and permit are sold to a second party. Currently, the regulations prohibit such changes during the course of the Federal permit year once the permit has been issued unless the permitted vessel becomes a replacement vessel for another qualified vessel.

(2) Inclusion of a specific reference to already existing enforcement measures in the conditions section of 50 CFR 697.4(b), *Vessel permits and trap tags*.

(3) Modification of 50 CFR 697.7(c)(1)viii, Prohibitions, to more directly specify that Federal lobster permit holders are prohibited from hauling or possessing lobster trap gear belonging to another vessel.

(4) Modification of 50 CFR 697.22, *Exempted fishing*, to specify, consistent with the wording in 50 CFR part 600.745, that either the Regional Administrator for the Northeast Region, or the Director of the Office of Sustainable Fisheries, as appropriate, may exempt any person or vessel from the regulations in 50 CFR part 697 for the conduct of exempted fishing pursuant to the provisions of 50 CFR part 600.745. This modification would also provide additional language to allow the Regional Administrator for the Northeast Region, or the Director of the Office of Sustainable Fisheries, as appropriate, to authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically impaired federally permitted lobster vessel without having to engage in the exempted fishing process outlined at 50 CFR 600.745, *Exempted fishing*. This revision would allow NMFS to more expeditiously address exigent needs than is currently provided in the regulations.

If revised regulations relative to the management measures as described in this notice are promulgated they may have a significant economic effect on a substantial number of small entities, including Federal lobster permit holders. Accordingly, NMFS requests public input on the entire suite of Addenda II and III measures and additional issues relative to the Federal lobster regulations as identified to assist in conducting a comprehensive assessment of the impacts of these and other associated measures to the human and natural environment in the EIS.

Classification

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

Authority: 16 U.S.C. 5101 *et seq.*

Dated: August 29, 2002.

Rebecca Lent,

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

[FR Doc. 02–22620 Filed 9–4–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 172

Thursday, September 5, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Food for Peace

Announcement of Draft Public Law 480 Title II FY 2004 Development Program Policies USAID/DCHA/FFP; Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480, as amended), notice is hereby given that the Pub. L. 480 Title II FY 2004 Development Program Policies are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of these draft guidelines should contact: Office of Food for Peace, Agency for International Development, RRB 7.06–153, 1300 Pennsylvania Avenue, Washington, DC 20523–7600. Individuals who have questions or comments on the draft guidelines should contact Angelique M. Crumbly at the above address or at (202) 712–4279.

The thirty-day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: August 29, 2002.

Lauren Landis,

Director, Office of Food for Peace, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. 02–22561 Filed 9–4–02; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California, September 16, 2002. The purpose of the meeting is to refine the proposal receipt and review process and discuss activities related to implemented projects and status of Forest Service processing of recommended projects and administrative costs.

DATES: The meeting will be held September 16, 2002 from 4 PM until 7 PM.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Don Hall, RAC Coordinator, Klamath National Forest (530) 841–4468 or electronically at *donaldhall@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: August 28, 2002.

Margaret J. Boland,

Designed Federal Official.

[FR Doc. 02–22575 Filed 9–4–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083002B]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Bering Sea Crab Plan Team will hold a public meeting.

DATES: The meeting will be held on September 19–20, 2002.

ADDRESSES: The meeting will be held at the Hilton Anchorage Hotel, 500 W 3rd Avenue, in the Fireweed Room, Anchorage, AK 99501.

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: On Thursday, the 19th of September, the Plan Team will meet starting at 1 p.m. through Friday the 20th.

Agenda items include: assembling the 2002 Bering Sea and Aleutian Islands (BSAI) King and Tanner Crab Stock Assessment Fishery Evaluation (SAFE), reviewing BSAI King and Tanner survey information and guideline harvest limits (GHLs) for the 2002–03 fishery season, reviewing a report on reference points and overfishing definitions, and developing recommendations for BSAI King and Tanner crab fisheries.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: August 30, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–22619 Filed 9–4–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the African Growth and Opportunity Act

August 29, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that handloomed fabric and handmade articles made from such handloomed fabric that are produced in Kenya qualify for duty-free treatment under the African Growth and Opportunity Act.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-2000) (AGOA) provides duty-free treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries, including handloomed, handmade, or folklore articles that are certified as such by the competent authorities of the beneficiary country. Section 2 of Executive Order 13191 of January 17, 2001 authorized CITA to consult with beneficiary countries and to determine which particular textile and apparel goods shall be treated as being handloomed, handmade, or folklore articles.

On January 18, 2001, the United States Trade Representative directed the U.S. Customs Service to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country to obtain preferential treatment for textiles and apparel under the AGOA (66 FR 7837). The first digit of the visa number corresponds to one of nine groupings of textile and apparel products that are eligible for preferential tariff treatment. Grouping 9 is for handmade, handloomed, or folklore articles.

CITA held consultations with the Government of Kenya on May 21, 2002. CITA has determined that handloomed fabrics and handmade articles made from such handloomed fabrics produced in and exported from Kenya are eligible for preferential tariff treatment under section 112(a) of the AGOA if accompanied by an AGOA export visa for Grouping 9 issued by the Government of Kenya. In the letter published below, CITA directs the Commissioner of Customs to allow entry of such products of Kenya under Harmonized Tariff Schedule provision 9819.11.27, when accompanied by an appropriate export visa. CITA may extend this treatment to additional products following future consultation with the Government of Kenya.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 29, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The Committee for the Implementation of Textiles Agreements (CITA), pursuant to Sections 112(a) of the African Growth and Opportunity Act (Title I of Pub. L. No. 106-200) (AGOA) and Executive Order 13101 of January 17, 2001, has determined that, effective on September 5, 2002, handloomed fabric produced in Kenya and handmade articles produced in Kenya from such handloomed fabric shall be treated as being handloomed, handmade, or folklore articles under the AGOA, and that an export visa issued by the Government of Kenya for Grouping 9 is a certification by the Government of Kenya that the article is handloomed, handmade, or folklore. CITA directs you to permit duty-free entry of such articles accompanied by the appropriate visa and entered under heading 9819.11.27 of the Harmonized Tariff Schedule of the United States.

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22582 Filed 9–4–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China; Correction

August 29, 2002.

In the letter to the Commissioner of Customs published in the Federal Register on May 29, 2002 (67 FR 37398), in the table listing import restraint limits, please change the limit for Group I from 1,201,100,744 square meters equivalent to 1,206,507,535 square meters equivalent and Group II from 44,086,866 square meters equivalent to 38,680,076 square meters equivalent.

The limit changes are a result of an administrative correction to our integration methodology for China.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22581 Filed 9–4–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designations under the Textile and Apparel Short Supply Provisions of the African Growth and Opportunity Act (AGOA)

August 29, 2002.

AGENCY: The Committee for the Implementation of Textile Agreements (The Committee).

ACTION: Determination

SUMMARY: The Committee has determined that certain fabrics, enumerated below, for use in trousers, shorts, skirts, dresses, handkerchiefs, dressing gowns, boxer shorts, and other apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA. The Committee hereby designates such apparel articles that are both cut and sewn or otherwise assembled in an eligible country from these fabrics as eligible for quota-free and duty-free treatment under the textile and apparel short supply provisions of the AGOA, and eligible under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 9819.11.24 to enter free of quotas and duties, provided all other fabrics are U.S. formed from yarns wholly formed in the U.S.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Authority: Section 112(b)(5)(B) of the AGOA and Presidential Proclamation 7350 of October 2, 2000; Executive Order No. 13191 of January 17, 2001.

Background

The short supply provision of the AGOA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timelymanner and certain procedural requirements have been met. In Presidential Proclamation 7350, the President proclaimed that this treatment would apply to such apparel articles from fabrics or yarns designated by the appropriate U.S. government authority in the Federal Register. In Executive Order 13191, the President

authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities ina timely manner under the AGOA.

On February 28, 2002, the Committee received a request alleging that certain fabrics, listed below, for use in trousers, shorts, skirts, dresses, handkerchiefs, dressing gowns, boxer shorts, and other apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA. It requested that apparel articles from such fabrics be eligible for preferential treatment under the AGOA. On March 8, 2002, the Committee requested public comment on the petition (67 FR 10682). On March 26, 2002, the Committee and the U.S. Trade Representative (USTR) sought the advice of the Industry Sector Advisory Committee for Wholesaling and Retailing and the Industry Sector Advisory Committee for Textiles and Apparel. On March 26, 2002, the Committee and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On April 11, 2002, the U.S. International Trade Commission provided advice on the petition. Based on the information and advice received and its understanding of the industry, the Committee determined that the fabrics set forth in the request cannot be supplied by the domestic industry in commercial quantities in a timely manner. On June 14, 2002, the Committee and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired, as required by the AGOA.

The Committee hereby designates as eligible for preferential treatment under subheading 9819.11.24 of the HTSUS, the following apparel articles, that are both cut and sewn or otherwise assembled in one or more eligible beneficiary sub-Saharan African countries, from the fabrics set forth below not formed in the United States, provided that all other fabrics are wholly formed in the United States from yarns wholly formed in the United States, that are imported directly into the customs territory of the United States from an eligible beneficiary sub-Saharan African country.

An ''eligible beneficiary sub-Saharan African country'' means a country which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a) and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722) and resulting in the enumeration of such country in U.S. note 1 to subchapter XIX ofchapter 98 of the HTSUS.

Fabrics named in the request:

(a) Fabrics of subheadings 5208.21, 5208.22, 5208.29, 5208.31, 5208.32, 5208.39, 5208.41, 5208.42, 5208.49, 5208.51, 5208.52 or 5208.59, of average yarn number exceeding 135 metric;

(b) Fabrics of subheadings 5513.11 or 5513.21, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric;

(c) Fabrics of subheadings 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric;

(d) Fabrics of subheadings 5208.22 or 5208.32, not of square construction, containing more than 75 warp ends and fillings picks per square centimeter, of average yarn number exceeding 135 metric;

(e) Fabrics of subheadings 5407.81, 5407.82 or 5407.83, weighing less than 170 grams per square meter, having a dobby weave created by a dobby attachment, of average yarn number exceeding 135 metric;

(f) Fabrics of subheadings 5208.42 or 5208.49, not of square construction, containing more than 85 warp ends and filling picks per square centimeter, of average yarn number exceeding 85 metric, or exceeding 135 metric if the fabric is of oxford construction (a modified basket weave with a large filling yarn having no twist woven under and over two single, twisted warp yarns);

(g) Fabrics of subheading 5208.51, of square construction, containing more than 75 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 95 or greater metric;

(h) Fabrics of subheading 5208.41, of square construction, with a gingham pattern, containing more than 85 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 135 or greater metric, and characterized by a check effect produced by the variation in color of the yarns in the warp and filling;

(i) Fabrics of subheading 5208.41, with the warp colored with vegetable dyes, and the filling yarns white or colored with vegetable dyes, of average yarn number greater than 65 metric.

	Apparel articles named in the request:
Trousers	(subheadings 6203.19, 6203.22, 6204.12, 6204.22, 6204.52, 6204.62, 6211.32, 6211.42, 6217.90),
Shorts	(subheadings 6203.19, 6203.22, 6204.12, 6204.22, 6204.52, 6204.62, 6211.32, 6211.42, 6217.90),
Skirts	(subheadings 6204.12, 6204.22, 6204.52),
Dresses	(subheading 6204.42),
Handkerchiefs	(subheading 6213.20),
Dressing Gowns	(subheading 6208.91),
Boxer Shorts	(subheadings 6207.11, 6207.91, 6208.19, 6208.91), and
Other Apparel	(subheadings 6201.92, 6203.22, 6203.42, 6204.12, 6204.22, 6204.62, 6211.32, and 6211.42).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–22583 Filed 9–4–02; 8:45 am]

BILLING CODE 3510–DR–S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 02–C0007]

Aerus LLC, a Limited Liability Company, f/k/a Electrolux LLC, Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Aerus LLC, a limited liability company, containing a civil penalty of $250,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by September 20, 2002.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 02–C0007 Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, Legal Division, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, ext. 1351.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: August 29, 2000.

Todd A. Stevenson,

Secretary.

Consumer Product Safety Commission

Settlement Agreement and Order

1. This Settlement Agreement, made by and between the staff (''the staff'') of the U.S. Consumer Product Safety Commission (the ''Commission'') and Aerus LLC, a limited liability company, formerly known as Electrolux LLC, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (''CPSA''), is a settlement of the staff allegations set forth below.

The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

3. Aerus LLC is a limited liability company organized and existing under the laws of the State of Delaware, and its principal office is located at 5956 Sherry Lane, Dallas, Texas. Aerus LLC owns certain assets that previously were owned by Electrolux Corporation. (Aerus LLC and Electrolux Corporation are referred to herein collectively as ''Aerus'').

Staff Allegations

4. Section 15(b) of the CPSA, 15 U.S.C. 2064(b), requires a manufacturer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that such product contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death, to immediately inform the Commission of the defect or risk.

5. Between May 1991 and September 1993, Aerus manufactured and sold throughout the United States approximately 226,000 ''pony-top corded Genesis, Genesis LX, Genesis LXE, Prolux, Prolux Plus, Prolux S/R, Prolux Warehouse, Regency, and Special Edition vacuum cleaner models'' (hereinafter ''vacuums'').

6. A vacuum is a ''consumer product'' and Aerus is a ''manufacturer'' of a ''consumer product'', which is ''distributed in commerce'' as those terms are defined in section 3(a)(1), (4), (11) and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11) and (12).

7. The vacuums are defective because the power cords on the vacuums can break inside the handle or the casing around the cord can break, leaving wires exposed. When consumers use the pony-top cord, which extends out of the very top of the handle assembly, as a handle extension, consumers may accidentally touch the exposed wires and receive shocks and/or burns.

8. Between November 1991 and October 1998, Aerus received reports of approximately 75 incidents attributable to this defect. In 56 cases, consumers received shocks or burns, and in 11 cases, consumers suffered serious injuries resulting in second or third degree burns, shocks, and/or combinations thereof.

9. From early 1992 through 1998, Aerus engaged in a number of modifications to its warning labels and changes to its services polices, implemented design changes to the handles on its vacuums, and engaged in a corrective action and notice program in attempts to eliminate the subject defect and hazard.

10. Not until October 13, 1998, after receiving a letter from the staff requesting information about vacuum incidents, did Aerus provide to the Commission any information about the shock and/or burn hazard associated with the vacuums.

11. Although Aerus had obtained sufficient information to reasonably support the conclusion that the vacuums contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, long before October 1998, it failed to report such information to the Commission, as required by section 15(b) of the CPSA, in violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

12. Aerus' failure to report to the Commission, as required by section 15(b) of the CPSA, was committed ''knowingly,'' as that term is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d), and Aerus is subject to civil penalties under section 20 of the CPSA.

Response of Aerus

13. Aerus LLC denies the staff allegations in paragraphs 4 through 12, above. Aerus LLC denies that it violated the CPSA, or that Aerus LLC is liable for a reporting violation, if any, that allegedly was committed by a predecessor of Aerus LLC.

14. Aerus LLC undertook a voluntary recall in this matter, pursuant to the Commission's ''Fast Track'' recall program, promptly upon learning of the alleged defect in the vacuums in 1998.

15. Aerus LLC enters this Settlement Agreement and Order for settlement purposes only, to avoid incurring additional legal costs and expenses.

Agreement of the Parties

16. The Commission has jurisdiction over this matter and over Aerus under the CPSA, 15 U.S.C. 2051–2084.

17. Aerus LLC agrees to pay to the U.S. Treasury a civil penalty in the amount of two hundred fifty-thousand and no/dollars ($250,000.00), in settlement of this matter, payable within twenty (20) calendar days of receiving service of the final Settlement Agreement and Order.

18. Aerus LLC knowingly, voluntarily and completely waives any rights it may have in the above captioned case (1) to the issuance of a Complaint in this matter; (2) to an administrative or judicial hearing with respect to the staff allegations cited herein; (3) to judicial review or other challenge or contest of the validity of the Settlement Agreement or the Commission's Order; (4) to a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred; (5) to a statement of findings of fact and conclusions of law with regard to the staff allegations; and (6) to any claims under the Equal Access to Justice Act.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20. If the Commission does not receive any written requests not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order shall be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. The Settlement Agreement and Order becomes effective upon its final acceptance by the Commission and service of the final order upon Aerus LLC.

21. This Settlement Agreement and Order is not deemed or construed as an admission by Aerus (a) of any liability or wrongdoing by Aerus; (b) that Aerus violated any law or regulation; (c) that the vacuums are defective, create a substantial product hazard or are unreasonably dangerous; (d) that the vacuums have caused any injuries; (e) that Aerus LLC assumed any liability with respect to the vacuums either as a successor of Electrolux Corporation or under any other theory of law; (f) of the truth of any claims or other matters

stated in this Settlement Agreement and Order (except as set forth in paragraph 16), or alleged or otherwise stated by the Commission or any other person either against Aerus or with respect to the vacuums. Nothing contained in this Settlement Agreement and Order precludes Aerus from raising any defenses in any future litigation not arising out of the terms of this Settlement Agreement and Order.

22. Upon final acceptance of this Settlement Agreement by the Commission, the issuance of the Order, and the full and timely payment by Aerus LLC to the United States Treasury of a civil penalty in the amount of two hundred fifty thousand dollars ($250,000.00), all Commission claims for civil penalties relating to any of the events that gave rise to the CPSC staff's allegations in paragraphs 4 through 12, above, against (a) Aerus; (b) any of Aerus' current or former subsidiaries, affiliates, divisions or related entities; (c) any shareholder, member, director, officer, employee, agent or attorney of any entity referenced in (a) or (b) above; and (d) any predecessor, successor, heir, or assign of any entity referenced in (a), (b) above, including but not limited to Haw River Realty, Inc., will be considered to be released.

23. Upon provisional acceptance by the Commission, the Commission may publicize the terms of the Settlement Agreement and Order.

24. Aerus LLC agrees to the entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

25. This Settlement Agreement and Order is binding upon and inure to the benefit of Aerus LLC, its parent and each of its assigns or successors.

26. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

27. If, after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Settlement Agreement and Order, such provision shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and Aerus LLC determine that severing the provision materially impacts the purpose of the Settlement Agreement and Order.

28. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced and approved by the Commission.

29. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or contradict its terms.

Dated: March 4, 2002.
Aerus LLC.
Warren Bonham,
Chief Financial Officer.

The U.S. Consumer Product Safety Commission.
Alan H. Schoem,
Assistant Executive Director, Office of Compliance.
Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: March 4, 2002.
Ronald G. Yelenik,
Trial Attorney,
Patricia E. Kennedy,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement between Aerus LLC, a limited liability company, formerly known as Electrolux LLC, and the staff of the Consumer Product Safety Commission, and the Commission having jurisdiction over the subject matter and over Aerus LLC, and it appearing the Settlement Agreement is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted and it is

Further ordered, that Aerus LLC, shall pay the U.S. Treasury a civil penalty in the amount of two hundred fifty thousand and 00/100 dollars, ($250,000.00) payable within twenty (20) days of the service of the Final Order upon Aerus LLC.

Provisionally accepted and Provisional Order issued on the 29th day of August, 2002.

By Order of the Commission.
Todd A. Stevenson,
Secretary, Consumer Product Safety Commission.

[FR Doc. 02–22558 Filed 9–4–02; 8:45 am]
BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Funding Opportunity for a National Provider of Training and Technical Assistance to Corporation for National and Community Service Programs Using Service and Volunteers to Support Homeland Security

AGENCY: Corporation for National and Community Service.

ACTION: Notice of funding opportunity.

SUMMARY: Subject to the availability of appropriations, the Corporation for National and Community Service (hereinafter the ''Corporation'') intends to award approximately $600,000 to support one or more organizations in partnership selected under this Notice to provide training and technical assistance to national and community service programs engaged in homeland security activities focusing on public safety, public health, and disaster preparedness and relief. The organization(s) selected will, for each homeland security focus area: identify and maintain a network of geographically dispersed expert resource people and organizations around the country and create a mechanism for sharing these resources with local programs in need of assistance; provide training and technical assistance materials; and gather and provide critical information to Corporation programs and projects engaged in homeland security activities.

The Corporation intends to enter into a cooperative agreement of up to three years, beginning on or about December 1, 2002. The funding opportunity announced under this Notice will support the initial phase of the agreement (generally the first year's budget), with additional funding contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for this purpose.

Note: This is a notice for selection of an organization or organizations to provide training and technical assistance to national and community service grantees. This is not a notice for program grant proposals.

DATES: Proposals must be received by 5 p.m. Eastern Standard time, on November 4, 2002.

The Corporation anticipates making an award under this announcement in December, 2002. The Corporation will not accept applications that are submitted by facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, your application may not arrive in time to be considered.

We suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service.

ADDRESSES: Submit proposals to the Corporation for National and Community Service, Attention: Ms. Cathy Harrison, Room 9704A, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Gina Fulbright-Powell or Wade Gatling at the Corporation for National and Community Service, (202) 606–5000, ext. 414; e-mail *gfulbrig@cns.gov* or *wgatling@cns.gov*. The TTY number is (202) 565–2799. This Notice is available on the Corporation's Web site: *http://www.nationalservice.org/whatshot/notices*. Upon request, this information will be made available in alternate formats for people with disabilities.

SUPPLEMENTARY INFORMATION

I. Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in national and community service to meet the nation's educational, public safety, environmental, and other human needs and to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. For more information about the Corporation and the activities it supports go to *http://www.nationalservice.org*.

On November 8, 2001, President Bush announced that the Corporation will support homeland security in the coming year in three major areas: public safety, public health, and disaster preparedness and relief. Through the award of $10.3 million in grants to 43 private groups and public agencies in 26 states and the District of Columbia, the Corporation is mobilizing more than 37,000 homeland security volunteers across the nation to support these efforts. The President said:

> * * * Many ask, ''What can I do to help in our fight?'' The answer is simple. All of us can become a September the 11th volunteer by making a commitment to service in our own communities. So you can serve your country by tutoring or mentoring a child, comforting the afflicted, housing those in need of shelter and a home.
>
> * * * You can participate in your neighborhood watch or Crimestoppers. You can become a volunteer in a hospital, emergency medical, fire or rescue unit. You can support our troops in the field and, just as importantly, support their families here at home by becoming active in the USO or groups in communities near our military installations.
>
> * * * We also will encourage service to country by creating new opportunities within the AmeriCorps and Senior Corps programs for public safety and public health efforts.

The Corporation's support for homeland security includes:

Public Safety. Public safety is one of the four primary service activities for AmeriCorps, Senior Corps, and Learn and Serve America. Thousands of volunteers serve with police departments and land management agencies. The volunteers are not armed and cannot make arrests, but they do carry out vital tasks including organizing neighborhood watch groups and helping with community policing, victim assistance, fingerprinting, and other tasks that free officers and other professionals to do front-line work. In five years, AmeriCorps has organized 46,000 safety patrols, and last year alone senior volunteers carried out 131,000 patrols that freed up 540,000 hours of police time.

Public Health. AmeriCorps members and Senior Corps volunteers provide a variety of public health roles including assisting in immunizing children and adults, serving as case managers, distributing health information, and providing health screenings. Last year, AmeriCorps members distributed health information materials to 500,000 people and provided health screenings to 181,000 individuals, while Senior Corps volunteers assisted in assuring that 270,000 children and adults were immunized.

Disaster Preparedness and Relief. AmeriCorps members, including National Civilian Community Corps and Senior Corps volunteers, have a long record of working with the Federal Emergency Management Agency and other relief agencies in helping communities respond to disasters. Learn and Serve America students respond to local disasters as well. National and community service participants help run emergency shelters, assist law enforcement, provide food and shelter, manage donations, assess and repair damage, and help families and communities rebuild. Since September 11th , many Corporation-supported volunteers have been actively engaged in relief efforts.

The Corporation is permitting organizations that it funds to redirect their activities to support homeland security. The Corporation also made homeland security a priority for new grants awarded in fiscal year 2002. The training and technical assistance (T/TA) Provider will work to assist new grantees and projects with program start-up, and to help existing grantees improve services associated with homeland security.

II. Conditions

A. Legal Authority

Section 198 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12653, authorizes the Corporation to provide, directly or through contracts or cooperative agreements, training and technical assistance in support of activities under the national service laws. Section 125 of that Act and titles I and II of the Domestic Volunteer Service Act provide additional authority.

B. Cooperative Agreement

An award made under this Notice will be in the form of a cooperative agreement. Cooperative agreements are subject to Corporation regulations or general administrative requirements: 45 CFR part 2541 (for agreements with State and local government agencies) and 45 CFR part 2543 (for agreements with institutions of higher education, non-profit organizations, and commercial entities). The Provider must comply with reporting requirements, including submitting semi-annual financial reports and progress reports linking progress on deliverables to expenditures.

Cooperative agreements require substantial involvement on the part of the Corporation. Substantial involvement includes frequent and regular communication with and monitoring by the Corporation's cognizant training officer (COTR). The COTR will confer with the Provider on a regular basis to review project status and service delivery, including work plans, budgets, periodic reports, materials developed, preparation for and implementation of training events, targeting of the Provider's services, and assessment of the Provider's effectiveness.

C. Time Frame

The Corporation expects that activities assisted under the agreement awarded through this Notice will commence on or about December 1, 2002, following the conclusion of the selection and award process.

The Corporation will make an award covering a period not to exceed three years. Applications must include a detailed work plan of proposed activities and a line-item budget for year one of the agreement, and note projected changes to proposed activities for years two and three of the award period. If the Corporation approves an application

and enters into a multiyear award agreement, funding will be provided for the first year only. Funding for the second and third years of an award period is contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for the purpose of the award. The Corporation has no obligation to provide additional funding in subsequent years.

D. Use of Materials

To ensure that materials generated with Corporation funding for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation reserves a royalty-free, non-exclusive, and irrevocable right to obtain, use, reproduce, publish, or disseminate publications and materials produced under the agreement, including data, and to authorize others to do so. The Provider must agree to make such publications and materials available to the national service field, as identified by the Corporation, at no cost or at the cost of reproduction. All materials developed for the Corporation must be consistent with Corporation editorial and publication guidelines and must be accessible to individuals with disabilities to the extent required by law.

III. Eligibility

State and local government entities, non-profit organizations, institutions of higher education, Indian tribes, and commercial entities are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S C. 501(c)(4), which engages in lobbying is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible.

The Corporation anticipates making a single award to support all homeland security T/TA activities, and will therefore consider proposals from single applicants. However, when prospective applicants have expertise in only one or two of the three homeland security areas, the Corporation will consider proposals from principal applicants who, acting in partnership with other applicants, can provide the required services.

Organizations may apply to provide training and technical assistance in partnership with organizations seeking other Corporation funds. Based on previous training and technical assistance competitions and our estimate of potential applicants, we expect fewer than ten applications to be submitted.

IV. Scope of Training and Technical Assistance Requirements

The provider selected under this Notice will provide training and technical assistance services, and develop and disseminate training curricula and materials to support Corporation programs and projects engaged in homeland security.

A. Training and Technical Assistance Tasks

The Corporation expects the Provider to accomplish the tasks below:

a. Identify and maintain a network of geographically dispersed expert resource people and organizations around the country and create a mechanism for sharing these resources with local programs in need of assistance in achieving their homeland security objectives. The provider will identify expert resources—organizations and individuals—that can work in partnership with local programs and projects to build the capacity of staff to achieve their homeland security objectives. Among the potential sources of such expertise are Citizen Corps Councils, which are the components of the President's USA Freedom Corps that create opportunities for volunteers to help their communities prepare for and respond to emergencies. Others are the National Voluntary Organizations Active in Disaster, university-based experts, and first-responder volunteer fire departments. Applicants are encouraged to demonstrate their familiarity with and connection to such entities across the country. The Provider will not train members or volunteers, but may develop training materials for members and volunteers and local provider organizations. They may train local staff on the use of these materials. The Corporation's Web site and the services of the National Service Resource Center and National Service Learning Clearinghouse will form part of the strategy for sharing knowledge about these resources with local programs in need of assistance. The Provider will train resource people as needed to ensure that they understand the Corporation and its programs. The Provider will also gather information from national service grantees regarding known resource personnel in areas of homeland security.

b. Identify characteristics of successful homeland security service and volunteer programs, based on research and input from grantees and programs in the field, and develop a menu of training and technical assistance resources and materials linked to those characteristics and designed to support programs in achieving them. To respond to this notice, applicants need to demonstrate the capacity to design training curricula and materials and make them available to local programs and projects through a variety of methods including e-learning, train-the-trainer models, peer assistance through listservs, and in-person training sessions using locally identified resource persons. Training and technical assistance materials are usually disseminated through the National Service Resource Center and individual providers. The Corporation emphasizes developing Web-based materials as opposed to printing quantities of hardcopy documents.

c. Gather and provide critical information to Corporation programs and projects engaged in homeland security activities. The Provider will identify important literature and other information resources on public safety, public health, and disaster preparedness and relief. This might include effective practices in community volunteering and service as strategies for addressing homeland security issues, and information on project planning and member/volunteer development. The information will be catalogued and made available to grantees through a variety of methods including listservs, online publications, print materials, the Corporation's database of effective program practices, the National Service Resource Center, and the National Service-Learning Clearinghouse.

B. Training and Technical Assistance Requirements

1. Performance Measurement and Accountability

The Corporation is committed to accountability and the measuring of performance for all its grantees, including training and technical assistance providers. The Provider must develop effective systems to identify the critical outcomes of its work, indicators of its success in this work, and how these can be judged or measured. The Corporation needs tangible information documenting the effectiveness and outcomes of the Provider's work.

In its proposal, the applicant must demonstrate its understanding of accountability in grant-funded programs and its experience in and plans for identifying and reporting on the significant outcomes of its work with programs. Specific performance measures and reporting guidelines will be finalized between the Corporation and the awardee at the time of the

award negotiation, based on the Corporation's FY 2003 Administrative Guidance.

The Provider will develop a plan to assess the impact of its services for clients. The assessment must be ongoing and must be used to inform program planning. It must also encompass immediate as well as long term training impact. The Provider must submit evaluation summaries, and records of evaluations must be available for review.

The Corporation may also require an independent assessment of the Provider's performance.

2. Reporting Requirements

The Provider is responsible for submitting timely progress and financial reports to the Corporation during and after the award period as follows:

(a) Semi-annual Progress Reports. Progress reports must be submitted semi-annually for each budget period during the cooperative agreement. The Provider must submit this information electronically. At a minimum, progress reports must provide the information below:

(1) A comparison of accomplishments with the goals and objectives for the reporting period;

(2) An annotated version of the approved budget that compares actual costs with budgeted costs by line item, and explains differences. The explanation should include, as appropriate, an analysis of cost overruns and high-cost units and a description of service requests not anticipated in the Provider's original budget;

(3) A description of the services provided to include:

(i) Number of requests received by topic area and program type (AmeriCorps, Learn & Serve, Senior Corps);

(ii) Activity conducted to address each request (*e.g.*, training, on-site technical assistance, phone consultation and other electronic communication, and materials development and shipment) and mode of delivery (*e.g.*, staff member, consultant, peer and/or other Provider);

(iii) Number of participants at each training and technical assistance event;

(iv) Client feedback on the services rendered (including the aggregate evaluation of each training event); and

(v) Problems encountered in delivering services with recommendations for correcting them.

(vi) List of upcoming activities and events with dates and locations;

(vii) Recommended training and technical assistance focus areas as suggested by analyses of service activities and trends;

(viii) Discussion of developments that hindered, or may hinder, compliance with the cooperative agreement;

(ix) List of materials submitted to the National Service Resource Center and National Service-Learning Clearinghouse;

(x) List of practices and supporting documentation or materials submitted to EpiCenter.

(b) Financial Reports

Financial reports must be submitted semi-annually and must include a summary of expenditures for the period. The reports are cumulative and must be submitted on the Financial Status Report (FSR) form SF 269A.

(c) Final Reports. (1) Providers completing the final year of their agreement must submit, in lieu of the last semi-annual progress report, a final progress report that is cumulative over the entire award period. The final progress report is due 90 days after the end of the agreement.

(2) Providers completing the final year of their award must submit, in lieu of the last semi-annual FSR, a final FSR that is cumulative over the entire award period. The final FSR is due 90 days after the end of the agreement and must be submitted to the Office of Grants Management.

(d) Other Reports. The Provider must meet as necessary with the cognizant training officer or other staff or consultants designated by the cognizant training officer to exchange views, ideas, and information concerning training and technical assistance. The Provider must submit such special reports as may be reasonably requested by the Corporation.

3. Accessibility to Persons With Disabilities

Ensure that all training and technical assistance resources including Web sites are accessible to persons with disabilities, as required by law, by doing the following:

(a) Notifying potential participants that reasonable accommodations will be provided upon request;

(b) Providing reasonable accommodations when requested to do so, to include sign language interpreters, special assistance, and documents in alternate formats;

(c) Using accessible locations for training events;

(d) Using accessible technology, captioning videos, avoiding non-voice-over formats, and when indicating a telephone number, including a non-voice telephone alternative such as TTY or e-mail;

4. Other Requirements

The Provider must:

(a) Ensure that Provider staff and consultants are fully versed in the background, objectives, and approaches of the Corporation and each of its programs.

(b) Participate in the planning and implementation of national Provider meetings and training events as requested by the Corporation.

(c) Collaborate in materials development and training events organized by other providers or the Corporation, as requested.

(d) Share effective practices with other providers through the training and technical assistance listserv, the EpiCenter, and other mechanisms such as the National Service-Learning Clearinghouse and the National Service Resource Center.

(e) Use technology creatively and effectively as a cost-effective strategy for reaching large numbers of grantees, subgrantees, and others related to national service programs.

V. Application Guidelines

A. Proposal Content and Submission

Applicants must submit one unbound, original proposal and two bound copies. Proposals may not be submitted by facsimile. Proposals must include the following components and should not exceed 50 pages:

1. Cover Page

The cover page must include the name, address, phone number, fax number, e-mail address of the contact person, and World Wide Web site URL (if available) of the applicant organization; a 250–500 word summary of proposed training and technical assistance activities; and the total funding amount requested for the first year.

2. List of Activities and Materials

A one-to-two page list of all proposed training and technical assistance activities and materials.

3. Training and Technical Assistance Delivery Plan

A bulleted narrative of no more than 20 double-spaced, single-sided, typed pages in no smaller than 12-point font that includes:

(a) The applicant's proposed first-year strategy and rationale for providing training and technical assistance to national and community service programs, with proposed changes (if any) for years two and three. The applicant should use the specific deliverables and requirements outlined

in Section IV of this Notice as a starting point for a plan, and should present these deliverables in a way that creatively reflects the applicant's areas of expertise and knowledge of national service audiences. It is not appropriate to simply re-list the tasks stated in this Notice.

(b) Information on proposed needs assessment process.

(c) A description of each proposed training and technical assistance activity, product, or event: type, number, frequency, audience, estimated audience size, skill level, and desired learning outcomes.

(d) A detailed one-year work plan and timeline for completing all training and technical assistance activities. The work plan will include all deliverables and the tasks leading to them.

(e) A plan for regularly evaluating performance and using findings for continuous improvement.

4. Training Course Outline and Description

A 250–500 word description for one face-to-face training course in a content area relevant to the homeland security. The face-to-face course should be considered part of a two-day event for 50–75 national service program or project directors. Applicant should submit a session description that includes desired learning outcomes and an outline of session content and the activities that will accomplish the desired outcomes.

5. Technology Strategy

A one-page description of how the applicant proposes to use technology to extend the reach of the training and technical assistance delivered. Description should include the target audience, proposed use of technology, rationale for approach, and concepts and skills to be delivered.

6. Organizational Capacity

(a) A narrative of no more than three double-spaced, single-sided, typed pages in no smaller than 12-point font which describes:

(1) The organization's capacity to provide training and technical assistance services nationwide and recent work similar to that being proposed;

(2) The organization's knowledge of and/or experience with national service programs;

(3) Names and contact information of three to five references that can comment on the work described above.

(4) A list of proposed staff with their areas of expertise (**Note:** key staff will be subject to Corporation approval) and resumes of the individuals who will be primarily responsible for the proposed deliverables with their relevant experience highlighted (up to 10 pages of one-sided resumes will be accepted).

(5) An organizational chart that shows the relationship of the training and technical assistance service Provider (including partners, if any) to the overall structure of the legal applicant to this Notice.

7. Budget

A detailed, line-item budget with costs organized by personnel, task and sub-task that lead to the deliverables as outlined in the proposal narrative and work plan. Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars (OMB Circular A–87 for state and local governments, A–121 for non-profit organizations, A–21 for institutions of higher education) and in F.A.R. part 31 for commercial entities.

Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. Provider match is not required. The budget should include:

(a) Proposed staff and expert-consultant hours and pay rates by task and sub-task (include daily maximums for consultants);

(b) Types and quantities of other direct costs being proposed by task and subtask (for example, amounts of travel and volume of other task-related resources, such as communications, postage, etc.).

8. Budget Narrative

Provide a budget narrative that corresponds with all items in the line-item budget and that includes an explanation of all cost estimates that appear in the line-item budget. The narrative should clearly show how each cost was derived, using equations to reflect all factors considered.

B. Selection Criteria

To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements related to page limits, line spacing, and font size. The Corporation will assess applications based on the criteria listed below.

1. Quality (35%)

The Corporation will consider the quality of the proposed activities based on the soundness of the strategy to carry them out; on the relevance, effectiveness and creativity of the approach and workplan; and on the applicant's demonstrated knowledge of adult learning and experience in training adults.

2. Organizational Capacity and Personnel (35%)

The Corporation will consider the capacity of the applicant to deliver the proposed services based on:

(a) Evidence of the organization's experience and that of its proposed staff and consultants in delivering high-quality adult training and technical assistance in the category under consideration and their experience in using technology as a teaching tool.

(b) Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants as evidenced by an annotated list of the applicant's previous grants experience (include agency, time frame, grant size, and subject area).

(c) Demonstrated ability to provide training and technical assistance services nationwide as evidenced by the proposed technology plan and staffing and by previous experience.

(d) Demonstrated ability of staff and consultants to conduct the proposed activities as evidenced by their education and similar past experiences.

(e) Demonstrated knowledge of staff and consultants in content areas related to this agreement (public safety, public health, and disaster preparedness and relief) as well as in training design and methodologies.

3. Performance Measurement and Accountability (15%)

The Corporation will consider how the applicant:

(a) Proposes to measure the need for and outcomes of their products and services.

(b) Plans to collect data and use assessments to modify and improve their products and services.

4. Budget (15%)

The Corporation will consider the budget based on:

(a) Cost-effectiveness of the proposed training and technical assistance activities in relation to the scope of the services proposed (*i.e.*, the number of participants and proposed activities); and

(b) The clarity and thoroughness of the budget and budget narrative (see specifications under ''Budget Narrative'').

VI. Glossary of Terms

Grantees

Entities funded directly by the Corporation. These may include: state commissions on national and community service, national non-profit organizations, Indian tribes, and entities in states or U.S. Territories that do not have a state commission.

Sub-grantees

Organizations receiving funds from Grantees of the Corporation.

National Service Resource Center (NSRC)

The National Service Resource Center (NSRC) serves as a repository of information on all aspects of national service. The NSRC manages most of the Corporation's listservs and maintains and operates a library of print and media materials related to service and a toll-free information and referral service. Training and technical assistance publications are posted or distributed by the NSRC and its Web site at *www.etr.org;/nsrc,* includes a calendar of training events and links to all current providers.

National Service-Learning Clearinghouse

National Service-Learning Clearinghouse serves as the primary resource on service-learning for Learn and Serve America grantees in higher education, K–12, community-based organizations and tribes, as well as the entire service-learning community. Its resources include a Web site *(http://www.servicelearning.org),* a library collection, reference and referral, Learn and Serve America project directory, listservs, and expert technical support. CFDA No. 94.009 Training and Technical Assistance

Dated: August 29, 2002.

Gretchen Van der Veer,

Director, Office of Leadership Development and Training.

[FR Doc. 02–22562 Filed 9–4–02; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for a National Service-Learning Training and Technical Assistance Provider

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') will use approximately $235,000 as an initial installment on an annual projected funding level of $550,000 to support an organization selected under this Notice for a Learn and Serve America training and technical assistance program. The funding opportunity announced under this Notice will support the initial phase of the agreement (approximately the first five to six months of the year one budget), with additional funding contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for this purpose.

The organization selected (the Provider) will, on a national level: (1) Provide training support primarily for Learn and Serve America grantees, sub-grantees, and others; and (2) provide technical assistance and promote service and service-learning. The Corporation intends to enter into a cooperative agreement of up to three years, beginning on or about December 1, 2002.

Note: This is a notice for selection of an organization to provide training and technical assistance to Corporation grantees. This is not a notice for program grant proposals.

DATES: Proposals must be received by the Corporation by 5 p.m. Eastern time on October 21, 2002.

The Corporation will not accept applications that are submitted by facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, your application may not arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight service.

ADDRESSES: Submit proposals to the Corporation for National and Community Service, Attention: Amiko Matsumoto, Room 9611–A, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Amiko Matsumoto at the Corporation for National and Community Service, telephone (202) 606–5000, ext. 556, *(amatsumoto@cns.gov),* facsimile (202) 565–2787, T.D.D. (202) 565–2799. This Notice is available on the Corporation's Web site, at: *http://www.nationalservice.org/whatshot/notices.* Upon request, this information will be made available in alternate formats for people with disabilities.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation is a Federal Government corporation that encourages Americans of all ages and backgrounds to engage in national and community service to meet the nation's educational, public safety, environmental and other human needs and to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. For more information about the Corporation and the activities it supports, go to *http://www.nationalservice.org.*

II. Learn and Serve America

Learn and Serve America supports service and service-learning programs in schools, higher education institutions, and community organizations that support more than 1.5 million participants from kindergarten through college in meeting community needs while improving their academic skills and learning the habits of good citizenship. Learn and Serve America grants are used to support local collaborative partnerships between educational institutions and community organizations. Funds may be used to create new programs or replicate existing programs, as well as to provide training and professional development to staff, faculty, and volunteers. Most Learn and Serve America grantees make sub-grants to entities such as local education agencies, higher education institutions, and non-profit organizations.

In addition to training and technical assistance, Learn and Serve America also supports the National Service-Learning Clearinghouse and three recognition programs: Presidential Freedom Scholarships, President's Student Service Awards, and National Service-Learning Leader Schools.

III. Conditions

A. Legal Authority

Section 198 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12653, authorizes the Corporation to provide, directly or through contracts or cooperative agreements, training and technical assistance in support of activities under the national service laws. Section 125 of that Act and titles I and II of the Domestic Volunteer Service Act (42 U.S.C. 4250) provide additional authority.

B. Cooperative Agreement

An award made under this Notice will be in the form of a cooperative agreement. Cooperative agreements are

subject to control by Corporation regulations on general administrative requirements, 45 CFR Part 2541 (for agreements with State and local government agencies) and 45 CFR Part 2543 (for agreements with institutions of higher education, non-profit organizations and commercial entities). The Provider must comply with reporting requirements, including submitting semi-annual financial reports and progress reports linking progress on deliverables to expenditures.

Cooperative agreements require substantial involvement on the part of the Corporation. Substantial involvement includes frequent and regular communication with, and monitoring by, the Corporation's program officer. The program officer will confer with the Provider on a regular basis to review project status and service delivery, including work plans, budgets, periodic reports, materials developed, preparation for and implementation of training events, targeting of the Provider's services, and assessment of the Provider's effectiveness.

C. Time Frame

The Corporation expects that activities assisted under the agreement awarded through this Notice will commence on or about December 1, 2002, following the conclusion of the selection and award process.

The Corporation will make an award covering a period not to exceed three years. Applications must include a detailed work plan of proposed activities and a line-item budget for year one of the agreement and note projected changes to proposed activities for years two and three of the award period. If the Corporation approves an application and enters into a multi-year award agreement, initial funding will be provided for approximately the first five months only. Funding for the balance of the first year, and then for the second and third years of an award period, is contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for the purpose of the award. The Corporation has no obligation to provide additional funding for the remainder of the first year or in subsequent years.

D. Use of Materials

To ensure that materials generated with Corporation funding for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation reserves a royalty-free, non-exclusive, and irrevocable right to obtain, use, reproduce, publish, or disseminate publications and materials produced under the agreement, including data, and to authorize others to do so. The Provider must agree to make such publications and materials available to the national service field, as identified by the Corporation, at no cost or at the cost of reproduction. All materials developed for the Corporation must be consistent with Corporation editorial and publication guidelines and must be accessible to individuals with disabilities to the extent required by law.

IV. Eligibility

State and local government entities, non-profit organizations, institutions of higher education, Indian tribes, and commercial entities are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible.

The Corporation anticipates making a single award for this purpose. We will consider proposals from single applicants, applicants with sub-agreements, and applicants proposing other approaches that we consider responsive to this Notice.

Organizations may apply to provide training and technical assistance in partnership with organizations seeking other Corporation funds. Based on previous training and technical assistance competitions and our estimate of potential applicants, we expect fewer than ten applications to be submitted.

V. Scope of Training and Technical Assistance Activities To Be Supported: Essential Functions and Deliverables

The purpose of these funds is to build the capacity of Learn and Serve America grantees to assist sub-grantees in developing and implementing high-quality service and service-learning programs at the local level. While sub-grantees are expected to benefit from the activities, the main focus will be on the primary or direct grantees. The majority of workshops should be delivered in a ''train the trainer'' format, or one that will enable grantees to train their sub-grantees. Any materials created and disseminated under the cooperative agreement should reflect the diverse settings of Learn and Serve America programs—schools, higher education institutions, tribes, and community-based organizations, and partnerships among these, located in urban, rural, and suburban areas. The experience level of service-learning practitioners ranges from novice to seasoned. It is also likely that other Corporation-funded programs, AmeriCorps and Senior Corps programs specifically, as well as the service-learning field in general, will take advantage of the services offered by this training and technical assistance program. All activities should be designed to improve the quality of service-learning programs.

The Corporation is committed to accountability and measuring the performance of all of its grantees. As this Notice pertains to the training of grantees as well as others in the field, the proposal should demonstrate the Provider's understanding of the significance of accountability in grant-funded programs and any prior experience with reporting on outcomes.

The Provider selected under this Notice will provide training services and ongoing technical assistance as well as develop and disseminate training curricula and materials. The Corporation will be identified as the primary sponsor of any developed materials and activities in all print, electronic, and other communications.

A. Training and Technical Assistance Tasks

The Corporation expects the Provider selected under this Notice to engage in the following activities:

1. Training Support

The Provider will design and deliver training programs, curricula, and materials in support of service and service-learning. Topics will range from those generally applicable to all grantees, such as: evaluation; history and civics education; working with faith-based institutions; sustaining your program; building effective partnerships; and consortia management issues, to those designed to address issues specific to each program, such as: K–12 schools (content standards, working with local school boards, transportation and liability); community-based organizations (building capacity to work with service participants, working with schools and higher education institutions); and higher education institutions (promotion and tenure, attracting senior faculty, etc).

A variety of delivery mechanisms beyond or in combination with traditional face-to-face training should be considered, such as telebriefings, teleconferences, webcasts, and videoconferencing. In order to maximize

training delivery, training costs may be met by using a combination of provider-held Corporation funds and grantee-expended funds (*e.g.,* cost-sharing between the Provider and grantee). The number and distribution of training activities should establish the Provider as an ongoing, respected presence in the field. Training support will include but not be limited to the following materials and activities:

a. Implementing ''train the trainer'' and other workshops;

b. Participating as trainers in Learn and Serve America meetings, as well as other national, state-wide, and regional conferences, as appropriate;

c. Developing and disseminating materials to support the foregoing training activities.

2. Technical Assistance and Promotion of Service-Learning

The Provider will develop and maintain materials and systems that identify and respond to the needs of Corporation grantees and the broader service field. Activities include but are not limited to:

a. Develop a Learn and Serve America program director's handbook;

b. Establish, promote, and support Affinity Groups for grantees in areas such as health care, history and civics education, curriculum standards, and/or Historically Black Colleges and Universities, to develop and share information and products for dissemination that further and improve service and service-learning;

c. Develop and distribute materials that correspond with trainings;

d. Build a website that promotes training services and disseminates training and technical assistance tools, to be housed on the National Service-Learning Clearinghouse website and the Corporation's training website;

e. Identify characteristics of successful service and service-learning programs for K–12 youth and higher education based on research and field experience, and incorporate them into a menu of training and technical assistance resources designed to support programs in achieving those characteristics;

f. Operate a toll-free number for inquiries and referrals;

g. Support existing statewide or regional technical assistance efforts;

h. Organize and manage the content of the Learn and Serve America Fall 2003 Grantee Meeting to be held in the Washington, DC metropolitan area.

3. Performance Measurement and Accountability

The Corporation is committed to accountability and the measuring of performance for all its grantees, including training and technical assistance providers. The Providers must develop effective systems to identify the critical outcomes of its work, indicators of its success in this work, and how these can be judged or measured. The Corporation needs tangible information documenting the effectiveness and outcomes of the Provider's work.

In its proposal, the applicant must demonstrate its understanding of accountability in grant-funded programs and its experience in and plans for identifying and reporting on the significant outcomes of its work with programs. Specific performance measures and reporting guidelines will be finalized between the Corporation and the awardee at the time of the award negotiation based on the Corporation's FY 2003 Administrative Guidance.

The Provider will develop a plan to assess the impact of its services for clients. The assessment must be on-going and must be used to inform program planning. It must also encompass immediate as well as long-term training impact. The Provider must submit evaluation summaries and records of evaluations must be available for review. The Corportion may also require an independent assessment of the Provider's performance.

B. Provider Requirements

Upon being awarded funding under this Notice, the Provider must do the following:

1. Ensure Accessibility to Persons With Disabilities

The Provider is responsible for ensuring that all training and technical assistance and resources, including web sites, are accessible to persons with disabilities, as required by law, to include the following:

a. Notify potential participants that reasonable accommodations will be provided upon request;

b. Provide reasonable accommodations when requested to do so, including provision of sign language interpreters, special assistance, and documents in alternate formats;

c. Use accessible locations for training events;

d. Provide training and technical assistance materials that are accessible to persons with disabilities by using accessible technology, providing materials in alternate formats upon request, captioning videos, avoiding non-voice-over formats, and when indicating a telephone number, including a non-voice telephone alternative such as T.D.D. or e-mail.

2. Reporting Requirements

The Provider is responsible for submitting timely progress and financial reports to the Corporation during and at the conclusion of the award period as follows:

a. Semi-Annual Progress Reports. Progress reports must be submitted semi-annually and are due on July 31 for the period ending June 30 and January 31 for the period ending December 31 for each budget period during the cooperative agreement. The Provider must submit this information electronically. The Corporation will provide guidance as to the contents of these reports, to include the agreed upon performance measures.

b. Financial Reports. Financial reports must be submitted semi-annually and must include a summary of expenditures for the period. The reports are cumulative and must be submitted on the Financial Status Report (FSR) form SF 269A.

c. Final Reports. Final reports must be submitted when the program is completed. Guidance for these reports will be provided prior to the end of the agreement.

3. General Requirement of Cooperation and Acceptance of Corporation's Substantial Involvement

We stress to potential applicants that the funding provided under this Notice will be in the form of a cooperative agreement. (See III.B, above) Regular and candid communication with the Corporation's assigned program officer as to the planning of and follow-up assessment of the activities undertaken under the agreement is essential. In this spirit of positive cooperation, the Provider must:

a. Communicate regularly with the program officer and as necessary with other staff or consultants designated by the Corporation training official to exchange views, ideas, and information concerning training and technical assistance.

b. Ensure that Provider staff and consultants are fully versed in the background, approach, vocabulary, assets, needs and objectives of the Corporation as well as each of its programs, with particular emphasis on Learn and Serve America.

c. Participate in the planning and implementation of national meetings and training events, including meetings of all Corporation training and technical assistance providers, as requested by the Corporation.

d. Collaborate in materials development and training events organized by other Providers or the Corporation, as requested.

e. Submit such special reports as may be reasonably requested by the Corporation.

f. Share effective practices with the field and other Providers through Corporation listservs, and other mechanisms, such as the National Service-Learning Clearinghouse and the National Service Resource Center.

g. Use technology creatively and effectively as a cost-effective strategy for reaching large numbers of grantees, sub-grantees, and others in the service-learning field.

VI. Application Guidelines

A. Proposal Content and Submission

Applicants must submit one unbound, original proposal and two bound copies. Proposals may not be submitted by facsimile. You must complete the Standard Form 424 (SF 424)—Application for Federal Assistance, Standard Form 424A (SF 424A)—Budget Forms, and Standard Form 424B (SF 424B)—Assurances. These forms are available on the web at: *http://www.nationalservice.org/whatshot/notices.* In addition to completing the SF 424, proposals must include the following:

1. Executive Summary

Provide a 250–500 word summary of the proposed training and technical assistance strategy, including and the total amount requested for the year.

2. Training and Technical Assistance Delivery Plan

An organized narrative of no more than 15 double-spaced, single-sided, typed pages in no smaller than 12-point font that includes:

a. Your plan to deliver training and technical assistance to the audiences described in this Notice for year one, with proposed changes (if any) for years two and three. Explain the rationale for your strategy, including why some topics might be delivered via telebriefing or web, while others should be delivered face-to-face. Include a general schedule for training delivery and any existing conferences you would recommend attending in order to deliver grantee training. You should use the specific deliverables and requirements outlined in this Notice as a starting point for a plan and should present these deliverables in a way that creatively reflects your areas of expertise and knowledge of service and service-learning audiences. It is not appropriate to simply re-list the tasks stated in this Notice. The proposed topics to be covered should reflect understanding of the field and its resources. Once awarded, the successful applicant will receive input from Learn and Serve America and its constituents to ensure appropriate topics will be addressed.

b. A plan for regularly evaluating performance and using those findings to continuously improve service to the field.

3. Sample Training Course Outline and Description

Submit a sample description for a training workshop on ''Sustaining Service-Learning Programs.'' This should be a train-the-trainer workshop that will give primary grantees the tools to support their local programs' sustainability efforts. A follow-up plan should be included as well as an evaluation plan for this training.

4. Technology Strategy

Provide a one to two page description that proposes ways to use technology effectively in order to broaden the reach of training and technical assistance delivery. The description should include the target audience, proposed use of technology, rationale for approach and its role in the overall plan, and how the strategy's effectiveness will be evaluated.

5. Organizational Capacity

Include a narrative of no more than three double-spaced, single-sided, typed pages in no smaller than 12-point font that describes:

a. The organization's capacity to provide service and service-learning training and technical assistance services nationwide, including descriptions of recent work similar to that being proposed;

b. The organization's knowledge of and/or experience with service and/or service-learning programs;

c. A list of proposed staff, and sub-agreement holders if appropriate, with areas of expertise.

6. Appendices

In the appendix, include:

a. an organizational chart that clearly shows the relationship of the training and technical assistance Provider(s) to the overall structure of the legal applicant to this Notice;

b. names and contact information of references that can be contacted with regard to the above work;

c. a detailed one-year work plan and timeline for completing all training and technical assistance activities (the work plan should include all deliverables and the tasks leading to them); and

d. résumés of the individuals primarily responsible for the deliverables proposed in the application.

e. You may submit one additional appendix, but no videos or CDROMs.

7. Budget

Your budget must be submitted on a Standard Form 424A (SF 424A)—Budget Form. Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars (OMB Circular A–87 for state and local governments, A–121 for non-profit organizations and A–21 for institutions of higher learning, and in F.A.R. Part 31 for commercial entities). Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. Provider match is not required.

8. Budget Narrative

Note: While this notice is for the availability of funds to cover approximately the first five to six months of the year one budget, the budget you submit should be based on the first year of activities. Provide a budget narrative that corresponds with all items in the line-item budget and that includes an explanation and cost basis for all cost estimates that appear in the line-item budget. The narrative should clearly show the following:

a. How each cost was derived, using equations to reflect all factors considered.

b. The anticipated unit cost (with derivation) of the various deliverables (such as training events, publications and technical assistance interventions).

B. Selection Criteria

To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements relating to page limits, line spacing, and font size. The Corporation will assess applications based on the criteria listed below.

1. Quality (35%)

The Corporation will consider the quality of the proposed activities based on:

a. Evidence of the applicant's knowledge and understanding of the role of national and community service and service-learning, and the role of training and technical assistance in supporting this program.

b. The appropriateness for the audience: quality of delivery strategy

(for example, breadth of audience and potential for the activity to build grantee capacity); potential for effectiveness; creativity of the applicant's approach and work plan; and evidence of the applicant's knowledge of adult learning and experience in training adults.

2. Organizational and Personnel Capacity (35%)

The Corporation will consider the organizational capacity of the applicant to deliver the proposed services based on:

a. Evidence of the organization's experience in delivering high-quality training and technical assistance in a flexible, responsive, collaborative and creative manner, and experience using technology as a teaching tool.

b. Evidence of experience providing training and technical assistance on the part of the proposed staff and consultants as demonstrated by annotated staff lists or résumés.

c. Demonstrated ability to provide training and technical assistance services nationwide as evidenced by proposed technology plan, proposed staffing and previous levels of activity and experience.

d. Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants and cost accounting as evidenced by an annotated list of applicant's previous grants experience.

3. Performance Measurement (15%)

The Corporation will consider how the applicant:

a. Proposes to assess the effectiveness and need for its services and products delivered under the award.

b. Plans to use assessments of its services and products to modify and improve subsequent services and products.

c. Proposes to measure both short term outputs of its performance and the long-term outcomes.

4. Budget (15%)

The Corporation will consider the budget based on:

a. Scope and cost-effectiveness of the proposed training and technical assistance activities in relation to the scope and depth of the services proposed (i.e., the number of Learn and Serve America grantees that the proposed activities are expected to reach and the degree to which the Provider provides a reasonable estimate of the amount of services the organization will be able to provide);

b. The clarity and thoroughness of the budget and budget narrative (see specifications under ''Budget Narrative'').

VII. For Additional Information

For additional information, please visit the following Web sites:

- Corporation for National and Community Service: *http://www.nationalservice.org*
- National Service-Learning Clearinghouse: *http://www.servicelearning.org*
- Presidential Freedom Scholarships: *http://www.nationalservice.org/scholarships/index.html*
- President's Student Service Awards: *http://www.student-service-awards.org/*
- National Service-Learning Leader Schools: *http://www.leaderschools.org/*

CFDA No. 94.009 Training and Technical Assistance

Dated: August 28, 2002.

Amy Cohen,

Director, Learn and Serve America.

[FR Doc. 02–22564 Filed 9–4–02; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Funding Opportunity for National Provider of Training and Technical Assistance to National and Community Service and Service Learning Programs Operated by Indian Tribes or Involving Native Americans

AGENCY: Corporation for National and Community Service.

ACTION: Notice of funding opportunity.

SUMMARY: Subject to the availability of appropriations, the Corporation for National and Community Service (hereinafter the ''Corporation'') intends to award approximately $300,000 to support an organization selected under this Notice to provide training and technical assistance (T/TA) to national and community service and service learning programs that are operated by Indian Tribes or involve Native Americans. [**Note:** The scope of this assistance may also be expanded to include ''programs operating in U. S. Territories.'']

The Corporation intends to enter into a cooperative agreement of up to three years with the selected organization, beginning on or about December 1, 2002. The funding opportunity announced under this Notice will support the initial phase of the agreement (generally the first year's budget), with additional funding contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for this purpose.

Note: This is a notice for selection of an organization to provide training and technical assistance to national and community service grantees. This is not a notice of funding opportunity for the operation of program grants.

DATES: Proposals must be received by the Corporation by 5 p.m. Eastern time on October 21, 2002.

The Corporation will not accept applications that are submitted by facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, your application may not arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight service.

ADDRESSES: Submit proposals to the Corporation for National and Community Service, Attention: Cathy Harrison, Room 9704–A, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: David Bellama at the Corporation for National and Community Service, (202) 606–5000, ext. 483; e-mail *dbellama@cns.gov.* The TTY number is (202) 565–2799. This Notice is available on the Corporation's Web site: *http://www.nationalservice.org/whatshot/notices.* Upon request, this information will be made available in alternate formats for people with disabilities.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in national and community-based service to meet the nation's educational, public safety, environmental and other human needs and to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. For more information about the Corporation and the activities it supports, go to *http://www.nationalservice.org.*

II. Conditions

A. Legal Authority

Section 198 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12653, authorizes the Corporation to provide, directly or through contracts or cooperative agreements, training and technical assistance in support of activities under the national service laws. Section 125 of that Act and titles I and II of the Domestic Volunteer Service Act (42

U.S.C. 4250) provide additional authority.

B. Cooperative Agreement

An award made under this Notice will be in the form of a cooperative agreement. Cooperative agreements are subject to Corporation regulations on general administrative requirements: 45 CFR part 2541 (for agreements with State and local government agencies and Indian tribal governments) and 45 CFR part 2543 (for agreements with institutions of higher education, non-profit organizations and commercial entities). The Provider must comply with reporting requirements, including submitting semi-annual financial reports and progress reports linking progress on deliverables to expenditures.

Cooperative agreements require substantial involvement on the part of the Corporation. Substantial involvement includes frequent and regular communication with and monitoring by the Corporation's cognizant training officer (COTR). The COTR will confer with the Provider on a regular basis to review project status and service delivery, including work plans, budgets, periodic reports, materials developed, preparation for and implementation of training events, targeting of the Provider's services, and assessment of the Provider's effectiveness.

C. Time Frame

The Corporation expects that activities assisted under the agreement awarded through this Notice will commence on or about December 1, 2002, following the conclusion of the selection and award process.

The Corporation will make an award covering a period not to exceed three years. If the Corporation approves an application and enters into a multi-year award agreement, funding will be provided for the first year only. Funding for the second and third years of an award period is contingent upon need, quality of service, the nature and scope of activities to be supported, and availability of appropriations for the purpose of the award. The Corporation has no obligation to provide additional funding in subsequent years.

D. Use of Materials

To ensure that materials generated with Corporation funding for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation reserves a royalty-free, non-exclusive, and irrevocable right to obtain, use, reproduce, publish, or disseminate publications and materials produced under the agreement, including data, and to authorize others to do so. The Provider must agree to make such publications and materials available to the national service field, as identified by the Corporation, at no cost or at the cost of reproduction. All materials developed for the Corporation must be consistent with Corporation editorial and publication guidelines and must be accessible to individuals with disabilities to the extent required by law.

III. Eligibility

State and local government entities, non-profit organizations, institutions of higher education, Indian tribes, and commercial entities are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible.

The Corporation anticipates making a single award for this purpose. We will consider proposals from single applicants, applicants in partnership and applicants proposing other approaches we consider responsive to this Notice.

Organizations may apply to provide training and technical assistance in partnership with organizations seeking other Corporation funds. Based on previous training and technical assistance competitions and our estimate of potential applicants, we expect fewer than ten applications to be submitted.

IV. Corporation Programs Operated by Indian Tribes or Involving Native Americans—Background

The Corporation for National and Community Service supports a wide range of programs under the National and Community Service Act and the Domestic Volunteer Service Act, under which projects use service and service learning as the means to respond to serious educational, environmental, public safety, and other human needs on Native American lands or affecting Native American populations. Corporation programs operated by Indian Tribes or involving Native Americans include AmeriCorps*Tribal programs and Tribal Civilian Community Corps residential programs, AmeriCorps*VISTA projects, National Senior Service Corps projects (including Foster Grandparent, Senior Companion, and RSVP projects), Learn and Serve America programs, AmeriCorps Promise Fellow programs, and AmeriCorps*State and National programs involving Native Americans. More information may be found under the above-named programs on the national service Web site *(www.nationalservice.org);* under National Service in Your State *(www.nationalservice.org/stateprofiles/index.html);* and under National Service in Indian Country *(www.nationalservice.org/stateprofiles/it_intro.html).*

V. Scope of Training and Technical Assistance To Be Supported: Objectives and Delivery Requirements

A. Training and Technical Assistance Objectives

The Provider should develop a training and technical assistance strategy that will serve programs operated directly by Indian tribes as well as those serving Native Americans, but managed by other entities. These might include such wide variations as a tribally operated AmeriCorps program on a reservation, a tribally operated Learn & Serve America program at a tribal or non-tribal school or college, or even a non-tribally operated Senior Corps or VISTA project that has activities both on and off a reservation or serves Native Americans in an urban area. The Provider will broker the services of consultants and other national and local providers, as appropriate, and offer direct services when they fall within the range of expertise of the Provider. Whatever the context, the Provider should deliver a T/TA program that reflects the diverse and unique needs of Native Americans involved in service and service-learning projects.

In presenting its T/TA plan, the applicant should describe the strategies and methodologies it will use to assure that the following objectives are achieved:

1. The identification of characteristics of successful Native American programs, based on research and input from programs operating in the field, and the development of a menu of training and technical assistance resources linked to those characteristics and designed to support programs in achieving them;

2. The utilization of training and technical assistance activities and products that are interactive, culturally appropriate, experiential, based on the principles of adult learning, and adaptable to participants at various levels of existing experience, knowledge and skills.

3. A collaborative, partnership relation with programs in the creation and conduct of needs assessments, exploration and clarification of needs, and determination of the most suitable strategies for responses to needs.

4. The use of an appropriate variety of methodologies in responding to T/TA needs, including, among others:

a. The promotion and use of electronic, telephone and other means of communication and technology to link programs with relevant resources and with each other;

b. Targeted training, periodic workshops and on-site consultancies for program staff on specific issues (such as program management techniques, action planning, partnership development strategies, service-learning techniques, etc.);

c. The development and dissemination, on a regular basis, of articles, resource materials and information, calendars of training events and conferences, service-learning information, orientation curricula and materials for program staff, members, participants, volunteers, and other resources of relevance to Native American programs;

d. The development and promotion of a variety of strategies for using expert peers;

e. Referral to other consultants/providers, as appropriate;

f. An annual national conference on service in Indian country.

5. Capacity-building and demonstrable skill development on the part of programs in the following areas:

a. The creation and use of effective systems for documenting, tracking and highlighting program, member, volunteer, participant, and community achievements;

b. Improvement in the quality of program objectives, desired outcomes, assessment of performance, and accountability;

c. The development of programs' internal training and technical assistance capacity, such as improving skills in problem identification, problem solving, training, and assessing and using local T/TA resources;

6. A system of pro-active, targeted outreach to programs needing T/TA services in particular areas or fields, such as financial management, volunteer generation, tutoring, etc.

7. The linking of all T/TA activities to the greatest extent possible to the goals of:

a. program sustainability, including community and citizen involvement, resource mobilization and development, volunteer generation and management, partnership development, community outreach, and program identity; and

b. program accountability, including the development of meaningful objectives, as well as effective program plans to achieve them and document their outcomes.

8. The facilitation of partnerships with other providers and organizations that may be of assistance to Native American programs and activities, including:

a. The promotion of awareness and provision of training and orientation to Native Americans on Corporation and other potential resources and activities for programs, and on opportunities for collaboration and partnership;

b. The promotion of awareness and provision of training and orientation to other organizations, training providers, and potential partners, as needed, on Native American programs, issues and collaboration opportunities;

c. The conduct of joint training sessions when appropriate;

d. The review and evaluation of resource materials developed by other organizations and providers to assure that they are appropriate and useful for Indian tribes operating national and community service and service learning programs.

9. Collaboration with the National Service Resource Center (NSRC) and National Service Learning Clearinghouse (NSLC) to establish and promote a resource library of materials specifically related to the needs of Indian tribes operating national and community service and service-learning programs.

10. The recruitment of a qualified pool of consultants, with an appropriate range of skills and expertise and Native American representation.

Note: The scope of this training and technical assistance may also be expanded to include programs operating in U.S. Territories.

B. Training and Technical Assistance Requirements

1. Performance Measurement and Accountability

The Corporation is committed to accountability and the measuring of performance for all its grantees, including training and technical assistance providers. The Provider must develop effective systems to identify the critical outcomes of its work, indicators of its success in this work, and how these can be judged or measured. The Corporation needs tangible information documenting the effectiveness and outcomes of the Provider's work.

In its proposal, the applicant must demonstrate its understanding of accountability in grant-funded programs and its experience in and plans for identifying and reporting on the significant outcomes of its work with programs. Specific performance measures and reporting guidelines will be finalized between the Corporation and the awardee at the time of the award negotiation, based on the Corporation's FY 2003 Administrative Guidance.

The Provider will develop a plan to assess the impact of its services for clients. The assessment must be ongoing and must be used to inform program planning. It must also encompass immediate as well as long term training impact. The Provider must submit evaluation summaries, and records of evaluations must be available for review.

The Corporation may also require an independent assessment of the Provider's performance.

2. Reporting Requirements

The Provider is responsible for submitting timely progress and financial reports to the Corporation during and after the award period, as follows:

a. Semi-annual Progress Reports. Progress reports must be submitted semi-annually and are due within thirty days of the end of each budget period during the cooperative agreement. The Provider must submit this information electronically. As noted above, the Corporation will provide guidance as to the contents of these reports.

b. Financial Reports. Financial reports must be submitted semi-annually, within 30 days of the end of the budget period, and must include a summary of expenditures for the period. The reports are cumulative and must be submitted on the Financial Status Report (FSR) form SF 269A.

c. Final Reports.

i. Providers completing the final year of their agreement must submit, in lieu of the last semi-annual progress report, a final progress report that is cumulative over the entire award period. The final progress report is due 90 days after the end of the agreement.

ii. Providers completing the final year of their award must submit, in lieu of the last semi-annual FSR, a final FSR that is cumulative over the entire award period. The final FSR is due 90 days after the end of the agreement and must be submitted to the Office of Grants Management. Further guidance for final reports will be provided prior to the end of the agreement.

d. Other Reports. The Provider must submit such special reports as may be

reasonably requested by the Corporation.

3. Accessibility to Persons With Disabilities

Ensure that all training and technical assistance resources, including Web sites, are accessible to persons with disabilities, as required by law, by doing the following:

a. Notifying potential participants that reasonable accommodations will be provided upon request;

b. Providing reasonable accommodations when requested to do so, to include sign language interpreters, special assistance, and documents in alternate formats;

c. Using accessible locations for training events;

d. Using accessible technology, captioning videos, avoiding non-voice-over formats, and when indicating a telephone number, including a non-voice telephone alternative such as TTY or e-mail;

4. Other Requirements

Grant provisions will be provided as a part of the signed cooperative agreement. Regular and candid communication with the cognizant training officer is essential. A set of general expectations of the Provider is as follows.

The Provider must:

a. Meet as necessary with the cognizant training officer or other staff or consultants designated by the cognizant training officer to exchange views, ideas, and information concerning training and technical assistance.

b. Ensure that Provider staff and consultants are fully versed in the background, approach, vocabulary, assets, needs, and objectives of the Corporation and each of its programs.

c. Participate in the planning and implementation of national meetings and training events, including meetings of all Corporation training and technical assistance providers, as requested by the Corporation.

d. Collaborate in materials development and training events organized by other providers or the Corporation, as requested.

e. Share effective practices with the field and other providers through Corporation listservs, the Corporation's effective practices database, and other mechanisms such as the National Service-Learning Clearinghouse and the National Service Resource Center.

f. Use technology creatively and effectively as a cost-effective strategy for reaching large numbers of grantees, subgrantees, and others related to national and community service and service-learning programs.

VI. Application Guidelines

A. Proposal Content and Submission

Applicants must submit one unbound, original proposal and two bound copies. Proposals must include the following components and should not exceed a total of 50 pages in length:

1. Cover Page and Executive Summary

The cover page must include (a) the name, address, phone number, fax number, and e-mail address of the contact person, and the World Wide Web site URL (if available) of the applicant organization; (b) a 250–500 word executive summary of the proposed training and technical assistance strategy; and, (c) the total funding amount requested for the first year.

2. List of Activities and Materials

A one-to-two page list of all proposed training and technical assistance activities and materials.

3. Training and Technical Assistance Strategy and Delivery Plan

A bulleted narrative of no more than 15 double-spaced, single-sided, typed pages in no smaller than 12-point font that includes:

The applicant's proposed first-year strategy for providing training and technical assistance to service and service-learning programs operated by Indian tribes or involving Native Americans, with proposed changes (if any) for years two and three. Using the objectives, components and requirements outlined in Section V of this Notice as a point of departure, the applicant organization should describe its specific strategies, methodologies, techniques and plans for achieving successful T/TA results with programs in the most effective way. In this section, the Corporation wishes to know, among other things, how the applicant organization will help programs identify needs; how it will approach, reach and work with the programs to respond to those needs; the tools and resources it will use and how it will use them; the outcomes it will be looking for and how it will define and demonstrate them; and the strategies it will use to learn from its experiences and then apply those lessons learned to improve results. The section should include a detailed timeline and work plan showing training and technical assistance deliverables—activities, products and events—planned for the first year.

4. Training Course Outline and Description

A narrative of no more than four pages (in the same double-spaced format) describing one face-to-face training course in a content area relevant to tribal programs. The face-to-face course should be considered part of a two-day event for national service program or project staff. Applicant should submit a session description that includes desired learning outcomes and an outline of session content and the activities that will accomplish the desired outcomes.

5. Technology Strategy

A description of no more than three pages (in the same format) of how the applicant proposes to use technology to extend the reach of the training and technical assistance delivery. The description should include the target audience, proposed uses of technology, rationale for approach, concepts and skills to be delivered, and how the strategy's effectiveness will be evaluated.

6. Organizational Capacity

a. A narrative of no more than four pages (in the same format) that describes:

i. The organization's knowledge of and/or experience with service programs operated by Indian tribes and/or involving Native Americans;

ii. The organization's capacity to provide relevant training and technical assistance services on a nationwide scope, and recent work similar to that being proposed;

b. Names and contact information of three to five references that can comment on the work described above.

c. A list of proposed staff with their areas of expertise (**Note:** Key staff will be subject to Corporation approval) and resumes of the individuals who will be primarily responsible for the proposed deliverables with their relevant experience highlighted.

d. An organizational chart that shows the relationship of the training and technical assistance service Provider (including partners, if any) to the overall structure of the legal applicant to this Notice.

7. Budget

A detailed, line-item budget with costs organized by personnel, task and sub-task that lead to the deliverables as outlined in the proposal narrative and work plan. Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars (OMB Circular A–87 for state and local governments, A–121

for non-profit organizations, A–21 for institutions of higher education) and in F.A.R. part 31 for commercial entities.

Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. Provider match is not required. The budget should include:

a. Proposed staff and expert-consultant hours and pay rates by task and sub-task (include daily maximums for consultants);

b. Types and quantities of other direct costs being proposed by task and sub-task (for example, amounts of travel and volume of other task-related resources, such as communications, postage, etc.).

8. Budget Narrative

Provide a budget narrative that corresponds with all items in the line-item budget and that includes an explanation of all cost estimates that appear in the line-item budget. The narrative should clearly show how each cost was derived, using equations to reflect all factors considered.

B. Selection Criteria

To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements related to page limits, line spacing, and font size. The Corporation will assess applications based on the criteria listed below.

1. Quality (35%)

The Corporation will consider the quality of the proposed activities based on:

a. Evidence of the applicant's knowledge and understanding of the role national and community service and service-learning programs can play in meeting Indian tribal and Native American goals and needs, and the role of training and technical assistance in supporting this effort.

b. The soundness of the strategies and activities the applicant will use to accomplish the training and technical assistance objectives presented in this Notice (see particularly Sections V.A.1–10, T/TA Objectives, and V.B.1, Performance Measurement and Accountability, above) to support national and community service and service-learning programs involving Native Americans.

2. Organizational Capacity and Personnel (35%)

The Corporation will consider the capacity of the applicant to deliver the proposed services based on:

a. Demonstrated ability to design and deliver high-quality, adult, experiential training and technical assistance relevant to Native Americans;

b. Demonstrated ability to design and deliver training and technical assistance in a responsive, flexible and creative manner, using a variety of techniques and at a variety of levels; demonstrated knowledge of staff and consultants in training and capacity-building design and delivery methodologies;

c. Evidence of the organization's experience in problem identification and needs assessment, clarification of needs, and development of suitable T/TA strategies to meet those needs;

d. Evidence of the organization's experience in collaborative partnering with other organizations in T/TA activities;

e. Evidence of the organization's experience in developing and using practical, appropriate materials in support of its T/TA activities;

f. Evidence of the organization's experience using technology as a strategy in training and technical assistance;

g. Demonstrated knowledge of staff and consultants in content areas relevant to the types of T/TA which might be required under this agreement, including sustainability and program evaluation and accountability topics;

h. Evidence of the organization's experience in identifying and documenting appropriate relevant and significant outcomes of training and technical assistance;

i. Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants as evidenced by the applicant's previous grants experience.

3. Evaluation (15%)

The Corporation will consider how the applicant:

a. proposes to measure the need for and outcomes of their products and services;

b. plans to collect data and use assessments to modify and improve their products and services.

4. Budget (15%)

The Corporation will consider the budget based on:

a. Cost-effectiveness of the proposed training and technical assistance activities;

b. The clarity and thoroughness of the budget and budget narrative (see specifications under ''Budget Narrative'').

VII. Glossary of Terms

Grantees

Entities funded directly by the Corporation. These may include: state commissions on national and community service, national non-profit organizations, Indian tribes, and entities in states or U.S. Territories that do not have a state commission.

Sub-Grantees

Organizations receiving funds from Grantees of the Corporation.

National Service Resource Center (NSRC)

The National Service Resource Center (NSRC) serves as a repository of information on all aspects of national service. The NSRC manages most of the Corporation's listservs and maintains and operates a library of print and media materials related to service and a toll-free information and referral service. Training and technical assistance publications are posted or distributed by the NSRC and its Web site (*www.etr.org/nsrc*) includes a calendar of training events and links to all current providers.

National Service-Learning Clearinghouse

National Service-Learning Clearinghouse serves as the primary resource on service-learning for Learn and Serve America grantees in higher education, K–12, community-based organizations and tribes, as well as the entire service-learning community. Its resources include a Web site *(http://www.servicelearning.org),* a library collection, reference and referral, Learn and Serve America project directory, listservs, and expert technical support.

CFDA No. 94.009 Training and Technical Assistance

Dated: August 29, 2002.

Gretchen Van der Veer,

Director, Office of Leadership Development and Training.

[FR Doc. 02–22563 Filed 9–4–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a currently approved collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed extension of 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 4, 2002.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Management Activity—Aurora, Office of Program Requirements, 16401 E. Centretech Parkway, ATTN: Graham Kolb, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Management Activity, Program Requirements Branch at (303) 676–3580.

Title, Associated Form, and OMB Number: CHAMPUS Claim Patient's Request for Medical Payment, DD Form 2642, OMB Number 0720–0006.

Needs and Uses: This form is used solely by beneficiaries claiming reimbursement for medical expenses under the TRICARE Program [formerly the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS)]. The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the care, and reimbursement for the medical services received.

Affected Public: Individual or households.

Annual Burden Hours: 258,750.

Number of Respondents: 1,035,000.

Responses per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection instrument is for use by beneficiaries under the TRICARE Program [formerly the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS)]. TRICARE/CHAMPUS is a health benefits entitlement program for the dependents of active duty Uniform Services members and deceased sponsors, retirees and their dependents, dependents of Department of Transportation (Coast Guard) sponsors, and certain North Atlantic Treaty Organizations, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. DD Form 2642 is used solely by TRICARE/CHAMPUS beneficiaries to file for reimbursement of costs paid to provider and suppliers for authorized health care services or supplies.

Dated: August 27, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 02–22567 Filed 9–4–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 4, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 29, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: FIPSE Comprehensive Program Final Report Guidelines.

Frequency: Once, at project period end.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 75.

Burden Hours: 1,500.

Abstract: The Comprehensive Program is a discretionary grant award program of the Fund for the Improvement of Postsecondary Education (FIPSE). The program supports innovative reform projects that hold promise as models for the resolution of important issues and problems in postsecondary education. Grants made under this program are expected to contribute new information in educational practice that can be shared with others. The Comprehensive Program has established a record of meaningful and lasting improvement to access and quality in postsecondary education. A final report at the end of the grant period is required of all funded projects by Education Department regulations.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2140. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail

address *Vivian.Reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–22585 Filed 9–4–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 7, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 29, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Early Reading First Applicant Eligibility.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 104.

Abstract: The Early Reading First Program will provide grants to eligible local educational agenices (LEAs) and public and private organizations located in those LEAs to transform early education programs into centers of excellence to help young at-risk children achieve the language, cognitive, and early reading skills they need to suceed when they enter kindergarten. This notice sets eligibility standards and thresholds for LEAs on poverty, achievement, and school improvement status for the FY 2002 grant competition, and requests that States provide LEA data on achievement and schools in school improvement for the Department to use in identifying eligible LEAs.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 1939. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–22568 Filed 9–4–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 7, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 30, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Application Package for the REAP Small, Rural School Achievement Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,552.

Burden Hours: 4,830.

Abstract: LEAs will apply for funding under the REAP Small, Rural School Achievement Program. This collection consists of an additional form to the Spreadsheet and Instructions which will address the second tier of the Department's strategy for completing the funding process. The additional form will serve as the application package for LEAs under the REAP Small, Rural Schools Achievement Program.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 1949. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–22586 Filed 9–4–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern NM

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), Northern New Mexico. 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: Wednesday, September 25, 2002 1 p.m.–8:30 p.m.

ADDRESSES: Cities of Gold Hotel, Pojoaque, NM.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1 p.m. Call to Order by Ted Taylor, DDFO; Establishment of a Quorum; Welcome and Introductions by Jim Brannon, Board Chair; Approval of Agenda; Approval of July 31, 2002 Meeting Minutes
1:15 p.m. Public Comment
1:30 p.m. Board Business
A. Election of Officers for FY 03
B. Recruitment/Membership Update
C. Report from Chairman Brannon
D. Report from DOE, Ted Taylor, DDFO
E. Report from Executive Director, Menice S. Manzanares
F. New Business
2:30 p.m. Break
2:45–4 p.m. Reports from Committees
A. Community Outreach Committee, Debra Walsh
• Redevelopment of the NNMCAB website
B. Monitoring and Surveillance Committee, Dr. June Frabryka-Martin
C. Environmental Restoration Committee, Dr. Fran Berting
D. Waste Management Committee, Richard Gale
E. Budget Committee Report, Don Jordan
• Adoption of FY 03 Budget
4 p.m. Resolution on Performance Management Plan
5 p.m. Dinner Break
6 p.m. Briefing on DOE Comments on the New Mexico Environmental Department (NMED) Order
7:30 p.m. Break
7:45 p.m. Public Comment
8:15 p.m. Recap of Meeting
8:30 p.m. Adjourn

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number 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 a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: 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–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http:www.nnmcab.org.*

Issued at Washington, DC on August 29, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–22599 Filed 9–4–02; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq).

DATES: Comments must be filed by October 7, 2002. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail *(BAllen@omb.eop.gov)* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3087. (A copy

of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail *(herbert.miller@eia.doe.gov)* is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be contacted by telephone at (202) 287–1711.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (*i.e.*, the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (*i.e.*, mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (*i.e.*, the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. EIA–176, 191, 857, 895, 910 and 912, ''Natural Gas Data Collection Program Package''
2. Energy Information Administration
3. OMB Number 1905–0175
4. Three-year approval requested—In addition to the changes to the surveys outlined in the **Federal Register** notice published February 25, 2002, on pages 8530—8532, EIA is also requesting that companies file electronically, either by fax or e-mail, unless they lack the technology.
5. Mandatory (Form EIA–895 is voluntary)
6. The Natural Gas Data Collection Program Package forms collect basic and detailed natural gas production, processing, transmission, storage, deliveries, and price data. The data are published by the EIA and are used by both public and private analysts. Respondents include natural gas pipeline companies, distributors, storage operators, marketers, processing plant operators, and State agencies.
7. Business or other for-profit; State, Local or Tribal Government
8. 45,464 hours (2,047 respondents x 6.14 responses per year x 3.6 hours per response).

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13)(44 U.S.C. 3501 *et seq*).

Issued in Washington, DC, August 28, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–22600 Filed 9–4–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions to Intervene, and Protests

August 29, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Non-Project Use of Project Lands and Waters.

b. *Project No*: 2503–068.

c. *Date Filed*: May 28, 2002.

d. *Applicant*: Duke Energy Corporation.

e. *Name of Project*: Keowee-Toxaway Hydroelectric Project.

f. *Location*: On Lake Keowee at The Cliffs at Keowee Vineyards Subdivision in Pickens County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Mr. E.M. Oakley, Duke Energy Corporation, PO Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778

i. *FERC Contact*: Any questions on this notice should be addressed to Brian Romanek at (202) 502–6175, or e-mail address: *brian.romanek@ferc.gov*.

j. *Deadline for filing comments and motions*: September 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 strongly encourages electronic filings. Please include the noted project numbers on any comments or motions filed.

k. *Description of Proposal*: Duke Energy Corporation proposes to permit The Cliffs at Keowee Vineyards Subdivision to excavate about 3,300 cubic yards of sediment material from the bottom of Lake Keowee in an area about 785 feet in length, 49 feet in width, and 2.3 feet in depth. The total disturbed area would be 1.21 acres of lake bottom. The purpose of this excavation is to provide safe access to the previously approved cluster dock facilities serving the subdivision. Presently, boat access during periods of low water level is difficult.

l. *Location of Application*: This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22663 Filed 9–4–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting, Notice

August 29, 2002.

The following Notice of Meeting is Published Pursuant to Section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 5, 2002, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 502–8400. This is a list of matters to be Considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; However, all public documents may be examined in the Reference and Information center.

803rd—Meeting September 5, 2002, Regular Meeting, 10 a.m.

Miscellaneous Agenda

M–1.
Docket# RM02–4,000, Treatment of Critical Infrastructure Information
Other#s PL02–1,000, Treatment of Previously Public Documents

Markets, Tariffs and Rates—Electric

E–1.
Omitted
E–2.
Omitted
E–3.
Omitted
E–4.
Omitted
E–5.
Docket# ER02–2294, 000, New England Power Pool
Other#s ER02–1618, 001, New England Power Pool, ER02–1618, 002 New England Power Pool
E–6.
Omitted
E–7.
Omitted
E–8.
Omitted
E–9.
Omitted
E–10.
Omitted
E–11.
Omitted
E–12.
Omitted
E–13.
Docket# ER02–2008, 000, Duke Energy Corporation
Other#s ER02–2008, 001, Duke Energy Corporation
E–14.
Docket# ER02–2123, 001 Entergy Services, Inc
E–15.
Omitted
E–16.
Omitted
E–17.
Omitted
E–18.
Docket# ER02–488, 002, Midwest Independent Transmission System Operator, Inc.
Other#s ER02–488, 001, Midwest Independent Transmission System Operator, Inc.
E–19.
Omitted
E–20.
Omitted
E–21.
Omitted
E–22.
Omitted
E–23.
Omitted
E–24.
Docket# ER01–2736, 000, Niagara Mohawk Power Corporation
Other#s ER01–2803, 000, Niagara Mohawk Power Corporation
E–25.
Omitted
E–26.
Omitted
E–27.
Docket# ER01–3001, 003, New York Independent System Operator, Inc.
E–28.
Omitted
E–29.
Docket# EC01–130, 000, American Electric Power Service Corp.
Other#s ER01–2668, 000, American Electric Power Company, Inc.
E–30.
Omitted
E–31.
Omitted
E–32.
Omitted
E–33.
Omitted
E–34.
Docket# EL00–95, 065, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
Other#s EL00–98, 054, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
E–35.
Docket# ER02–430, 001, Southern Companies Services, Inc.
Other#s ER02–430, 002, Southern Companies Services, Inc.
E–36.
Omitted
E–37
Omitted
E–38.
Omitted
E–39.
Omitted
E–40.
Docket# EL92–33, 008, Barton Village, Inc., Village of Enosburg Falls Water & Light Department, Village of Orleans, and Swanton Village, Vermont v. Citizens Utilities Company
E–41.
Omitted
E–42.
Docket# EL02–73, 000, Access Energy Corporation
E–43.
Omitted
E–44.
Omitted
E–45.
Omitted
E–46.
Omitted
E–47
Docket# EL00–66, 000, Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation
Other#s ER00–2854, 000, Entergy Services, Inc., EL95–33, 002, Louisiana Public Service Commission v. Entergy Services, Inc.
E–48.
Docket# EL99–44, 000, Arizona Public Service Company v. Idaho Power Company
Other#s EL99–44, 003, Arizona Public Service Company v. Idaho Power Company, EL99–44, 005, Arizona Public Service Company v. Idaho Power Company
E–49.
Docket# ER01–1305, 000, Westar Generating, Inc.
Other#s ER01–1305, 001, Westar Generating, Inc., ER01–1305, 002, Westar Generating, Inc.
E–50.
Omitted
E–51.
Omitted
E–52.
Omitted
E–53.
Omitted
E–54.
Omitted
E–55.
Omitted
E–56.
Omitted

E–57.
Omitted
E–58.
Omitted
E–59.
Docket# EL00–62, 047, ISO New England Inc.
Other#s EL00–62, 048, ISO New England Inc., EL00–62, 049, ISO New England Inc., ER98–3853, 014, New England Power Pool, ER98–3853, 015, New England Power Pool, ER98–3853, 016, New England Power Pool
E–60.
Omitted
E–61.
Omitted
E–62.
Omitted
E–63.
Docket# ER02–1705, 000, Southwest Power Pool, Inc.
Other#s ER02–1705, 001, Southwest Power Pool, Inc.
E–64.
Docket# ER02–2313, 000, Southwestern Electric Power Company
E–65.
Omitted
E–66.
Omitted

Markets, Tariffs and Rates—Gas

G–1.
Omitted
G–2.
Omitted
G–3.
Omitted
G–4.
Omitted
G–5.
Omitted
G–6.
Omitted
G–7.
Omitted
G–8.
Docket# RP02–309, 000, Sunoco, Inc. (R&M)
G–9.
Docket# RP02–99, 000, Shell Offshore Inc.
Other#s RP01–245, 000, Transcontinental Gas Pipe Line Corporation, RP02–144, 000, Superior Natural Gas Corporation
G–10.
Docket# RP99–485, 000, Enbridge Pipelines (KPC)
G–11.
Omitted
G–12.
Omitted
G–13.
Omitted
G–14.
Omitted
G–15.
Omitted
G–16.
Omitted
G–17.
Omitted
G–18.
Omitted
G–19.
Omitted
G–20.
Omitted
G–21.
Omitted
G–22.
Omitted
G–23.
Omitted
G–24.
Omitted
G–25.
Omitted
G–26.
Omitted
G–27.
Omitted
G–28.
Docket# RP00–632, 010, Dominion Transmission, Inc.

Energy Projects—Hydro

H–1.
Omitted
H–2.
Omitted
H–3.
Omitted
H–4.
Omitted
H–5.
Omitted

Energy Projects—Certificates

C–1.
Omitted
C–2.
Omitted
C–3.
Docket# CP02–27, 001, Florida Gas Transmission Company
C–4.
Omitted
C–5.
Omitted
C–6.
Docket# CP01–439, 001, Columbia Gas Transmission Corporation
C–7.
Omitted
C–8.
Docket# CP02–161, 000, Ohio Valley Hub L.L.C.
Other#S PR02–15, 000, Ohio Valley Hub L.L.C.

Magalie R. Salas,
Secretary.

[FR Doc. 02–22665 Filed 9–4–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0001; FRL–6830–2]

Establishment of the National Pollution Prevention and Toxics Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; establishment of advisory committee.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act, we are giving notice that EPA is establishing the National Pollution Prevention and Toxics Advisory Committee (NPPTAC). The purpose of this Committee is to provide a forum for a diverse group of individuals to provide advice, information, and recommendations to EPA's Office of Pollution Prevention and Toxics (OPPT) regarding the overall policy and operations of programs undertaken by the office. EPA has determined that this advisory committee is in the public interest and will assist the Agency in performing its duties as prescribed in the Toxic Substances Control Act, the Pollution Prevention Act, and other applicable statutes. Copies of the Committee Charter will be filed with the appropriate congressional committees and the Library of Congress.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Mary Hanley (7401M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0316; e-mail address: hanley.mary@epa.gov.

List of Subjects

Environmental protection.

Dated: August 27, 2002.

Stephen L. Johnson,
Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–22613 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–7272–7]

Meeting of the Clean Diesel Independent Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92–463, notice is hereby given that the Clean Diesel Independent

Review Panel of the Clean Air Act Advisory Committee will hold its fourth and final meeting on September 24 and 25, 2002. All panel meetings are open to the public. The preliminary agenda for this meeting will be available on the panel's website in mid-September: *http://www.epa.gov/air/caaac/clean_diesel.html.*

DATES: Tuesday, September 24, 2002, from 10 a.m. to 5:30 p.m. Registration begins at 9:30 a.m. Wednesday, September 25, 2002, from 8:30 a.m. to 4 p.m.

ADDRESSES: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007, (202) 726–5000, (202) 337–4250 (fax), *http://www.thelatham.com/.*

FOR FURTHER INFORMATION CONTACT:

Technical Information: Ms. Mary Manners, Designated Federal Official, U.S. EPA, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor MI 48105; telephone: (734) 214–4873, fax: (734) 214–4051, e-mail: *manners.mary@epa.gov.*

Logistical and Administrative Information: Ms. Julia MacAllister, FACA Management Officer, National Vehicle and Fuels Emission Laboratory, Assessment and Standards Division, 2000 Traverwood, Ann Arbor MI 48105; telephone: (734) 214–4131, fax: (734) 214–4816, e-mail: *macallister.julia@epa.gov.*

Current Information: http://www.epa.gov/air/caaac/clean_diesel.html. Individuals or organizations wishing to provide comments to the panel should submit them to Ms. Manners at the address above by September 30, 2002. The Clean Diesel Independent Review Panel expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Donald E. Zinger,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. 02–22607 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7273–3]

National Advisory Council on Environmental Policy and Technology (NACEPT) Superfund Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; notification of public advisory NACEPT subcommittee on Superfund; open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Superfund Subcommittee, a subcommittee of the National Advisory Council on Environmental Policy and Technology (NACEPT), will meet on the date and time described below. The meeting is open to the public. Seating will be on a first-come basis and limited time will be provided for public comment on each day.

DATES: The meeting will be held from 8:30 a.m. to 5:30 p.m. on September 23, 2002; from 8:00 a.m. to 12:15 p.m. on September 24, 2002.

ADDRESSES: The meeting will take place at the Marriott Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION:

Agenda

This second meeting of the Superfund Subcommittee will involve reports from the Subcommittee's working groups about their activities since the last Subcommittee meeting in June 2002. The agenda for the meeting will be available online at *http://www.epa.gov/oswer/SFsub.htm* one week prior to the meeting's occurrence.

Public Attendance

The public is welcome to attend all portions of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public sessions are encouraged to contact the Designed Federal Officer. Each day will have one public comment period.

FOR FURTHER INFORMATION CONTACT: Lois H. Gartner, Designated Federal Officer for the NACEPT Superfund Subcommittee, Office of Emergency and Remedial Response, Office of Solid Waste and Emergency Response, MC 5204G, 1200 Pennsylvania Ave., NW., Washington, DC 20460, (703) 603–9046.

Dated: August 30, 2002.

Lois H. Gartner,

Designated Federal Officer, NACEPT Superfund Subcommittee.

[FR Doc. 02–22611 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7273–1]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of a meeting of the Radiation Advisory Committee (RAC) of the U.S. EPA Science Advisory Board (SAB) and its Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel. The RAC and the MARLAP Review Panel will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents generated by the SAB and the relevant Program Office is included below.

1. Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel—September 24–26, 2002 Meeting

The Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel of the Radiation Advisory Committee (RAC) of the U.S. EPA Science Advisory Board (SAB) (also referred to as the ''Review Panel,'' or ''Panel'') will meet on Tuesday, September 24, 2002 through Thursday, September 26, 2002 to conduct closure edits to its draft report in review of the Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Manual. The MARLAP Review Panel previously met on April 8 (teleconference), and April 23–25, 2002 (see March 13, 2002, 67 FR 11328–11330), and June 27, 2002 (teleconference—see June 12, 2002, 67 FR 40288–40289). Please refer to the March 13, 2002 FR for the charge to the MARLAP Review Panel.

The meeting will begin on Tuesday September 24 at 9 am and adjourn no later than 5:30 pm that day. On Wednesday September 25, the meeting may begin at 8:30 am and adjourn no later than 5:30 pm. The MARLAP Review Panel may meet on the third and final day at 8:30 am and adjourn no later than 3:30 pm in the rooms assigned for ''break-out'' sessions. The meeting will begin in EPA Conference Room 1117A in the EPA East Headquarters Building, 1201 Constitution Avenue, NW.,

Washington, DC 20004. ''Break-out'' sessions will be held in this conference room and adjoining room 1117B and room 1150 as appropriate and if needed. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting

The purpose of this public meeting is to confer on edits to the public draft report of the MARLAP Review Panel and to achieve closure on the report. The need for subsequent meetings of the MARLAP Review Panel will be discussed at this meeting and schedules of any future meetings to complete review of this topic will be discussed if closure is not achieved at this meeting. Information concerning any future public meetings will appear in **Federal Register** notices as appropriate. The public draft MARLAP Review Panel report is not yet available, but will be posted on the SAB Web site (*http://www.epa.gov/sab*) along with a proposed meeting agenda approximately 10 working days prior to the MARLAP and RAC closure meetings. Hard copies of the draft report will be available at the meeting.

See below for further information on availability of review materials and contact information.

2. Radiation Advisory Committee (RAC) Meeting—September 26, 2002

The Radiation Advisory Committee (RAC) of the U.S. EPA Science Advisory Board (SAB), the parent committee of the MARLAP Review Panel, will conduct a public meeting on Thursday, September 26, 2002. The meeting will begin on Thursday September 26 at 8:30 am and adjourn no later than 3:30 pm that day. There will be some overlap with the MARLAP Review Panel meeting and discussions on edits to the draft MARLAP report which started on September 24, 2002. The meeting will take place in the EPA East Conference Room 1117 in the EPA East Headquarters Building, 1201 Constitution Avenue, NW., Washington, DC 20004. ''Break-out'' sessions, if needed will be held in this conference room and adjoining room 1117B and room 1150 as appropriate by the MARLAP Review Panel. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting

The purpose of this meeting is to: (1) Complete closure by the Radiation Advisory Committee (RAC) on the draft report generated by the MARLAP Review Panel, and (2) to discuss, plan and schedule proposed projects for the RAC or Panels to be formed for that purpose scheduled for Fiscal Year 2003.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board (SAB) to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Interested parties should contact the Designated Federal Official (DFO) at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Speakers may attend the meeting and provide comment up to the meeting time. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format)). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution. Should comment be provided at the meeting and not in advance of the meeting, they should be in-hand to the DFO up to and immediately following the meeting. The SAB allows a grace period of 48 hours after adjournment of the public meeting to provide written comments supporting any verbal comments stated at the public meeting to be made a part of the public record.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning these meetings or who wish to submit brief oral comments must contact Dr. K. Jack Kooyoomjian, Designated Federal Official, MARLAP, USEPA Science Advisory Board (1400A), Suite 6450, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4557; fax at (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov*. Requests for oral comments must be in writing (e-mail, fax or mail) and received by Dr. Kooyoomjian no later than noon Eastern Time five business days prior to the meeting date (September 17, 2002 for the two meetings).

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference, must contact Ms. Mary Winston, Management Assistant, MARLAP, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4538; fax at (202) 501–0582; or via e-mail at *winston.mary@epa.gov*.

A copy of the draft agenda for each meeting will be posted on the SAB Web site (*http://www.epa.gov/sab*) (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Materials

There are seven sponsoring federal agencies, commissions and departments (U.S. Environmental Protection Agency, U.S. EPA; U.S. Department of Energy, DOE; U.S. Nuclear Regulatory Commission, NRC; U.S. Department of Defense, DOD; U.S. National Institutes of Standards and Technology, NIST; U.S. Geologic Survey, USGS; and the U.S. Food and Drug Administration, FDA), and two state representatives (California and Kentucky) for the documents that are the subject of the review. The review document is available electronically at the following site *http://www.eml.doe/marlap/*. For questions and information pertaining to the review document, please contact Dr. Mary E. Clark, Assistant Director, Office of Radiation and Indoor Air (6601), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; tel. (202) 564–9348, FAX (202) 565–2043, e-mail: *clark.marye@epa.gov*. Dr. Clark will refer you to the appropriate agency, commission or department contact for the particular issue of interest. The review document which is the subject of this review is cited as follows:

Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Manual, Volume I: Chapters 1–9, and Volume II: Chapters 10–20 and Appendices, NUREG–

1576; EPA 402–B–01–003; NTIS PB2001–106745, August 2001.

The above document and any comments received to date on a previous **Federal Register** solicitation (see 66 FR 45972–45974, August 31, 2001; see also *http://www.epa.gov/rpdweb00/marlap/index.html*) can be viewed at the U.S. Environmental Protection Agency, Office of Air and Radiation Docket (Docket Number A–2001–16), Room M1500, 401 M Street, SW., Washington, DC 20460, Tel. (202) 260–7548.

General Information

Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in *The FY2001 Annual Report of the Staff Director* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at testing, including wheelchair access to the conference room, should contact Dr. Kooyoomjian at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: August 29, 2002.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 02–22608 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7273–2]

EPA Science Advisory Board Staff Office Invitation to a Session on Public Involvement in EPA Science Advisory Board Activities

SUMMARY: The EPA Office of the Science Advisory Board (SAB) is inviting members of the public to register and attend a public session on public involvement in SAB Activities or to contribute information on that topic by email for persons unable to attend.

The session will be held at the Hotel Washington at 515 15th Street, NW., Washington, DC 20004 on September 26, 2002 from 9:30 a.m. to 3 p.m.. The session is open to members of the public who register in advance. However, due to limited space, participation will be on a first-come basis. For further information concerning the meeting, registration procedures, or how to contribute information to the EPA Science Advisory Board Staff Office on the subject of the meeting, please see below.

Purpose and Background: This session is the first in a series of semi-annual sessions that the Office of the EPA SAB Staff plans to hold with the public as part of its effort to continuously improve policies and procedures at the Board. The purpose of the sessions is to hear public concerns and suggestions for additional improvements in SAB policies and procedures. The EPA SAB Staff Office will consider these concerns and suggestions as it develops guidance and plans for the Staff Office and as it supports the Board. The SAB Staff Office will report on public concerns and suggestions to the EPA SAB's Policies and Procedures Subcommittee, as appropriate.

The SAB was established by Congress in 1978 by the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA) (42 U.S.C. 4365). Since that time, the EPA Staff Office, has reported directly to the Administrator and has supported the work of the SAB. Composed of non-Federal government experts, the SAB provides the Administrator with outside, independent advice on scientific, engineering, economics, and social sciences issues that impact the technical basis for EPA positions, including regulations, guidance, and research plans. Generally, the SAB does not address policy aspects of problems confronting the Agency, since such matters are the jurisdiction and responsibility of the EPA Administrator.

The SAB conducts its business in public view and benefits from public input during its deliberations. Through these public proceedings, Agency positions are subjected to critical examination by leading experts in various fields who serve on SAB Committees and Panels. By statute, the Board is subject to the provisions of the Federal Advisory Committee Act that require public access and public input into the advisory processes.

In addition, the EPA SAB Staff Office is holding this meeting to improve processes for public access and public input, as part of the Agency's overall efforts to implement its Draft Public Involvement Policy (65 FR 82335–82345, December 28, 2000). Consistent with that policy, the SAB Staff Office recognizes that it serves the general public, because every person living in the United States is an ultimate beneficiary of EPA actions to protect public health and the environment when those actions draw upon SAB advice. Thus the Staff Office invites written comments (details provided below on how to submit those comments) from individuals unable to attend the September 26, 2002 session.

Specific Format and Topics for the September 26, 2002 Session. A draft agenda for the session will be posted on the SAB website on or about September 6, 2002. The session will include a plenary session that will report on recent efforts to strengthen the SAB's panel formation process and will also orient participants to the two major topics for discussion: ''Public Involvement in SAB Meetings and Report Development'' and the ''SAB's Public Access Web site'' (*http://www.epa.gov/sab*). Break-out sessions will then follow and allow participants to ask questions and provide input on these two major topics.

At the break-out session on Public Involvement in SAB Meetings and Report Development, topics to be covered will include: participants' views of the most valuable aspects of the current process and participants' suggestions for additions or changes to the process.

At the break-out session on the SAB's Public Access Web site (*http://www.epa.gov/sab*), topics will include: Participants' views of the most valuable features and participants' suggestions for features or functions to add or change.

Participants in the September 26, 2002 session will have the opportunity to participate in both break-out sessions.

The last part of the agenda will allow participants to identify topics for future sessions being planned by the EPA SAB Staff Office.

Registration for the September 26, 2002 Session. Persons wishing to register must send the following information by September 19, 2002 to Ms. Diana Pozun, Program Specialist, EPA Science Advisory Board at *pozun.diana@epa.gov*: Name, Title, Organization, telephone number, fax number, email.

Provision of Written Comments by Individuals Unable to Attend the September 26, 2002 Session. Persons unable to attend the public meeting who wish to provide written comments on the specific topics identified above may send those comments to Dr. Angela Nugent of the Science Advisory Board Staff by email at *nugent.angela@epa.gov*. Written comments received prior to noon Eastern time on September 25, 2002 will

be included in the discussion at the public session.

FOR FURTHER INFORMATION: Members of the public desiring additional information about the session on September 26, 2002, must contact Dr. Angela Nugent, Special Assistant to the Director, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4562; FAX (202) 501–0323; or via e-mail at *nugent.angela@epa.gov*. Information on meeting logistics can be obtained from Ms. Diana Pozun, Program Specialist, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4533; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov*.

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. Pozun at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: August 29, 2002.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 02–22609 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7272–9]

Motorola 52nd Street Superfund Site, Phoenix, Arizona; Notice of Proposed Administrative Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for Public Comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C 9600 *et seq.*, notice is hereby given that a proposed Agreement and Covenant Not to Sue (Prospective Purchaser Agreement) associated with the Motorola 52nd Street Superfund Site (the Site) was executed by the United States Environmental Protection Agency (EPA) on August 28, 2002. The Prospective Purchaser Agreement would resolve certain potential claims of the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C 9606 and 9607(a), and section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6973, against the City of Phoenix, a municipal corporation of the State of Arizona (Phoenix).

Phoenix plans to acquire a parcel of land comprising 0.5 acres within Operable Unit 2 of the Site as part of an expansion of Sky Harbor International Airport. Phoenix plans to use this parcel for aviation-related purposes, including airfields, terminals, parking, airport administrative functions, and air cargo and aircraft maintenance operations. This acquisition is the latest step in the airport expansion begun in 2001, when EPA issued the first Prospective Purchaser Agreement (Docket No. 2000–06) to Phoenix, covering 6 parcels, 22 acres in extent. According to the terms of this proposed Agreement, Phoenix will pay EPA $10,000, will provide access to the parcel to EPA as necessary to accomplish cleanup of the Site and will implement institutional controls on this property if requested by EPA.

For thirty (30) calendar days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. If requested prior to the expiration of this public comment period, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before October 7, 2002.

ADDRESSES: The proposed Prospective Purchaser Agreement and additional background documents relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Comments should reference ''City of Phoenix PPA #2, Motorola 52nd Street Site'' and ''Docket No. 2002–07,'' and should be addressed to William Keener at the above address.

FOR FURTHER INFORMATION CONTACT: William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972–3940; fax: (415) 947–3570; e-mail: *keener.bill@epa.gov*

Dated: August 28, 2002.

Jane Diamond,

Acting Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. 02–22610 Filed 9–4–02; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission (EEOC).

DATE AND TIME: Tuesday, September 3, 2002 at 10:30 a.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Closed Session

Litigation Recommendation: Amicus Curiae Recommendation.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meeting in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: August 30, 2002.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 02–22685 Filed 9–3–02; 10:02 am]

BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 28, 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 current 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 November 4, 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 Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202–418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0110.

Title: Application for Renewal of License for AM, FM, TV Translator, or LPTV Station.

Form Number: FCC Form 303–S.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 5,492.

Estimated Time per Response: 1.0 hours (avg.).

Frequency of Response: Reporting once every 8 years.

Total Annual Burden: 5,288 hours.

Total Annual Costs: $1,560,851.

Needs and Uses: FCC Form 303–S is used to apply for renewal of a commercial or noncommercial AM, FM, or TV broadcast station and FM translator, TV translator, or Low Power TV (LPTV) broadcast station license. Form 303–S is used to seek the joint renewal of licenses for an FM or TV translator station and its co-owned primary FM, TV, or LPTV station. The FCC staff use data from Form 303–S to assure that requisite reports for an application renewal have been filed and that the licensee continues to meet basic statutory requirements for broadcast station license. An applicant must post a public notice to inform the public that the station has filed for license renewal.

OMB Control Number: 3060–XXXX.

Title: Digital Audio Broadcasting Systems And Their Impact On the Terrestrial Radio Broadcast Service.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 12,000.

Estimated Time per Response: 2 hours.

Frequency of Response: Recordkeeping; One-time reporting requirement.

Total annual burden: 24,000 hours.

Total Annual Costs: $30,000.

Needs and Uses: The FCC will require station licensees to provide information relative to implementation of interim hybrid digital operations. This information will provide be used to provide guidance on the rate of the transition from analog to digital radio broadcasting in the various radio markets; to confirm continuing compliance with current radio frequency radiation (RFR) exposure restrictions; to provide updated transmitter output power (TPO) levels for FM stations; and to assist in the resolution of interference complaints, if any, which may arise due to the commencement of digital broadcasting.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–22592 Filed 9–4–02; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 02–2049]

Interim Filing and Certification Requirements Regarding Submission of Contracts with Assignment/Transfer of Control Applications

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this *Public Notice*, the Media Bureau implements a Federal Communications Commission directive to relax the requirement that assignment of license/transfer of control applicants submit a complete and unredacted copy of the sale contract with each assignment/transfer application. Such applicants may exclude contract attachments not material to the Commission's analysis of the transaction, provided that they also submit an exhibit describing each of the omitted documents, stating both the specific reason(s) for the omission and the basis for the determination that the omitted documentation is not material to the Commission's consideration of the subject application.

DATES: Effective August 22, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nina Shafran, Deputy Chief, Audio Division, Media Bureau, Federal Communications Commission, (202) 418–2781.

SUPPLEMENTARY INFORMATION: The text of the *Public Notice* is as follows:

The Instructions to FCC Forms 314 (Application for Consent to Assignment of Broadcast Station Construction Permit or License), 315 (Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License), and 316 (Short-Form Application for Consent To Assign Broadcast Construction Permit or License or Transfer of Control of Entity Holding Broadcast Station Construction Permit or License) currently require the filing of ''a complete and final copy of the unredacted contract for the sale of the authorizations * * *, including all exhibits and attachments.'' Applicants also must certify whether they have complied with this requirement.

In a *Memorandum Opinion and Order* released today, the Commission concludes that the contract submission requirements should be relaxed to permit applicants to exclude contract attachments that are not material to the Commission's analysis of the transaction and directs the staff to revise the Forms' Instructions and certifications accordingly. *See LUJ, Inc., Assignor*, FCC No. 02–235 (released August 22, 2002) (the *''LUJ Decision''*) ¶ 7. Until the revised Forms are issued, the Media Bureau hereby announces interim filing and certification procedures, effective immediately, as set forth in the *LUJ Decision*. Applicants that submit a complete and final copy of the sales contract, including all exhibits and attachments, may respond ''Yes'' to the applicable Item of the relevant Form. Applicants—Assignors/Licensees/Transferors and Assignees/Transferees alike—that choose to omit certain of the transaction documents which contain information that is not material for Commission processing purposes must respond ''No'' to the

applicable Item of the Form. In the latter circumstance, applicants must also submit an exhibit describing each of the omitted documents, stating both the specific reason(s) for the omission and the basis for the determination that the omitted documentation is not material to the Commission's consideration of the subject application. Examples of documents that normally would not be material to the Commission's processing of the application are employee benefit plans and lists of vendor supply contracts being assumed by the buyer.

We remind applicants that the failure to submit documentation containing all material terms of an agreement for the assignment or transfer of control of a broadcast authorization, including the sales price, will delay processing of the application and may result in the Bureau providing the public with an additional thirty-day public comment period following the submission of all such documentation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–22593 Filed 9–4–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:02 a.m. on Thursday, August 29, 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 Julie L. Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Mr. Richard Riccobono, acting in the place and stead of Director James E. Gilleran (Director, Office of Thrift Supervision), 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)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (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: September 3, 2002.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 02–22699 Filed 9–3–02; 11:04 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE AND TIME: *Tuesday, September 10, 2002 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: *Thursday, September 12, 2002 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Notice of Proposed Rulemaking on Coordinated and Independent Expenditures.

Alternative Dispute Resolution Program Evaluation.

Routine Administrative Matters.

FOR MORE INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–22756 Filed 9–3–02; 2:57 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 18, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Jason Howard Reed, Dallas, Texas; to acquire control of Grant County Bank, Medford, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. First La Grange Bancshares, Inc., Employee Stock Ownership Plan, La Grange, Texas, Falcon National Bank, San Antonio, Texas, and National Bank & Trust, La Grange, Texas; to acquire voting shares of First La Grange Bancshares, Inc., La Grange, Texas, and thereby indirectly acquire voting shares of National Bank & Trust, La Grange, Texas.

Board of Governors of the Federal Reserve System, August 29, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–22571 Filed 9–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate

inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 27, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 25 percent of the voting shares of Summit Bancshares, Inc., Prescott, Arizona, and thereby indirectly acquire Summit Bank, Prescott, Arizona (in organization) .

2. Summit Bancshares, Inc., Prescott, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Summit Bank, Prescott, Arizona (in organization).

Board of Governors of the Federal Reserve System, August 29, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–22570 Filed 9–4–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, September 9, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 30, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–22684 Filed 9–3–02; 9:22 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. R–1128]

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 02–13]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46432; File No. S7–32–02]

Draft Interagency White Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System

AGENCIES: Board of Governors of the Federal Reserve System (Board); Office of the Comptroller of the Currency, Treasury (OCC); and Securities and Exchange Commission (SEC).

ACTION: Request for comment.

SUMMARY: The Federal Reserve, the Office of the Comptroller of the Currency and the Securities and Exchange Commission are publishing this draft white paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System for comment. The New York State Banking Department and the Federal Reserve Bank of New York also participated in drafting the paper. The New York State Banking Department is issuing the paper separately for comment by interested persons. The federal agencies and the New York State Banking Department are referred to as the ''agencies'' in the paper. The paper discusses the views of the agencies on sound practices based on discussions with industry representatives on how the events surrounding September 11, 2001, have altered business recovery and resumption expectations for purposes of ensuring the resilience of the U.S. financial system and seeks comments on those views.

DATES: Comments must be received on or before October 21, 2002.

ADDRESSES: Comments should be directed to:

Board: Comments should refer to Docket No. R–1128 and should be submitted to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

OCC: Please direct all comments concerning this paper to: Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mail Stop 1–5, Washington, DC 20219, Attention: Docket No. 02–13; fax number (202) 874–4448; or Internet address: *regs.comments@occ.treas.gov.* Due to recent temporary disruptions in the OCC's mail service, we encourage the submission of comments by fax or e-mail whenever possible. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.

SEC: All comments concerning the paper should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Comments can be submitted electronically at the following E-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–32–02; this file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549. Electronically submitted comment letters will be

posted on the Commission's Internet Web site *(http://www.sec.gov).*

FOR FURTHER INFORMATION CONTACT: *Board:* Jeffrey Marquardt, Associate Director, Division of Reserve Bank Operations and Payment Systems (202) 452–2360; or Angela Desmond, Assistant Director, Division of Banking Supervision and Regulation (202) 452–3497.

OCC: Ralph Sharpe, Deputy Comptroller for Bank Technology (202) 874–4572; or Aida Plaza Carter, Director, Bank Information Technology Operations (202) 874–4740.

SEC: David Shillman, Counsel to the Director, Division of Market Regulation (202) 942–0072; or Peter Chepucavage, Attorney Fellow (202) 942–0163.

SUPPLEMENTARY INFORMATION: Based on in-depth discussions with industry representatives, the agencies have reached certain conclusions regarding the necessity to assure the resilience of critical U.S. financial markets in the face of wide-scale, regional disruptions and identified a number of sound practices to strengthen the resiliency of the overall U.S. financial system and the respective U.S. financial centers. Ensuring the resilience of critical financial markets requires that core clearing and settlement organizations and other firms that play significant roles in critical financial markets, many of which enjoy the benefits of operating out of major financial centers, will be able to perform their critical activities even in the event of a wide-scale, regional disruption.

The agencies are seeking comment on the sound practices discussed below. Upon issuance of a final paper, the agencies intend to incorporate these sound practices into supervisory expectations or other forms of guidance. This paper is meant to supplement the agencies' respective existing policies and other guidance on business continuity planning by financial institutions. Because of the criticality of protecting the financial system after September 11, the sound practices focus on minimizing immediate systemic effects of wide-scale regional disruption of critical wholesale financial markets and therefore do not address issues relating to retail financial services.

Section I of this paper discusses business continuity objectives that have special importance after September 11 and their scope of application. Section II provides the agencies' preliminary conclusions with respect to key factors affecting the resilience of critical markets and activities in the U.S. financial system; sound practices to strengthen financial system resilience; and an appropriate timetable for implementing these sound practices. Section III contains a summary and analysis of the industry discussions that provided a basis for the agencies' preliminary conclusions, with a focus on private-sector perspectives; recovery of critical activities; confidence in recovery and resumption plans through use or testing; and implementation considerations. Section IV outlines next steps following issuance of the agencies' final views. Section V concludes this paper with a request for comment on the sound practices.

Draft Interagency White Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System

I. Business Continuity Objectives and Scope of Application

The Federal Reserve, the Office of the Comptroller of the Currency, the Securities and Exchange Commission and the New York State Banking Department (the agencies) have been meeting with industry participants to analyze the lessons learned from the events of September 11, with a view towards strengthening the overall resilience of the U.S. financial system in the event of a wide-scale, regional disruption. This effort began with a set of interviews with a number of large banking and securities firms, clearing and settlement organizations, and payment system operators to identify ''what worked'' and what could be improved going forward. On February 13, 2002, the agencies issued a discussion note on lessons learned and their implications for business continuity.[1] On February 26, the agencies met with a group of large financial firms and financial utilities to discuss these findings, identify areas of consensus, and exchange views on how industry members can act as catalysts in achieving greater internal and industry resilience.[2] Out of these and a series of in-depth, follow-up discussions, the agencies identified broad consensus on three business continuity objectives that have special importance after September 11:

- Rapid recovery and timely resumption of critical operations following a wide-scale, regional disruption;
- Rapid recovery and timely resumption of critical operations following the loss or inaccessibility of staff in at least one major operating location; and
- A high level of confidence, through ongoing use or robust testing, that critical internal and external continuity arrangements are effective and compatible.

Based on this extensive dialogue, the agencies have reached certain preliminary conclusions with respect to the factors affecting the resilience of critical markets and activities in the U.S. financial system; sound practices to strengthen financial system resilience; and an appropriate timetable for implementing these sound practices. Following a public comment period, the agencies will issue in final form their views on sound practices for strengthening the resilience of the financial system in the event of a wide-scale, regional disruption. The agencies are issuing their views to guide financial organizations as they complete their reviews of business continuity plans and make strategic investments to strengthen their capabilities.

The agencies view these sound practices as being most applicable to organizations that present a type of systemic risk should they be unable to recover or resume critical activities that support critical markets. In this context, ''systemic risk'' includes the risk that the failure of one participant in a transfer system or financial market to meet its required obligations will cause other participants to be unable to meet their obligations when due, causing significant liquidity or credit problems and threatening the stability of financial markets.[3] The organizations that could present such systemic risk should they be unable to recover (*i.e.,* complete) and resume (*i.e.,* carry on) critical activities consist of core clearing and settlement organizations. Other firms that play a significant role in critical financial markets also could contribute to systemic risk should they be unable to recover critical activities. These organizations and key terms are described more fully below.

Critical markets provide the means for banks, securities firms, and other financial institutions to adjust their key cash and securities positions and those of their customers in order to manage significant liquidity, market, and other risks to their organizations. Critical markets also provide support for the provision of a wide range of financial services to businesses and consumers in

[1] The note is posted on each of the agencies web sites. See, *e.g., http://www.sec.gov/divisions/marketreg/lessonslearned.htm.*

[2] The summary is posted on each of the agencies web sites. See, *e.g., http://www.federalreserve.gov/boarddocs/staffreports/.*

[3] The use of the term ''systemic risk'' in this paper is based on the international definition of systemic risk in payments and settlement systems contained in ''A glossary of terms in payment and settlement systems,'' Committee on Payment and Settlement Systems, Bank for International Settlements (2001).

the United States. Certain markets such as the Federal funds and government securities markets also support the implementation of monetary policy. For purposes of this paper, ''critical markets'' are defined as the markets for

- Federal funds, foreign exchange and commercial paper
- Government, corporate, and mortgage-backed securities
- ''Core clearing and settlement organizations'' consist of market utilities that provide critical clearing and settlement services for financial markets and large value payment system operators. Core clearing and settlement organizations also consist of firms that provide similar critical clearing and settlement services for critical financial markets in sufficient volume or value to present systemic risk in their sudden absence, and for whom there are no viable immediate substitutes.
- ''Firms that play significant roles in critical financial markets'' are those that participate in sufficient volume or value such that their failure to perform critical activities by the end of the business day could present systemic risk. There are different ways to gauge the significance of such firms in critical markets. The agencies believe that many if not most of the 15–20 major banks and the 5–10 major securities firms, and possibly others, play at least one significant role in at least one critical market. In the context of these sound practices, the agencies are considering the benefit of providing additional guidance (*e.g.*, in terms of market-share or dollar-value thresholds) to help firms identify the category into which they fall for the specific activities they perform.

For purposes of these sound practices, a ''wide scale, regional disruption'' is one that causes a severe disruption of transportation, telecommunications, power, or other critical infrastructure components across a metropolitan or other geographic area and its adjacent communities that are economically integrated with it; or that results in a wide-scale evacuation or inaccessibility of the population within normal commuting range of the disruption's origin.

II. Resilience of Critical Markets and Activities in the U.S. Financial System and Sound Practices

A. Resilience of Critical Markets and Activities in U.S. Financial System

Critical Markets. The resilience of the U.S. financial system in the event of a wide-scale, regional disruption rests on the rapid recovery and resumption of critical financial markets defined above and the activities that support them.

Recovery of Critical Activities. The rapid restoration of critical financial markets, and the avoidance of potential systemic risk, requires firms that play significant roles in those markets to recover business processes and functions sufficient to complete critical activities by the end of each business day. These critical activities are:

(a) Completing pending large-value payment instructions;

(b) Clearing and settling material pending transactions;

(c) Meeting material end-of-day funding and collateral obligations necessary to assure the performance of items (a) and (b) above;

(d) Managing material open firm and customer risk positions, as appropriate and necessary to assure the performance of items (a) through (c) above;

(e) Communicating firm and customer positions necessary to assure the performance of items (a) through (d) above, reconciling the day's records, and safeguarding firm and customer assets; and

(f) Performing all support and related functions that are integral to the above critical activities.

Recovery and Resumption of Critical Activities. The rapid resumption of critical financial markets requires that core clearing and settlement organizations be able to recover and resume within the business day the critical activities they perform that support the recovery of critical markets. These include the recovery of critical activities discussed above as well as the resumption of:

(a) Processing new large-value payment instructions;

(b) Clearing and settling material new transactions;

(c) Managing material ongoing funding and collateral requirements necessary to assure the performance of items (a) and (b) above;

(d) Managing material ongoing firm and customer risk positions, as appropriate and necessary to assure the performance of items (a) through (c) above;

(e) Communicating changes in firm and customer positions necessary to assure the performance of items (a) through (d) above, reconciling the day's records, and safeguarding firm and customer assets; and

(f) Performing all support and related functions that are integral to the above critical activities.

B. Sound Practices to Strengthen U.S. Financial System Resilience

The agencies have identified the following sound practices for core clearing and settlement organizations and other firms that play significant roles in critical financial markets. The sound practices address the risks of a wide-scale, regional disruption and strengthen the resilience of the financial system. They also reduce the potential for a regional disruption to have an undue impact on one or more critical markets because primary and back-up processing facilities and staffs are concentrated in a particular geographic region.

1. *Identify critical activities.* Core clearing and settlement organizations and other firms that play significant roles in critical financial markets should identify all the critical activities they perform in support of critical markets.

2. *Determine the appropriate recovery and resumption objectives.* Firms that play significant roles in critical financial markets should, at a minimum, plan to recover on the same business day the critical activities they perform that support the recovery of critical markets. In fact, an emerging industry objective appears to be for firms that play significant roles in critical financial markets generally to set a recovery-time target of no later than four hours after the event. Core clearing and settlement organizations should plan both to recover and to resume fully within the day their critical activities that support critical financial markets. An emerging industry objective appears to be for such organizations generally to set a resumption-time target no later than two hours after the event.

3. *Maintain sufficient out-of-region resources to meet recovery and resumption objectives.* Firms that play significant roles in critical markets, at a minimum, should have back-up arrangements with sufficient out-of-region staff, equipment, and data to recover their critical activities within their recovery-time objectives.[4] These arrangements can range from a firm establishing its own out-of-region back-up facility for data and operations, to arranging for the use of remote outsourced facilities. The objective is to minimize the risk that a primary and a back-up site, and their respective labor pools, could both be impaired by a single wide-scale, regional disruption, including one centered somewhere in between them. Core clearing and settlement organizations should have sufficient out-of-region resources both to

[4] The agencies are not recommending as a sound practice that firms move their primary sites out of center-city locations. There are many important business and internal control reasons for having processing sites near financial markets and firms' headquarters. It is the separation between primary and alternative processing sites that is important in promoting resilience.

recover and to resume fully their critical activities within their recovery and resumption-time objectives. Although there may be a variety of approaches that could be effective, out-of-region back-up locations should not be dependent on the same labor pool or infrastructure components used by the primary site, and their respective labor pools should not both be vulnerable to simultaneous evacuation or inaccessibility. Infrastructure components include transportation, telecommunications, water supply and electric power.

4. *Routinely use or test recovery and resumption arrangements.* Firms that play significant roles in critical financial markets and core clearing and settlement organizations should routinely use or test their individual internal recovery and resumption arrangements for required connectivity, functionality, and volume capacity. Such institutions should also work cooperatively to design and to schedule appropriate cross-organization tests to assure the compatibility of individual recovery and resumption strategies within and across critical markets.

C. Timetable for Developing Plans and Implementing Sound Practices

Firms should be enhancing their business continuity plans to address wide-scale, regional disruptions, including adoption of implementation plans to achieve these sound practices. To the extent that these sound practices require revisions of the plans, they should be completed as soon as possible and no later than 180 days after the agencies issue their final views. The agencies recognize that firms that play significant roles in critical financial markets are in different stages of their planning and investment cycles regarding new facilities, technology, staffing, and business processes. Furthermore, some have built, or are in the process of establishing, back-up sites or other arrangements that, while improving resilience, may not be fully consistent with these sound practices. Given their different circumstances, it may take some firms longer than others to implement all of these sound practices in a cost-effective manner. Accordingly, while the agencies recognize the need for some flexibility in implementation timetables, firms nevertheless should strive to achieve these sound practices as soon as practicable. All core clearing and settlement organizations, however, should begin to implement plans to establish out-of-region back-up resources within the next year.

III. Summary and Analysis of Industry Discussions

A. Private-Sector Perspectives

The events of September 11 underscored the fact that the financial system operates as a network of interrelated markets and participants. The behavior of an individual participant can have a wide-ranging effect beyond its immediate counterparties. Firms agreed that all participants in the financial system should strive to incorporate the three business continuity objectives into their plans; however, they also made clear that ''one size does not fit all.'' There was agreement that some critical activities, including safeguarding and transferring funds and financial assets, are so vital to the operation of the financial system that they should continue with minimal disruption, even in the event of a wide-scale, regional disruption.

All firms recognize the importance of critical financial markets to their own operations and to the financial system overall in the event of a wide-scale, regional disruption. Core clearing and settlement organizations play a particularly crucial role in permitting firms and markets that are affected by the event to recover and resume operations as well as in permitting firms and markets that are unaffected to continue to operate. For example, in order for firms affected by a disruption to recover critical activities by the end of the day, including clearing and settling pending transactions, clearing and settlement organizations must themselves be able to recover and resume operations within the day. In addition, if some firms are unaffected by the disruption and are able to support the continued operation of critical markets to some degree, clearing and settlement organizations must be able to conduct operations. If clearing and settlement organizations are not able to operate in such circumstances, they likely will contribute to the amplification of potential systemic risks. For core clearing and settlement organizations, the dimensions of this systemic risk would likely be national and even international. As a result of these considerations, core clearing and settlement organizations recognize that in the event of a wide-scale, regional disruption they must be able to both recover and fully resume critical activities within the day, and typically within a very limited period of time. Firms that play significant roles in critical financial markets also should meet high recovery standards.

The agencies have found that industry participants generally recognize their respective roles in improving the overall resilience of the financial system and have made it a priority to complete internal preparations, share information and coordinate efforts. Firms indicated that economic trades-offs and competitive considerations exist in making strategic decisions about business continuity that require the continuing leadership of senior management and should not be left to the discretion of individual business units.

B. Recovery of Critical Activities

Business continuity plans address a variety of issues, including emergency response procedures assuring the safety of personnel, effective internal and external communications, and implementation of business recovery and business resumption strategies. The business continuity planning process involves a careful enterprise-wide analysis, including an assessment of the impact of an unexpected disruption of business processes and associated risks. Among other things, plans are designed to manage those risks by arranging for the recovery of critical activities to permit an orderly resolution of outstanding obligations. Firms also are expected to monitor their business continuity risks by testing and updating plans periodically.[5]

Business recovery preparations enable a firm to recover the operation of a disrupted business process or function in order to manage firm and customer risks.[6] At a minimum this includes recovery of those ''critical activities'' necessary to permit the clearance and settlement of pending transactions; management and reconcilement of firm and customer positions; completion of the day's large value payments; and arranging for collateral or end-of-day funding. This also includes recovery of activities or systems that support or are integrally related to the performance of these critical business processes or functions. Business recovery preparations related to these critical activities are crucial to the smooth operation of the financial system. Given the complex interdependencies of markets and among participants, thorough preparations reduce the

[5] There are numerous sources of information on sound practices for business continuity planning. *See, e.g. www.thebci.org; http://www.business-continuity.com;* www.bsi-global.com.

[6] The goal of business recovery plans is the recovery of a particular activity or function, and not the recovery of a disabled facility or system. The goal of business resumption is the effecting and processing of new transactions after old transactions have been completed.

potential that a sudden disruption experienced by a few firms will cascade into market-wide inefficiencies and liquidity dislocations.[7] All firms recognize that business recovery is a core element of more comprehensive business continuity plans.

In discussions with industry members, firms often stated that the financial system is only as strong as its ''weakest link.'' Each firm has to ensure that its business continuity plans provide robust business recovery arrangements for the activities it performs that are critical to the smooth functioning of the financial system: wholesale payments processing, and clearance and settlement of money market instruments, government securities, foreign exchange, commercial paper and other corporate securities. Industry participants also recognize that core clearing and settlement organizations represent potential single points of failure in the financial system and therefore have the greatest responsibility for ensuring that they can recover and fully resume those activities in a timely manner. They also believe that firms that are significant participants in one or more critical markets or that effect a substantial volume or value of wholesale payments should develop robust recovery plans for critical activities in the event of a wide scale disruption when their primary sites and staffs may be inaccessible for some duration.

Once a firm identifies its critical business functions and processes, it must establish recovery-time targets sufficient to ensure that it can carry out those functions and processes in a manner that will result in minimal disruption to the financial system. This facilitates the compatibility of recovery plans across firms and helps assure firms are able to participate in the financial system in times of wide-scale, regional disruptions. A number of firms stated that current technology permits recovery-time targets of between one to four hours for many critical activities, even when factoring in the possibility of needing to reconstruct lost data.

In establishing recovery targets for critical activities, firms are coordinating their plans with the expectations of their respective core clearing and settlement organizations and peers. Some payment systems already have established robust recovery targets. Core clearing and settlement organizations are holding themselves to an intra-day recovery target—generally a few hours—and it is expected that technology will continue to improve upon those recovery times. Some also have, or are establishing, recovery times for their participants and, in such cases suggest that firms establish no later than end-of-day recovery targets. For example, wholesale payment systems have typically required participants to recover from a disruption in less than four hours, and many firms, including the payment systems themselves, are now able to achieve recovery times of substantially less than two hours.

Industry members generally agree that recovery of critical activities and processes during a wide-scale, regional disruption requires establishment of some level of out-of-region arrangements for critical operations and the personnel and data that support them. The objective of establishing out-of-region arrangements is to minimize the risk that a primary site and a back-up site, and their respective labor pools could be impaired by a single, wide-scale, regional disruption. Although there may be other approaches that could be effective, firms generally agree that out-of-region locations should not be dependent on the same labor pool or infrastructure components used by the primary site and should not be affected by a wide-scale evacuation or the inaccessibility of the region's population. Examples of such arrangements include a fully operational out-of-region back-up facility for data and operations,[8] and utilizing outsourced facilities in which equipment, software and data are stored for staff to activate. With this in mind, certain core clearing and settlement organizations, which are widely expected to recover and resume operations at full capacity indefinitely, and other firms that play significant roles in critical financial markets are establishing remote back-up facilities, in some cases hundreds or even thousands of miles away from the primary site. Some firms that already have a national or multi-region presence are planning to utilize out-of-region offices to establish back-up sites. Many are finding that there is the potential to achieve out-of-region staffing and system efficiencies by cross training staff or utilizing underused systems to share or shift loads. Other firms that play significant roles in markets or in effecting payments also are developing remote arrangements to ensure that they can recover critical data and operations during a wide-scale outage within expected recovery time targets. A number of firms in the process of identifying appropriate recovery arrangements stated that the events of September 11 have underscored the importance of building recovery strategies and capacities into their basic business processes.[9]

Recovery plans must anticipate the need to have sufficient trained staff located at or near the back-up site to meet recovery objectives and plans for resuming a critical function at normal volumes for an extended duration. Firms are staffing remote back-up sites in a variety of practical and cost-effective ways. For example, firms operating active back-up sites often have full-time staffs who regularly perform the critical activities. Other firms plan to cross-train staff already located at remote sites so that they are able to assume responsibility for performing more critical back-up operations during an outage at the primary site. Firms that outsource their business resumption facilities to an out-of-region facility may have some staff located there. In general, firms that establish out-of-region facilities recognize that relocating employees is useful during the start-up/training period of developing a facility; however, it may be necessary to develop and maintain ''local talent'' to operate these facilities in the event of an extended outage and loss or inaccessibility of staff at the primary site. Some firms do not have sufficient volumes to warrant establishing geographically remote back-up facilities capable of providing full resumption over the near term. Nevertheless, many are taking steps to provide for the out-of-region recovery of transactional data and other resources to complete critical activities within target recovery times.

Ensuring that back-up facilities have access to current data is a critical component of business recovery. Firms recognize that out-of-region facilities fall beyond the current distance capacity of some high-volume, synchronous

[7] Under adverse market conditions or in the event of credit concerns about institutions, liquidity dislocations of the type experienced immediately after September 11 could be seriously compounded.

[8] Generally referred to as ''hot'' sites, these facilities are fully equipped with hardware and software necessary to perform critical business functions and provide access to replicated data. This approach allows a firm to recover a function in minutes to a few hours depending on the integrity of the data.

[9] A number of firms have expressed concerns about the reliability of telecommunications and other infrastructure providers, and the current limitations on an individual firm's ability to obtain verifiable redundancy of service from such carriers. Firms that have out-of-region facilities obtain additional diversity in their telecommunications and other infrastructure services that provide additional resilience in ensuring recovery of critical operations. Individual financial firms are also launching industry-wide efforts to explore common infrastructure issues and approaches.

mirrored disk back-up technology,[10] and those establishing such facilities are taking a number of steps to minimize the potential for losing data in transit. For example, a number of firms are transmitting data continuously to local and remote back-up data centers resulting in multiple back-up databases. Others are sending more frequent batches to their remote back-up sites or to data storage locations electronically. Some firms maintain multiple replicas of their databases at various locations that can be accessed for production and other uses. In addition, a number of firms are establishing active back-up arrangements that permit the primary site automatically to shift production with little or no staff involvement, providing a very rapid recovery capability. These steps can significantly reduce the amount of time it takes to recover lost transactions and improve the ability of a firm to recover the function or process. Technology is evolving rapidly in this area; for example, software and hardware innovations are expected to provide the ability to maintain synchronous databases at even longer distances. Some firms are establishing systems and business strategies that permit the use of continued improvements in technology to achieve the greatest geographical diversity practicable.

Sound planning includes developing flexible plans that incorporate alternative recovery and resumption arrangements. These plans often can be activated to respond to more commonly experienced contingencies that affect fairly small geographic areas and were the subject of most plans before September 11. For example, some firms that require real-time data back-up have or are establishing in-region back-up sites that employ synchronous technology and are easily accessible in situations that do not involve a wide area disruption. Other examples include developing numerous small recovery sites that are locally accessible by employees and can be used to perform essential business functions; requiring a percentage of employees in a function to telecommute each day; dividing employees into shifts over a 24 hour period; and modifying information systems security access protocols to permit access to desk tops and data from home (virtual offices). These measures provide additional resilience in responding to a disruption in an appropriate and practical manner.

[10] Estimates of the distance limitations of such technology typically range from 60–100 km.

C. Confidence in Recovery and Resumption Plans through Use or Testing

In responding to the events of September 11, many firms used plans developed during Year 2000 preparations. Although these plans worked well, some found that back-up data bases, facilities, contact information and other aspects of their plans were not sufficiently up-to-date. As a result, firms expressed a renewed commitment to ensure that critical internal and external business recovery and resumption arrangements are effective, communicated and rehearsed by all staff on a regular basis. Some firms report that they are achieving a high level of confidence through the continuous use of two sites (*i.e.*, active'active model), or by switching over to alternate facilities on a regular basis. Periodic testing is an important and long-standing component of the business continuity planning process. Firms typically stage tests of particular systems, processes (*e.g.*, communications facilities) or business lines to limit risks inherent in tests utilizing production workloads. Sound practice includes designing tests to simulate high impact scenarios, *e.g.*, through switch or fail over to back-up facilities with no advance warning.

One of the lessons learned during September 11 is that testing of internal systems alone is no longer sufficient. It also is critical to test back-up facilities with the primary and back-up facilities of markets, core clearing and settlement organizations and service providers to ensure connectivity, capacity and the integrity of data transmission. Moreover, firms are planning to share back-up contact information and test arrangements with counterparties and important customers. A number of firms and trade associations also have expressed a willingness to participate in or sponsor industry-wide testing. As firms successfully complete the more limited testing discussed above, appropriately scaled industry-wide testing could prove beneficial. Discussions within the industry on possible approaches are ongoing, and the prospect provides an incentive for firms to complete internal preparations so that there can be maximum participation. One possibility may be to take a staged approach by organizing respective tests with the core clearing and settlement organizations. As confidence grows, end-to-end tests could be organized.

D. Implementation Considerations

After September 11, financial firms naturally initiated a lessons learned process with a view towards strengthening their business continuity plans. Industry meetings with the agencies in February 2002 and throughout the Spring confirmed that this process is nearing completion at many firms. The process has two components. First, firms are taking immediate steps to ensure that they address obvious gaps and refine plans to address near-term risks. Many are participating in industry initiatives aimed at improving private sector coordination and identifying sound practices with the intent of assuring that their plans are compatible with their peers. Some of these steps include sharing contact information; procuring alternative telecommunications facilities; and meeting with disaster recovery authorities to determine the availability of resources to facilitate business recovery activities. Second, firms are well along in reviewing and strengthening long-term strategic plans for business recovery and continuity of operations. A number of firms already are discussing alternative solutions at the most senior level to ensure that final plans are consistent with overall business objectives, risk management strategies and financial resources.

Most firms indicate that they will complete their strategic plans and implementation timetables by year-end or shortly thereafter. Some core clearing and settlement organizations already are in the process of establishing out-of-region, fully staffed and operational back-up facilities and expect to be operational within the next year. Sound practice for all firms includes implementing long-range plans as soon as practicable in order to protect and enhance their franchise[11] and promote confidence in the strength of the financial system. It also is important for firms that play significant roles in the financial markets and payments systems to ensure that their implementation plans are consistent with the expectations of those markets, systems and peers. Firms also are finding it appropriate to share information about the status of implementation with their core clearing and settlement organizations, counterparties and important customers.[12]

[11] Customers increasingly are seeking assurances that their financial firms have the necessary resilience to continue operations should a disaster occur, and firms are evaluating the resilience of counterparties for purpose of initiating or continuing business relationships.

[12] One way for firms to share such information is to provide periodic progress reports on the

IV. Next Steps

Financial industry participants, and in particular those firms that were affected directly or indirectly by the September 11 attacks, are committed to ensuring the continued viability of the U.S. financial system by strengthening their own business continuity plans and improving the resilience of domestic markets and payments systems in the event of a wide-scale, regional disruption. Many firms are taking steps to integrate the broader objectives discussed above into their business continuity plans while balancing the costs associated with achieving same-day recovery capabilities for critical activities. Core clearing organizations are exploring their intra-day business resumption capabilities. It is important to ensure that plans are flexible enough to incorporate evolving technologies that provide greater resilience of critical business functions and processes.

The agencies believe that the lessons of September 11 are relevant to all financial system participants. Accordingly, it is incumbent upon all firms to determine the extent to which it would be practicable to achieve the broader business recovery objectives for critical activities in the near future. To the extent that these sound practices require revisions of the plans, firms should largely complete the planning process, including adoption of implementation plans, no later than 180 days after issuance of the agencies' final views and implement them as soon as practicable. The agencies recognize that firms that play significant roles in critical financial markets are in different stages of their planning and investment cycles regarding new facilities, technology, staffing, and business processes. Furthermore, some have built, or are in the process of establishing, back-up sites or other arrangements that, while improving resilience, may not be fully consistent with these sound practices. Given their different circumstances, it may take some firms longer than others to implement all of these sound practices in a cost-effective manner. Accordingly, while the agencies recognize the need for some flexibility in implementation timetables, firms that play significant roles in critical markets nevertheless should strive to achieve these sound practices as soon as practicable. All core clearing and settlement organizations, however, should begin to implement plans to establish out-of-region back-up resources within the next year. Meeting these planning and implementation goals will require the continued oversight and commitment of senior management.

The agencies will expect core clearing and settlement organizations and other financial firms that play a significant role in critical financial markets to adopt the sound practices outlined in this paper. Furthermore, the agencies intend to incorporate these sound practices into supervisory expectations or other forms of guidance for purposes of reviewing the overall adequacy of those portions of business continuity plans that address the recovery of critical activities necessary to ensure the resilience of the financial system. Firms can expect the agencies to review plans for their reasonableness and to take a keen interest in the appropriateness of plans to address risk relative to the firm's position in a critical market or in effecting large value payments. This will include consideration of the probable effects a disruption of a firm's activities would have on the financial system. As part of their ongoing review process, the agencies will consider how firms identify their critical activities, the appropriateness of the recovery and resumption objectives they set, and the adequacy of their plans for achieving those objectives. The agencies will include consideration of whether recovery-time and resumption-time targets and implementation schedules are consistent with market and peer expectations. Finally, the agencies will review the firm's assessment of test plans and results to confirm that the firm is appropriately able to manage its business risks should a wide-scale, regional disruption occur.

V. Request for Comments

The agencies invite comments on the appropriate scope and application of the sound practices and implementation timetable discussed above, as well as other issues relevant to strengthening the resilience of the financial system in the face of wide-scale regional disasters. In particular the agencies invite comment in the following areas:

Scope of application. Have the agencies excluded any critical markets? Have the agencies sufficiently defined the term ''core clearing and settlement organizations'' for such organizations to identify themselves? Have the agencies provided sufficient guidance for firms to determine whether they play ''significant roles in critical financial markets?'' Are there other measures or additional facts or circumstances that should be used to determine whether a firm plays a significant role or acts as a core clearing organization? Should the agencies establish an average daily dollar volume (*e.g.*, $20 billion, $50 billion, $150 billion or some larger amount) or a market share test (*e.g.*, 3, 5, 7, 10 percent market share or some larger amount) as a benchmark for either or both of these categories? Should such benchmarks differ by market or activity? In some market segments, there are geographic concentrations of primary and back-up facilities of firms with relatively small market shares. Should sound practices take into consideration the geographic concentration of the back-up sites of firms that as a group could play a significant role in critical markets?

One of the reasons core clearing organizations are expected to recover and resume is that there are no effective substitutes that can assume their critical activities; is this also true for some or all firms that play significant roles in critical markets? Should any firms that play significant roles in critical markets be required to meet an intra-day standard for recovery and resumption because of the size of their market share or volume, or the significance of the services they perform for other firms (*e.g.* as a correspondent bank or clearing broker) in clearing and settling material amounts of transactions and large-value payments?

Does the paper's definition of a ''wide-scale, regional disruption'' provide sufficient guidance for planning for wide-scale, regional disruptions? Is there a need to provide some sense of duration of a wide-scale, regional disruption? If so, what should it be?

Recovery and Resumption of Critical Activities. Have the agencies identified the critical activities needed to recover and resume operation in critical markets? Is there a need to define the term ''material'' in this context? If so, what should be used?

Sound practice seems to require firms that play significant roles in critical markets to establish recovery targets of four hours after an event for their critical activities. Is this a realistic and achievable recovery-time objective for firms that play significant roles in critical markets? If not, what would be? Similarly, sound practice seems to require core clearing and settlement organizations to establish recovery and resumption targets of two hours for critical activities. Is this a realistic and achievable resumption-time objective for core clearing and settlement organizations? Should recovery- and resumption-time objectives differ according to critical markets?

implementation of business recovery and resumption arrangements to their utilities and others who are dependent upon the strength of their business continuity arrangements for critical activities, including customers, counterparties and vendors.

Sound practices. Have the agencies sufficiently described expectations regarding out-of-region back-up resources? Should some minimum distance from primary sites be specified for back-up facilities for core clearing and settlement organizations and firms that play significant roles in critical markets (*e.g.*, 200–300 miles between primary and back-up sites)? What factors should be used to identify such a minimum distance? Should the agencies specify other requirements (*e.g.*, back-up sites not be dependent on the same labor pools or infrastructure components, including power grid, water supply and transportation systems)? Are there alternative arrangements (*i.e.*, within a region) that would provide sufficient resilience in a wide-scale, regional disruption? What are they? Are there other arrangements that core clearing and settlement organizations should consider, such as common communication protocols, that would provide greater assurance that critical activities will be recovered and resumed?

Timetable for Implementation. To ensure that enhanced business continuity plans are sufficiently coordinated among participants in critical markets, should specific implementation timeframes be considered? Is it reasonable to expect firms that play significant roles in critical financial markets to achieve sound practices within the next few years? Should the agencies specify an outside date (*e.g.* 2007) for achieving sound practices to accommodate those firms that may require more time to adopt sound practices in a cost-effective manner? Would such distant dates communicate a sufficient sense of urgency for addressing the risk of a wide-scale, regional disruption?

By order of the Board of Governors of the Federal Reserve System.

Dated: August 29, 2002.

Jennifer J. Johnson,

Secretary of the Board.

Dated: August 30, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

By the Securities and Exchange Commission.

Dated: August 29, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22633 Filed 9–4–02; 8:45 am]

BILLING CODE 6210–01–P; 4810–33–P; 8010–01–P

GENERAL SERVICES ADMINISTRATION

Governmentwide Per Diem Advisory Board

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Governmentwide Per Diem Advisory Board will hold an open meeting from 8:30 a.m. to 4 p.m. on Thursday, September 19, 2002. The meeting will be held at The Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202. This meeting is open to the public. Members of the public who wish to file a statement with the Board may do so in writing c/o Rob Miller, Designated Federal Officer (MTT), General Services Administration, 1800 F St., NW., Room G–219, Washington, DC 20405, or via e-mail at *robl.miller@gsa.gov.*

Purpose: To review the current process and methodology that is used by GSA's Office of Governmentwide Policy to determine the per diem rates for destinations within the continental United States (CONUS), and to provide advice on best practices for a Federal lodging program. The Board will receive a preliminary analysis report for improving the per diem process, and identifying best practices for a Governmentwide lodging program.

For security and building access: (1) Attendees should be prepared to present a government issued photo identification; (2) ADA accessible facility; (3) public seating may be limited.

FOR FURTHER INFORMATION CONTACT: Rob Miller (202) 501–4621, Designated Federal Officer, or Joddy Garner (202) 501–4857, Per Diem Program Manager, General Services Administration. Also, inquiries may be sent to *robl.miller@gsa.gov.*

Dated: August 30, 2002.

Peggy DeProspero,

Acting Director of Travel Management Policy, Office of Transportation and Personal Property.

[FR Doc. 02–22614 Filed 9–4–02; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

M. Renuka Prasad, Ph.D., University of Kentucky School of Medicine: Based on the report of an investigation conducted by the University of Kentucky (UK) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Dr. Prasad, a former Research Professor of Surgery, UK School of Medicine, engaged in scientific misconduct by fabricating and falsifying data. The research was supported by the National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH), grant R01 NS34264, ''Phospholipases in traumatic brain injury.'' This research is important to understanding the mechanism of breakdown of the blood-brain barrier and swelling from edema that occurs after traumatic injury of the brain.

Specifically, PHS found that Dr. Prasad:

(1) Fabricated data to calculate a standard error of the mean for Bcl-2 mRNA intensity values for the sham group: 16 values (four percentages for each of the four brain regions assayed), when only a single sham value of 100% was actually available, for the error bars shown in Figures 2 and 3 of a manuscript, ''Regional expression of Bcl-2 MRNA and mitochondrial cytochrome c release after experimental brain injury in the rat,'' submitted to Brain Research, and included in Figures 11 and 12 of NINDS grant application R01 NS41918–01, ''Neurochemical mechanisms in traumatic brain injury;'' and

(2) Knowingly reported falsified data in Figures 1 and 3 and in the text of Dhillon, H.S. & Prasad, M.R. ''Kynurenate attenuates the accumulation of diacylglycerol and free fatty acids after experimental brain injury in the rat.'' Brain Research 832:7–12, 1999.

Dr. Prasad has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed:

(1) That for a period of three (3) years, beginning on August 19, 2002:

(a) Any institution that submits an application for PHS support for a research project on which Dr. Prasad's participation is proposed or that uses Dr. Prasad in any capacity on PHS supported research, or that submits a report of PHS funded research in which Dr. Prasad is involved, must concurrently certify in every PHS research application or report that Dr.

Prasad is prohibited from supervising other research staff; and

(b) Any institution employing Dr. Prasad is required to submit, in conjunction with each application for PHS funds or report, manuscript, or abstract of PHS funded research in which Dr. Prasad is involved, a certification that the data provided by Dr. Prasad are based on actual experiments or are otherwise legitimately derived, and that the data, procedures, and methodology are accurately reported in the application or report;

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years, beginning on August 19, 2002; and

(3) That within 30 days of the effective date of the Agreement, Dr. Prasad must submit a letter to the journal Brain Research requesting retraction of the paper: Dhillon, H.S. & Prasad, M.R. ''Kynurenate attenuates the accumulation of diacylglycerol and free fatty acids after experimental brain injury in the rat.'' Brain Research 832:7–12, 1999, stating that some of the data for the reported effects of kynurenate are falsified. This requirement will remain on the ALERT System until Dr. Prasad sends a copy of the retraction letter to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–22565 Filed 9–04–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–76]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Survey to Determine the Capacity for Colorectal Cancer Screening and Follow-up Examinations at the State Level—New—National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC). CDC proposes to conduct a study to provide a state-level assessment of the current capacity to conduct colorectal cancer (CRC) screening and follow-up examinations for average risk persons aged 50 and older. CDC is in the process of administering the ''National Survey of Endoscopic Capacity (SECAP)''. The tasks involved in this national capacity assessment included creating a list of all health care providers who own and use endoscopes for CRC screening and diagnostic follow-up; developing and administering a survey instrument to health care providers across the country who own lower GI endoscopes; and developing a tool to assess the number of people currently unscreened. The data from the SECAP study will be analyzed at the national and regional level. In response to state requests, CDC would like to assist states in assessing the state-level capacity to provide colorectal cancer (CRC) screening and follow-up examinations to appropriate persons.

The proposed study will be conducted through the implementation of a survey which will be mailed to a random sample of 800 providers known to possess flexible sigmoidoscopes and colonoscopes in three states. The sampling frame includes all types of physician specialists and health care providers who own lower endoscopic equipment and may be screening for CRC. The survey will provide information on the types of health care providers who are performing CRC screening and follow-up examinations, the equipment currently being used for screening and follow-up examinations, and current reimbursement rates for these tests. The results of the analysis will be used to (1) identify state-level deficits in the medical infrastructure, (2) guide the development of state-level training initiatives and educational programs for health care providers, and (3) provide critical baseline information for state policy makers for the planning of state-level initiatives to increase colorectal cancer screening. CDC is currently in the process of selecting participating states through a competitive process.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hours)	Total burden (in hours)
Health Care Providers	800	1	20/60	267
Office Managers	800	1	20/60	267
Total				534

Dated: August 28, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–22553 Filed 9–4–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–75]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404)498–1210.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Children's Longitudinal Development Study, OMB No. 0920–0450—Revision—National Center for Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC). CDC developed the Children's Longitudinal Development Study to investigate etiologic factors for select developmental disabilities. Since 1991, surveillance of children aged three to ten years who have one or more select developmental disabilities (cerebral palsy, mental retardation, hearing loss, and vision impairment) has been conducted in the five-county Atlanta metropolitan area through CDC Metropolitan Atlanta Developmental Disabilities Surveillance Program (MADDSP).

MADDSP has identified children with developmental disabilities primarily through the special education programs of the public schools in those five counties and select pediatric medical facilities. Recently, MADDSP expanded to identify children with cerebral palsy at younger ages through a broader array of medical facilities where diagnostic evaluations are performed, and autism has been included as one of the developmental disabilities.

CDC National Center for Birth Defects and Developmental Disabilities Children's Longitudinal Development Study is an ongoing case-control study that will serve as an instrument to annually (1) contact parents of all children (750 children) with any of the five developmental disabilities who are newly identified in the surveillance database and who were born in the metro Atlanta area and parents of 250 control children to request access to maternal prenatal, labor and delivery, and newborn medical records; and (2) conduct telephone interviews with mothers of children with cerebral palsy or autism (250 children) and mothers of control children.

The interviews will supply additional risk factor information relating to the mothers' medical and reproductive histories, prenatal behaviors and exposures, and family histories of developmental problems. Additionally photographs and head circumference measurements of children will be included in the interview sample. There is no cost to respondents.

Survey instruments	No. of respondents	No. of responses/ respondents	Avg. burden/ response (in hours)	Total burden (in hours)
Mothers contact calls Scheduling calls	1000	1	20/60	333
Scheduling calls	500	1	20/60	167
Telephone interview	500	1	90/60	750
Photography/anthropomertry	500	1	45/60	375
Total				1625

Dated: August 28, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–22554 Filed 9–4–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) of the Centers for Disease Control and Prevention (CDC) announces the following:

Name: Interagency Committee on Smoking and Health.

Date and Time: 9 a.m.–4 p.m., September 30, 2002.

Place: Room 615F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., 6th Floor, Washington, DC 20201.

Status: Open to the public, limited only by the space available. Those who wish to attend are encouraged to register with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 E.S.T. on September 23, 2002.

Purpose: The Interagency Committee on Smoking and Health advises the Secretary, Department of Health and Human Services, and the Assistant

Secretary for Health in the: (a) Coordination of all research and education programs and other activities within the Department and with other federal, state, local and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, federal agencies, and state and local public health agencies with respect to smoking and health activities.

Matters To Be Discussed: The agenda will focus on new and changing tobacco and nicotine delivery products.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet *http://www.cdc.gov/tobacco* in November 2002, or from Ms. Monica L. Swann, Committee Management Specialist, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW., Room 317B, Washington, DC 20201, telephone (202) 205–8500.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 28, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 02–22577 Filed 9–4–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) of the Centers for Disease Control and Prevention (CDC) announces the following:

Name: Interagency Committee on Smoking and Health.

Date and Time: 10 a.m.–4 p.m., October 1, 2002.

Place: Room 615F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., 6th Floor, Washington, DC 20201.

Status: Open to the public, limited only by the space available. Those who wish to attend are encouraged to register with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 E.S.T. on September 23, 2001.

Purpose: The Interagency Committee on Smoking and Health advises the Secretary, Department of Health and Human Services, and the Assistant Secretary for Health in the: (a) Coordination of all research and education programs and other activities within the Department and with other federal, state, local and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, federal agencies, and state and local public health agencies with respect to smoking and health activities.

Matters To Be Discussed: The agenda will focus on new and changing tobacco and nicotine delivery products.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet *http://www.cdc.gov/tobacco* in November 2002, or from Ms. Monica L. Swann, Committee Management Specialist, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW., Room 317B, Washington, DC 20201, telephone (202) 205–8500.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 28, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 02–22578 Filed 9–4–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Centers for Disease Control and Prevention, Tribal Consultation: Meeting Cancelled

The Albuquerque Area CDC Tribal Consultation scheduled for August 29–30, 2002, and September 4, 2002 has been cancelled.

Contact Person for More Information: Captain Pelagie ''Mike'' Snesrud, RN, Senior CDC Tribal Liaison for Policy and Evaluation, Officer of Director, Centers for Disease Control and Prevention, 1600 Clifton Road, M/S D39, Atlanta, Georgia 30333, telephone 404/693–0432, Fax: 404/639–2195.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 29, 2002.

John Burckhart,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–22579 Filed 9–4–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10067]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In

compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because of an unanticipated event and possible public harm.

It is widely acknowledged that the elderly are going without critical pharmaceutical therapy and that there are morbidity and mortality consequences. The Administration has developed a proposal for paying for prescriptions for low-income elderly Medicaid recipients. This proposal will allow States to run 1115 demonstration projects specifically for a drug benefit for the elderly.

CMS has recently completed work on an innovative, electronic approach for easing the burden of States in applying for participation in the Pharmacy Plus demonstration initiative. We are seeking approval of the forms that would be used to collect data from applicants under this initiative.

The initiative will greatly reduce the time period required for States to develop and apply for demonstration authority; in addition the initiative is intended to expedite the review and approval time required by CMS. The initiative specifies the requirements of States to participate in the initiative—if the criteria are met by the State then deliberation by CMS on the application should be minimal. The result will be an expeditious approval, implementation and operation of demonstration programs that will provide prescription coverage to lessen the morbidity and mortality that is occurring. Without approval of these forms on an emergency basis, millions of Seniors will continue to under-utilize pharmaceutical therapy for chronic and acute morbidity. The use of the forms will expedite prescription coverage and utilization of important medicines.

CMS is requesting OMB review and approval of this collection by September 17, 2002 with a 180-day approval period. Written comments and recommendation will be accepted from the public if received by the individuals designated below by September 16, 2002.

Type of Information Collection Request: New collection; *Title of Information Collection:* Pharmacy Plus Template for Low Income Seniors under Medicaid; *Form No.:* CMS–10067 (OMB# 0938–XXXX); *Use:* The template for the Pharmacy Plus program for low income seniors under Medicaid will enable states to apply, via a standard format, to provide a drug benefit to elderly recipients; use of this format will expedite the process of obtaining CMS review and approval of an application; *Frequency: Other:* 3 years after initial submission for the 1915 (c) waiver; 5 years after initial submission for the 1115 demonstration; *Affected Public:* State Government; *Number of Respondents:* 51; *Total Annual Responses:* 25; *Total Annual Hours:* 115.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by September 16, 2002.

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Fax Number: (410) 786–0262, Attn: Julie Brown, CMS–10067 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn.: Brenda Aguilar, CMS Desk Officer.

Dated: August 28, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–22672 Filed 9–3–02; 10:47 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0383]

Agency Information Collection Activities; Proposed Collection; Comment Request; Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including renewal of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements obligating holders of approved new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) to submit information on adverse drug reactions, lack of effectiveness and product defects.

DATES: Submit written or electronic comments on the collection of information by November 4, 2002.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm.* Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1061, 5630 Fishers Lane, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Collection of information is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or

requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each renewal of an existing collection, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the 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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Veterinary Adverse Drug Reaction, Lack of Effectivenss, Product Defect Report—21 CFR Part 510—(OMB Control Number 0910–0012)—Extension

Section 512(l) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(l)), and 21 CFR 510.300, 510.301, and 510.302 require that applicants of approved NADAs submit within 15 working days of receipt, complete records of reports of certain adverse drug reactions and unusual failure of new animal drugs. Other reporting requirements of adverse reactions to these drugs must be reported annually or semiannually in a specific format. This continuous monitoring of approved new animal drugs, affords the primary means by which FDA obtains information regarding potential problems in safety and effectiveness of marketed animal drugs and potential manufacturing problems. Data already on file with FDA is not adequate because animal drug effects can change over time and less apparent effects may take years to manifest themselves. Reports are reviewed along with those previously submitted for a particular drug to determine if any change is needed in the product or labeling, such as package insert changes, dosage changes, additional warnings or contraindications, or product reformulation.

Adverse reaction reports are required to be submitted by the drug manufacturer on FDA Forms 1932 or 1932a (voluntary reporting form), following complaints from animal owners or veterinarians. Likewise, product defects and lack of effectiveness complaints are submitted to FDA by the drug manufacturer following their own detection of a problem or complaints from product users or their veterinarians using forms FDA Forms 1932 and 1932a. Form FDA 2301 is available for the required transmittal of periodic reports and promotional material for new animal drugs. Respondents to this collection of information are applicants of approved NADAs.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2301	510.302(b)	190	10.94	2,079	0.5	1,040
Form FDA 1932	510.302(b)	190	96.76	18,385	1.0	100
Form FDA 1932a	510.302(b)	100	1.0	100	1.0	100
Total Burden Hours						19,525

[1] There are no capitol costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Responses	Hours per Recodkeeper	Total Hours
510.300(a) and 510.301(a)	190	13.16	2,079	10.35	21,518
510.300(b) and 510.301(b)	190	94.74	18,385	0.50	9,193
Total Burden Hours					30,711

[1] There are no capitol costs or operating and maintenance costs associated with this collection of information.

The estimate of the times required for record preparation and maintenance is based on agency communication with industry. Other information needed to calculate the total burden hours (i.e., adverse drug reaction, lack of effectiveness, and product defect reports) are derived from agency records and experience.

Dated: August 29, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–22637 Filed 9–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0587]

Agency Information Collection Activities; Announcement of OMB Approval; General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling Forms FDA 356h and 2567; and Revocation and Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling Forms FDA 356h and 2567; and Revocation and Suspension'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 7, 2002 (67 FR 39406), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0338. The approval expires on August 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: August 30, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–22635 Filed 9–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1539]

Draft Guidance for Industry, Electronic Records; Electronic Signatures, Maintenance of Electronic Records; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Maintenance of Electronic Records.'' The draft guidance describes the agency's current thinking on issues pertaining to maintaining electronic records to ensure that electronic records and electronic signatures are trustworthy, reliable, and compatible with FDA's public health responsibilities.

DATES: Submit written or electronic comments on the draft guidance by December 4, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Compliance Information and Quality Assurance (HFC–240), Office of Enforcement, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1060, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Paul J. Motise, Office of Enforcement (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383, e-mail: *pmotise@ora.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Maintenance of Electronic Records.'' In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a regulation providing criteria under which the agency considers electronic records and electronic signatures to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper (part 11 (21 CFR part 11)). The preamble to part 11 stated that the agency anticipated issuing supplemental guidance documents and would afford all interested parties the opportunity to comment on draft guidance documents.

The draft guidance addresses issues pertaining to the maintenance of electronic records. Part 11 establishes requirements for such maintenance, and the draft guidance is intended to assist people who must meet these requirements; it may also assist FDA staff who apply part 11 to persons subject to the regulation.

The draft guidance provides specific information on key principles and practices, and it addresses some frequently asked questions. It also describes two examples of approaches to maintaining electronic records. However, this draft guidance is not intended to cover everything about maintaining electronic records, and it does not apply to electronic records that are submitted to FDA, but that submitters are not required to maintain.

By direct reference, this draft guidance incorporates definitions of terms contained in a companion draft guidance entitled ''Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms'' that published in the **Federal Register** of September 24, 2001 (66 FR 48886).

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulations (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on maintaining electronic records in electronic form. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any nonelectronic 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. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ora/compliance_ref/part11/default.htm*.

Dated: August 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–22634 Filed 9–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0146]

Final Guidance for Industry and Reviewers on How the Center for Veterinary Medicine Intends to Handle Deficient Submissions Filed During the Investigation of a New Animal Drug; Availability

AGENCY: Food and Drug Administration, HHS

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry and reviewers (#119) entitled ''How the Center for Veterinary Medicine Intends to Handle Deficient Submissions Filed During the Investigation of a New Animal Drug.'' This final guidance announces the Center for Veterinary Medicine's (CVM's) policy regarding the circumstances under which CVM intends to not accept for review submissions filed during the investigation of a new animal drug and notify the sponsor that CVM intends not to review the submission.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written comments on this final guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. All comments should be identified with the full title of the guidance and the docket number found in brackets in the heading of this document.

Submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the final guidance document.

FOR FURTHER INFORMATION CONTACT: Gail Schmerfeld, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–1796, e-mail: *gschmer1@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 4, 2001 (66 FR 17914), FDA published a notice of availability for a draft guidance entitled ''How the Center for Veterinary Medicine Intends to Handle Deficient Submissions Filed During the Investigation of a New Animal Drug,'' giving interested persons until July 3, 2001, to submit comments.

CVM determined that there was a need for such a guidance for two reasons: (1) Having reviewers attempt to review submissions that have significant deficiencies is an inefficient use of CVM's limited resources, and (2) its practice of keeping submissions requiring significant additional information or rehabilitation ''active,'' (i.e., in the review queue), has contributed to a backlog in the review of pending submissions. This final guidance for industry and reviewers announces CVM's policy regarding the circumstances under which CVM intends to not accept for review submissions filed during the investigation of a new animal drug, notify the sponsor that the submission will not be reviewed, and remove the submission from the review queue.

CVM's primary goal is to approve safe and effective new animal drugs in a timely manner. To further this goal, CVM's responsibility is to ensure the quality of the review process. On the other hand, it is the sponsor's responsibility to ensure the quality of its submissions.

The quality of a submission can prevent or severely hinder its review. Poor quality submissions can be impossible or difficult to review. FDA received comments to the draft guidance suggesting that the problem CVM attributes to poor quality submissions is in part the variation in format and content of submissions as required by individual reviewers. However, an informal survey of reviewers in the Office of New Animal Drug Evaluation (ONADE) revealed that submissions were deficient because, among other things: They contained data discrepancies, incorrect statistical analyses, final reports that did not reflect actual data, electronic copies of data that did not match paper copies of raw data, or no documentation of drug source. ONADE has also received supplemental applications in which sponsors submitted the same data or information for the supplement that they submitted for the original application, i.e., without changing the relevant indications or conditions of use for which the supplement was submitted.

CVM has determined that it can no longer expend time and resources attempting to review submissions that have significant deficiencies. Poor quality submissions decrease the efficiency of the new animal drug application review and approval process by diverting limited resources from the review of submissions that are complete. Furthermore, as one comment to the draft guidance noted, a sponsor who submits a quality submission should not have its submission wait in the queue while a reviewer spends an inordinate amount of time reviewing a poor quality submission.

The final guidance clarifies that ONADE should use criteria and procedures similar to those found in 21 CFR 514.110 to determine whether it will not accept a submission for review, i.e., refuse to review the submission further. ONADE should, among other reasons, not review a submission if on its face the information is so inadequate that the submission is clearly not reviewable. ONADE should consider a submission to be inadequate if the numbers or types of errors in the submission or flaws in the development plan, call into question the quality of the entire submission to the extent it is deemed by ONADE that the submission cannot reasonably be reviewed.

ONADE should notify the sponsor by letter within 60 days of the receipt of the submission of its decision not to accept the submission for review. The letter notifying the sponsor that ONADE will not accept the submission for review should summarize in detail commensurate with the quality of the submission the reasons it cannot be

reviewed. A sponsor who submits a deficient submission should not resubmit the submission until the submission has been reviewed rigorously for accuracy and completeness.

Refusing to review deficient submissions is only part of CVM's strategy to facilitate the timely approval of safe and effective new animal drugs. CVM intends to continue issuing guidance that will clarify approval requirements and the procedures and formats for various types of submissions. CVM intends to balance the need for guidance with the need to complete pending review work. CVM encourages sponsors to request presubmission conferences to reach agreement on investigational and approval requirements for specific new animal drugs. In addition, CVM continues to encourage sponsors to submit protocols for studies that are key to approval to CVM for review well in advance of beginning the studies. Finally, CVM is committed to continuing to work to improve its processes and approve safe and effective new animal drugs in a timely manner.

This level 1 final guidance document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the agency's current thinking on its handling of deficient submissions filed during the investigation of a new animal drug. 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 as long as it satisfies the requirements of applicable statutes and regulations.

II. Comments

As with all of FDA's guidance, the public is encouraged to submit written or electronic comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The public will be notified of any such amendments through a notice in the **Federal Register**.

III. Electronic Access

Persons with access to the Internet may obtain a copy of the final guidance document entitled ''Guidance for Industry and Reviewers: ''How the Center for Veterinary Medicine Intends to Handle Deficient Submissions Filed During Investigation of a New Animal Drug'' from the CVM home page at *http://www.fda.gov/cvm*.

Dated: August 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–22566 Filed 9–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90D–0427]

Class III Medical Devices Without Premarket Clearance; Revocation of Compliance Policy Guide 7124.30

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of a Compliance Policy Guide (CPG) entitled ''Sec. 300.700 Direct Reference Authority for Class III Medical Devices Without a Premarket Notification (510(k)) or an Approved Premarket Approval Application (PMA) (CPG 7124.30).'' This CPG no longer reflects current agency policy.

DATES: The revocation is effective October 7, 2002.

ADDRESSES: Submit written requests for single copies of the CPG 7124.30 to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, FAX 301–827–0482. A copy of the CPG may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD, between 9 a.m. and 4 p.m., Monday through Friday. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the CPG.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513(a)(1)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(a)(1)(C)) describes a class III device, in part, as represented for use in supporting or sustaining human life, in preventing impairment of human health or presenting an unreasonable risk of illness or injury. An individual or firm that commercially distributes a class III device, in interstate commerce, without an approved premarket approval application (PMA) or a substantially equivalent premarket notification (510(k)) is in violation of the act. In legal terms, the device is adulterated in accordance with section 501(f)(1) of the act (21 U.S.C. 351(f)(1)) and misbranded within the meaning of section 502(o) of the act (21 U.S.C. 352(o)).

On February 26, 1991, FDA issued the CPG entitled ''Sec. 300.700 Direct Reference Authority for Class III Medical Devices Without a Premarket Notification (510(k)) or an Approved Premarket Approval Application (PMA) (CPG 7124.30).'' This CPG authorizes FDA's field districts to issue a Warning Letter or recommend a seizure action, if warranted, without prior concurrence and review by FDA's Center for Devices and Radiological Health (CDRH) for the referenced violations. This procedure no longer reflects current agency policy. Field districts should forward all Warning Letter and seizure recommendations concerning device premarket clearance violations to CDRH for concurrence. The Regulatory Procedures Manual includes the latter procedure.

FDA is revoking CPG 7124.30, in its entirety, to eliminate obsolete compliance policy.

II. Electronic Access

Prior to the revocation effective date (see **DATES**), a copy of the CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs home page includes the CPG that may be accessed at *http://www.fda.gov/ora/compliance_ref/cpg/cpgdev/cpg300-700.html*.

Dated: August 28, 2002.

John Marzilli,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–22638 Filed 9–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Single Source Cooperative Agreement Supplemental Award to the District of Columbia State Incentive Grant to Fund Best Friends Foundation Youth Development Program and ''Marriage is Manly'' Media Campaign

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services

Administration (SAMHSA), Department of Health and Human Services.

SUMMARY: The Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), is publishing this notice to provide information to the public concerning a planned single source cooperative agreement supplemental award in the amount of $300,000 in FY 2002, for a project period of one year, to the District of Columbia State Incentive Grant Program, to fund Best Friends Youth Development Program and ''Marriage is Manly'' Media Campaign. This is not a formal request for applications. Assistance will be provided only to the District of Columbia State Incentive Grant for the sole purpose of funding the Best Friends Foundation based on the receipt of a satisfactory application that is approved by an independent review group.

Authority/Justification: The grant will be made under the authority of Section 509 of the Public Health Service Act 93.243, as amended. This award is being made on a single source basis because the Best Friends Foundation has a record of success and is a long-term youth-development program that encompasses a myriad of activities for youth development including advocating sexual abstinence and prevention of alcohol and drug abuse. Its work can be categorized as education, youth development, health, family development, neighborhood revitalization and welfare reform. The expansion of these activities to focus on men is appropriate as Best Friends Foundation's work with girls has been so successful. Making the award to another entity would require additional start-up time and costs, significant loss of critical information, as well as duplication of previously completed work.

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.243.

FOR FURTHER INFORMATION CONTACT: Wil L. Hardy, Ph.D., M.S.W., Government Project Officer, DSCSD/SAB, Center for Substance Abuse Prevention (CSAP), SAMHSA, Room 930, Rockwall II Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8057, *whardy@samhsa.gov*.

Dated: August 29, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–22639 Filed 9–4–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; F–14908–A; BSA–1]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Sitnasuak Native Corporation, for lands within Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian, located in the vicinity of Nome, Alaska, containing approximately 0.56 acres. Notice of this decision will also be published four times in the *Nome Nugget.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision, shall have until October 7, 2002, to file an appeal.

2. Parties receiving service by certified mail shall have until 30 days from the receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: Copies of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, # 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Ron Royer, Land Law Examiner, (907) 271–5677.

Ronald E. Royer,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 02–22590 Filed 9–4–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–5700–BX; Closure Notice No. NV–030–02–001]

Temporary Closure of Public Lands; Washoe County, NV

AGENCY: Bureau of Land Management, Nevada, Interior.

SUMMARY: The Carson City Field Office Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 2002 Pylon Racing Seminar and 2002 Reno National Championship Air Races.

EFFECTIVE DATES: September 8 through September 15, 2002.

FOR FURTHER INFORMATION CONTACT: Charles P. Pope, Assistant Manager, Nonrenewable Resources, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. Telephone (775) 885–6000.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, N½NE¼, SE¼NE¼ and E½SE¼;
Sec. 16, N½ and SW¼.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is posted in the Carson City Field Office of the Bureau of Land Management.

Dated: June 4, 2002.

Charles P. Pope,

Assistant Manager, Nonrenewable Resources, Carson City Field Office.

[FR Doc. 02–22587 Filed 9–04–02; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 103474]

Public Land Order No. 7535; Withdrawal of National Forest System Land for the Sandia Administrative Site and the Tijeras Pueblo Interpretive Site; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 14.42 acres of National Forest System land from location and entry under the United States mining laws for 20 years to protect the Sandia Administrative Site and the Tijeras Pueblo Interpretive Site.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Sue McHenry, Cibola National Forest, 2113 Osuna Rd, NE, Suite A, Albuquerque, New Mexico 87113, 505–346–2650.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws, 30 U.S.C. Ch. 2 (1994), to protect the Sandia Administrative Site and the Tijeras Pueblo Interpretive Site:

Cibola National Forest

New Mexico Principal Meridian

T. 10 N., R. 5 E.,
Sec. 23, SW¼NW¼SW¼ and N½NW¼SW¼SW¼.

The area described contains 14.42 acres in Bernalillo County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: August 9, 2002.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 02–22589 Filed 9–4–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–02–0201; WAOR–19631 et al.]

Public Land Order No. 7536; Revocation of Executive Order Dated February 1, 1921, and Secretarial Orders Dated June 7, 1922, and May 22, 1924; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in their entirety, an Executive Order and two Secretarial Orders as they affect 1,136.16 acres of National Forest System lands withdrawn for Power Site Reserve No. 755 and Power Site Classification Nos. 40 and 70. The lands are no longer needed for the purpose for which they were withdrawn. The lands described in paragraph 1(a) have been and will remain open to mining and mineral leasing, subject to other segregations of record. This action will open these lands to such forms of disposition as may by law be made of National Forest System lands. The remaining lands have been conveyed out of Federal ownership.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Allison O'Brien, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–808–6171.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated February 1, 1921, and the two Secretarial Orders dated June 7, 1922, and May 22, 1924, which withdrew National Forest System lands for power site purposes, are hereby revoked as they affect the following described lands:

Willamette Meridian

(a) T. 26 N., R. 19 E.,
Sec. 1, lots 7, 8, 9, 10, 16, and 17;
Sec. 2, lots 2 and 5 and SE¼NE¼;
Sec. 12, lots 1, 2, and 3.
T. 27 N., R. 19 E.,
Sec. 3, lots 7 to 12, inclusive;
Sec. 10, lots 1 to 4, inclusive;
Sec. 11, lots 6 and 7;
Sec. 15, lot 1;
Sec. 22, lots 4, 5, and 6;
Sec. 26, lots 4, 9, 12, 16, 17, and 18;
Sec. 35, lots 1 and 2.
T. 28 N., R. 19 E.,
Sec. 33, lots 3 and 4;
Sec. 34, lots 1 and 3, and NE¼SW¼.
T. 25 N., R. 20 E.,
Sec. 4, lot 6.
T. 26 N., R. 20 E.,
Sec. 6, lot 10.

The areas described aggregate 854.23 acres in Chelan County.

(b) T. 27 N., R. 19 E.,
Homestead Entry Survey No. 270.
T. 28 N., R. 19 E.,
Sec. 33, NE¼SE¼;
Sec. 34, lots 4 and 5, and NW¼SW¼.
T. 25 N., R. 20 E.,
Sec. 4, lot 5;
Sec. 10, NE¼NE¼.

The areas described aggregate 281.93 acres in Chelan County.

2. At 8:30 a.m. on September 5, 2002, subject to valid and existing rights, other segregations of record, and the requirements of applicable law, the lands described in paragraph 1(a) will be opened to such forms of disposal that may by law be made of National Forest System lands.

SUPPLEMENTARY INFORMATION: The lands described in paragraph 1(b) have been conveyed out of Federal ownership.

Dated: August 9, 2002.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 02–22588 Filed 9–4–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Fish Passage Improvement Project at the Red Bluff Diversion Dam, Tehama County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability (NOA) of the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) and notice of public hearing.

SUMMARY: The Bureau of Reclamation and the Tehama-Colusa Canal Authority (TCCA) have made available for public review and comment the DEIS/EIR for the Fish Passage Improvement Project at the Red Bluff Diversion Dam.

The DEIS/EIR outlines the proposed project alternatives that seek to address issues related to the Red Bluff Diversion Dam, including fish passage and water supply. Current dam operations do not adequately allow passage of threatened and endangered fish species. Additionally, current dam operations create a situation where agricultural demand outstrips the dam's capacity to deliver water. To address these critical issues, TCCA and Reclamation are working together to determine an appropriate solution.

The project goals are to:

- Substantially improve the long-term reliable level of anadromous fish passage, both upstream and downstream, past the Red Bluff Diversion Dam.
- Substantially improve the long-term ability to reliably and cost-effectively move sufficient water into the Tehama-Colusa Canal and the Corning Canal systems to meet the needs of the water districts served by the TCCA.

The TCCA and Reclamation are working together as ''co-lead'' agencies, sponsoring this project to achieve the same project purpose and need. However, they are independent agencies with various interests and methods for approaching a project such as this one. Work conducted to date has built upon a wide array of previous studies conducted at the dam.

DATES: A public hearing will be held on September 25, 2002, to provide the public with an opportunity to study and comment on environmental issues

addressed in the DEIS/EIR. The open house portion of the hearing will be from 4 p.m. to 7 p.m. and will consist of informational displays staffed by project team members who will be answering questions. The formal portion of the hearing will be from 7 p.m. to 8 p.m., where oral comments will be taken by a certified court reporter. Comments will also be taken throughout the meeting via comment sheets.

Comments on the DEIS/DEIR will also be accepted on or before October 29, 2002, in the following formats:

Written—Written comments should be addressed to Mr. Art Bullock, TCCA, at the address below.

Comment Sheets—Comment sheets will be available to all that attend the public hearing, and can be returned at the public hearing, faxed to Mr. Art Bullock, TCCA, at 530–934–2355, or mailed to Mr. Bullock at the below address.

Electronic—Comments may be submitted electronically by e-mailing the project team: *tcwaterman@aol.com*.

ADDRESSES: The public hearing will be held at the Red Bluff Community Center Gymnasium, 1500 South Jackson, Red Bluff, CA 96080.

Comments on the DEIS/EIR should be sent to Mr. Art Bullock, General Manager, Tehama-Colusa Canal Authority, PO Box 1025, Willows, CA 95988. A copy of the Executive Summary, DEIS/EIR, and/or technical appendices may be obtained by calling Mr. Bullock at the telephone number below.

FOR FURTHER INFORMATION CONTACT: Mr. Art Bullock, Tehama-Colusa Canal Authority, telephone: 530-934–2125, e-mail: *tcwaterman@aol.com*; or Mr. Max Stodolski, Bureau of Reclamation, telephone: 530–529–3890, fax: 530–529–3895, e-mail: *mstodolski@mp.usbr.gov*.

SUPPLEMENTARY INFORMATION: Since construction of the Red Bluff Diversion Dam, concern has been expressed regarding the dam's effect on both upstream and downstream fish migration. The dam was built with 11 movable gates. Raising the gates eliminates the dam's effect and allows the river to flow unimpeded. Lowering the dam gates allows for gravity diversion into canals and results in the creation of Lake Red Bluff.

Over the years, the dam gates have been raised more frequently in an attempt to enhance fish passage. Therefore, the ability to divert irrigation water has been gradually decreased from year-round to the current 4-month (gates-in) operations from May 15 to September 14. During the remainder of the year, the dam gates are open, allowing a free flowing, unimpeded river. Detailed studies show the current design of the fish ladders and the operations of the dam gates do not adequately allow passage of threatened and endangered fish species.

The DEIS/EIR addresses impacts related to the proposed alternatives. Through detailed feasibility studies, six alternatives, including the ''No action'' alternative, have been created to address the identified water delivery and fish passage issues.

The alternatives identified in the DEIS/EIR are:

1. No action—The current operating conditions remain the same with a 4-month dam ''gates-in,'' that creates Lake Red Bluff from May 15 to September 14. The impacts of this option must be studied to a similar level of detail as the others. It is used as a baseline of comparison for the other alternatives.

2. Bypass—This option creates a fish-friendly channel around the dam with sufficient water flow to attract and transport fish moving upstream and deliver juvenile fish moving downstream when the dam gates are lowered in late summer and early fall. Gates would continue to be lowered in the May 15 to September 14 period. A new pumping station would be required to provide reliable agricultural water supply from the river into the water delivery canals.

3. Improved fish ladders—Two alternatives are being considered and are aimed at improving the efficiency of the ''fish ladders'' designed to create a passage for fish to swim around the dam. The design improvements will increase the flow of water through the fish ladders. By increasing the flow, more fish will be attracted to the ladders and successfully pass the dam. The two alternatives differ in the operations of the dam gates. One option proposes lowering the dam gates for the current 4-month operation and the other for a 2-month operation (July 1 through August 31). A new pumping station would be required to provide reliable agricultural water supply from the river into the water delivery canals.

4. Existing fish ladders—This alternative retains the current fish ladders and decreases lowering of the dam gates to 2 months (July 1 through August 31). The only source of improved fish passage would be the reduction in gate operations. A new pumping station would be required to provide reliable agricultural water supply from the river into the water delivery canals.

5. Gates out—This option keeps the dam gates open year round, creating a free flowing river, unimpeded by the dam. Fish ladders or other bypass options would no longer be necessary and Lake Red Bluff would no longer be created. A new pumping station would be required to provide reliable agricultural water supply from the river into the water delivery canals.

Additional Information

Additional information is also available at the project Web site: *http://www.tccafishpassage.org/*.

Comments, including names and home addresses of respondents, will be available for public review. Individual respondents may request that their home address be withheld from public disclosure, which will be honored to the extent allowable by law.

If you wish your name and/or address withheld, you must state this prominently at the beginning of your comment. Submissions from organizations or businesses, and individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public disclosure in their entirety.

Dated: August 14, 2002.

Susan L. Ramos,

Assistant Regional Director.

[FR Doc. 02–22636 Filed 9–4–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Fort Peck Assiniboine and Sioux Water Supply and Dry Prairie Rural Water Supply Project, Water Conservation Plan

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of finding.

SUMMARY: The Fort Peck Reservation Rural Water System Act of 2000 (Act), Public Law 106–382, authorized construction of the Fort Peck Reservation Rural Water System in northeastern Montana. To meet the requirements of the Act, the Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated developed and submitted a water conservation plan to Reclamation.

FOR FURTHER INFORMATION CONTACT: Leonard Duberstein, Bureau of Reclamation, Montana Area Office, PO Box 30107, Billings, Montana 59107–0137, or at (406) 247–7331 or be e-mail at *lduberstein@gp.usbr.gov.*

SUPPLEMENTARY INFORMATION:

Finding

The Fort Peck Tribes and the Dry Prairie Rural Water Association Incorporated submitted the ''Water Conservation Plan for the Fort Peck Reservation Rural Water System: Fort Peck Assiniboine and Sioux Rural Water System and Dry Prairie Rural Water System'', dated April 10, 2002, that includes prudent and reasonable water conservation measures for the operation of the Assiniboine Sioux Rural Water System that have been shown to be economically and financially feasible.

In addition to authorizing construction of the Fort Peck Reservation Rural Water System, the Act authorizes appropriations of $175,000,000 to Reclamation over a period of 10 fiscal years. The Act states under section 4(g)(3) that ''The Secretary shall not obligate funds for construction of the Assiniboine and Sioux Rural Water System until the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Assiniboine Sioux Rural Water System that have been shown to be economically and financially feasible.'' Identical provisions limiting obligations of funds for construction of the Dry Prairie Rural Water System are stated under section 5(e)(3) of the Act.

The requirements for the conservation plan are described under section 7 of the Act that states:

''(a) In General.—The Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated shall develop a water conservation plan containing—

(1) a description of water conservation objectives;

(2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the measures and this Act to meet the water conservation objectives.

(b) Purpose.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System will use the best practicable technology and management techniques to conserve water.''

To fulfill the requirements of section 7, the Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated transmitted a water conservation plan (Plan) to Reclamation, dated April 10, 2002. The Plan fulfills all the requirements of the Act as discussed below.

In fulfillment of section 7(a)(1), the Plan contains six reasonable and prudent water conservation objectives appropriate for the pre-construction phase of this multi-phase project:

1. Achieve average in-house water use of 69 gpcd (gallons per capita day) starting in 2005 and fully implemented by 2011.

• Lower average in-house water use to 57 gpcd beginning in 2011 and fully implemented by 2030.

• Lower average in-house water use to 45 gpcd beginning in 2030.

2. Achieve average outside residential water use of 66 gpcd beginning in 2005 and fully implemented by 2011.

3. Maintain variable operating costs at Final Engineering Report levels plus inflation beginning in 2005.

4. Provide emergency preparedness to limit interruptions to 24 hours beginning in 2005.

5. Public information dissemination beginning in 2005.

6. Limit Missouri River diversions to 6,200 acre-feet annually beginning in 2005.

To accomplish these objectives, and in fulfillment of section 7(a)(2) of the Act, the Plan identifies 17 water conservation measures to be implemented starting in 2005 with full implementation scheduled for 2011.

Metering, Audits, and Leakage Control

• Installation of meters on all accounts

• Installation of meters on community non-account water

• Record keeping and water audits

• Control connection pressures at 65 pounds per square inch (psi)

• Implement system and household leakage repair; limit to 7 gpcd

• Publish lawn and garden water use data

Cost Accounting and Rates

• Cost-of-service accounting

• Water audits and associated costs to public

• Dry Prairie annual water review to promote conservation

• Assiniboine and Sioux leak repair program

Public Involvement and Information

• Disseminate clear billing and educational materials

• Disseminate water use statistics and retrofit guidance

• Promote landscape efficiency on a voluntary basis

• Promote lawn and garden water use efficiencies

• Disseminate cost information via radio, television, etc.

Additional Measures

• Analysis of peak water use

• Annual review of water conservation measures and new proposals

Reclamation Manual Directives and Standards (WTR 01–01), published in December 1996, identify ''Fundamental Water Conservation Measures'' that are considered economically and financially feasible and applicable to all water conservation programs. The fundamental measures include a water measurement and accounting system, water pricing structure, and an information and education program. All but one of the water conservation measures included in the Plan are considered by Reclamation as fundamental. The conservation measure ''Control connection pressures at 65 psi'', while not considered fundamental, is an appropriate water conservation measure and will not result in increased project cost. It is an acceptable design standard because it will reduce the potential for leakage from excess water pressure which can also damage residential plumbing systems causing major leakage and significant property damage.

In fulfillment of section 7(a)(3), the plan contains a time schedule for implementing the measures to meet the water conservation objectives. This time schedule is included with the above description of the objectives and measures.

In fulfillment of section 7(b), Reclamation has reviewed the planning and engineering designs included in the Final Engineering Report for this project and has conducted a ''Value Engineering'' (VE) study to assure that the best available engineering design and techniques are utilized for construction and operation of the project. Additional VE studies will be performed during the final design phase of major system components.

Dated: August 2, 2002.

Gerald W. Kelso,

Assistant Regional Director.

[FR Doc. 02–22580 Filed 9–4–02; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Final)]

Fresh Tomatoes From Mexico

AGENCY: United States International Trade Commission.

ACTION: Resumption and scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the resumption and scheduling of the final phase of antidumping investigation No. 731–TA–747 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value (LTFV) imports from Mexico of fresh tomatoes, provided for in subheadings 0702.00 and 9906.07.01 through 9906.07.09 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, C, and D (19 CFR part 207).

EFFECTIVE DATE: July 30, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *(http://www.usitc.gov).* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–O–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1996, the Commission instituted a preliminary antidumping investigation in response to a petition filed on April 1, 1996, by the Florida Tomato Growers Exchange, Orlando, FL; Florida Fruit and Vegetable Association, Orlando, FL; Florida Farm Bureau Federation, Gainesville, FL; South Carolina Tomato Association, Inc., Charleston, SC; Gadsden County Tomato Growers Association, Inc., Quincy, FL; Accomack County Farm Bureau, Accomack, VA; Florida Tomato Exchange, Orlando, FL; Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, Tallahassee, FL; and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers (61 FR 15968, April 10, 1996). On May 16, 1996, the Commission notified the Department of Commerce (Department) of its affirmative preliminary injury determination (61 FR 18891, June 6, 1996). On October 10, 1996, the Department and Mexican tomato growers/exporters initialed a proposed agreement suspending the antidumping investigation, and on October 28, 1996, the Department preliminarily determined that imports of fresh tomatoes from Mexico are being sold at LTFV in the United States (61 FR 56607, November 1, 1996). Also on October 28, 1996, the Department and certain growers/exporters of fresh tomatoes from Mexico signed the final suspension agreement (61 FR 56617, November 1, 1996). Accordingly, effective November 1, 1996, the Commission suspended its antidumping investigation involving imports from Mexico of fresh tomatoes (61 FR 58217, November 13, 1996). On October 1, 2001, the Commission instituted a five-year review of the suspension agreement concerning fresh tomatoes from Mexico to determine whether its termination would be likely to lead to continuation or recurrence of material injury (66 FR 49975, October 1, 2001). On January 4, 2002, the Commission determined that responses to its notice of institution were such that a full review should proceed (67 FR 3229, January 23, 2002), and subsequently the Commission established a schedule for its full five year review (67 FR 30962, May 8, 2002). On May 31, 2002, Mexican tomato growers/exporters accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico submitted to the Department a notice of their withdrawal from the agreement suspending the antidumping investigation on fresh tomatoes from Mexico. On July 30, 2002, because the suspension agreement no longer covered substantially all imports of fresh tomatoes from Mexico, the Department terminated the suspension agreement, terminated its review of the suspension agreement, and resumed the antidumping investigation (67 FR 50858, August 6, 2002). Accordingly, the Commission terminated its review involving imports from Mexico of fresh tomatoes effective July 30, 2002 (67 FR 53361, August 15, 2002) and the final phase of this investigation is being resumed and scheduled.

Participation in the investigation and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Former Commission employees who are seeking to appear in this final phase investigation are reminded that they are required, pursuant to 19 CFR 201.15 to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as all fresh or chilled tomatoes (fresh tomatoes) except for cocktail tomatoes and those tomatoes which are for processing. For purposes of this investigation, cocktail tomatoes are greenhouse-grown tomatoes, generally larger than cherry tomatoes and smaller than Roma or common round tomatoes, and are harvested and packaged on-the-vine for retail sale. For purposes of this investigation, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. Further, imports of fresh tomatoes for processing are accompanied by an ''Importer's Exempt Commodity Form'' (FV–6) (within the meaning of 7 CFR 980.501(a)(2) and 980.212(I)). Fresh market tomatoes that are imported for cutting up, not further processed (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), and not accompanied by an FV–6 form are covered by the scope of this investigation. All commercially-grown tomatoes sold in the United States, both for the fresh market and for processing, are classified as *Lycopersicon esculentum.* Important commercial varieties of fresh tomatoes include common round, cherry, plum, and pear tomatoes, all of which, with the exception of cocktail tomatoes, are covered by this investigation. Imported tomatoes are classified under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS), according to the season of importation: 0702.00 (covering imports from all sources) and 9906.07.01 through 9906.07.09 (covering imports from Mexico only).

§ 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on December 3, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on December 16, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 9, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 12, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is December 10, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 23, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 23, 2002. On January 8, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 10, 2003, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 29, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–22604 Filed 9–4–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–454]

Certain Set-Top Boxes and Components Thereof; Notice of Decisions to Review in Part, Take No Position in Part, and Not Review in Part the Administrative Law Judges Final Initial Determination; Notice of Decisions to Affirm Three Rulings of the Administrative Law Judge; Notice of Determination of No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part, to take no position in part, and to not review in part the final initial determination (''final ID'') issued by the presiding administrative law judge (''ALJ'') on June 21, 2002, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. Specifically, the Commission determined to review the issue of the technical prong of the domestic industry as it relates to claim 42 of U.S. Letters Patent 4,706,121 for the purpose of making a finding as to claim 42 of that patent that was omitted by the ALJ. The Commission also determined to take no position on the issue of patent misuse and to not review the remainder of the final ID. Finally, the Commission determined to affirm three ALJ rulings (involving ALJ Order No. 62, an ALJ ruling excluding evidence concerning the doctrine of equivalents, and an ALJ ruling limiting the testimony time of one witness) that were appealed to the Commission by the complainants. In light of these determinations, the Commission determined that there is no violation of section 337 in this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., or David Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephones (202) 205–3115 or (202) 708–2310, respectively. Copies of the public versions of the final ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS -ON-LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: The Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain set-top boxes, on March 14, 2001. 66 FR 15887 (2001). Complainants Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, named Pioneer

Corporation, Pioneer North America, Inc., Pioneer Digital Technologies, Inc., Pioneer New Media Technologies, Inc., Scientific-Atlanta, Inc., EchoStar Communications Corporation, and SCI Systems, Inc. as respondents.

The ALJ held an evidentiary hearing from December 3, 2001, through December 19, 2001, and issued his final ID on June 21, 2002, in which he concluded that there was no violation of section 337, based on the following findings: (a) Complainants have failed to establish that the asserted claims 18–24, 26–28, 31–33, 36, 42–43, 48–50, 54, 57, 59–61, and 66 of U.S. Letters Patent 4,706,121 (the '121' patent); claims 1, 3, 8, and 10 of United States Patent 5,479,268 (the '268' patent); and claims 1, 3, 8, and 10 of U.S. Letters Patent 5,809,204 (the '204' patent) are infringed by respondents; (b) respondents have failed to establish that the asserted claims are not valid; (c) respondents have established that the '121' patent is unenforceable for failure to name a co-inventor; (d) complainants have engaged in patent misuse with respect the '121' patent; (e) no industry exists in the United States, as required by subsection (a)(2) of section 337, that exploits each of the '121', '268', and '204' patents in issue; and (f) there has been an importation of the set-top boxes which are the subject of this investigation.

On July 5, 2002, all parties to this investigation, including the Commission investigative attorney, filed petitions for review of various portions of the final ID. On July 12, 2002, all the parties filed responses to the petitions for review.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission determined that there is no violation of section 337 in this investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Subpart G of Part 210 of the Commission's rules of practice and procedure (19 CFR Subpart G, Part 210).

By order of the Commission.
Issued: August 29, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–22603 Filed 9–4–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1302.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 2, 2002, ISP Freetown Fine Chemicals, Inc., 238 South Main Street, Freetown, Massachusetts 02702, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

The firm plans to bulk manufacture the methylphenidate to produce a commercial product and manufacture the dextropropoxyphene to supply the generic market.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be fled no later than November 4, 2002.

Dated: August 23, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–22556 Filed 9–4–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0244(2002)]

OSHA Strategic Partnership Program for Worker Safety and Health

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for comment.

SUMMARY: The Occupational Safety and Health Administration (OSHA) requests comments concerning the proposed extension of information-collection requirements specified in the OSHA Strategic Partnership Program for Worker Safety and Health (OSPP).

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or sent) by November 4, 2002.

Facsimile and electronic transmission: Your comments must be sent by November 4, 2002.

(Please see the Supplementary Information below for additional information on submitting comments.)

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Docket No. ICR–1218–0244(2002), Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this document, Docket No. ICR–1218–0244(2002), in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at *http://ecomments.osha.gov/.*

(Please see the Supplementary Information below for additional information on submitting comments.)

II. Obtaining Copies of Supporting Statement for the Information Collection

The Supporting Statement for the Information Collection is available for downloading from OSHA's Web site at *http://www.osha.gov.* The supporting statement is available for inspection and copying in the OSHA Docket Office, at the address listed above. A printed copy of the supporting statement can be obtained by contacting Cathy Oliver at (202) 693–2213 or Todd Owen at (202) 693–2444.

FOR FURTHER INFORMATION CONTACT: Cathy Oliver, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2208.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA webpage. Please note that you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

II. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burdens, conducts a pre-clearance 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)). OSHA will be requesting approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in the Strategic Partnerships for Worker Safety and Health. This notice initiates the process for OSHA to request OMB approval. The need to collect information in order to gauge program success is an integral part of OSHA's strategic planning processes, and partnerships, like other agency activities, are required to regularly provide information to the agency. The agency uses this information to assess the effectiveness of its programs, identify needed improvements, and ensure that its resources are being used to good and effective purpose.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility;
- 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; and
- The quality, utility, and clarity of the 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, *e.g.,* permitting electronic submissions of responses.

IV. Proposed Actions

OSHA proposed to extend OMB's approval of the collection of information requirements specified in 5 CFR 1320.8(d). OSHA 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 the information-collection requirements for the OSPP. The burden hour increase is a result of the increasing number of partnerships.

Type of Review: Extension of a currently approved information-collection requirement.

Title: OSHA Strategic Partnership Program for Worker Safety and Health (OSPP).

OMB Number: 1218–0244.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government, State, local or tribal governments.

Number of Respondents: 4410.

Frequency: Annually.

Average time per Response: 11 hours.

Estimating Total Burden Hours: 49,194.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)).

Signed at Washington, DC, this 30th day of August, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–22615 Filed 9–4–02; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–103)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). The information obtained in this collection will assist NASA in assessing the effectiveness of aviation safety programs.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Ms. Mary Connors, Mail Stop 262–4, NASA Ames Research Center, Moffett Field, California 94035–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: National Aviation Operations Monitoring Service: General Aviation Pilots.

OMB Number: 2700–0102.

Type of review: Extension.

Need and Uses: The information collected will be analyzed and used by NASA Aviation Safety Program managers to evaluate their progress in improving aviation over the next decade.

Affected Public: Individuals or households.

Number of Respondents: 10,000.

Responses Per Respondent: 1.

Annual Responses: 10,000.

Hours Per Request: Approx. ½ hour.

Annual Burden Hours: 6,280.

Frequency of Report: Quarterly; Annually.

Patricia L. Dunnington,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–22640 Filed 9–4–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–102)]

NASA Advisory Council, Aerospace Technology Advisory Committee, Revolutionize Aviation Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting change.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a change of date and location for the meeting of the NASA Advisory Council, Aerospace Technology Advisory Committee (ATAC), Revolutionize Aviation Subcommittee (RAS); Notice Number 02–100.

PREVIOUSLY ANNOUNCED DATES AND LOCATION: Wednesday, September 18, 2002, 8 a.m. to 5 p.m.; National Aeronautics and Space Administration, 300 E Street, SW., Room 3H46, Washington, DC 20546.

CHANGES IN THE MEETING: Date changed to September 20, 2002, 8 a.m. to 5 p.m. Address changed to National Aeronautics and Space Administration, 300 E Street SW., Room 7H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Bernice E. Lynch, Code RP, National Aeronautics and Space Administration, Washington, DC (202) 358–4594.

Dated: August 29, 2002.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–22641 Filed 9–4–02; 8:45 am]

BILLING CODE 7510–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Schneider, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* September 10, 2002.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Local History Initiative Finalists, submitted to the Office of Challenge Grants at the May 1, 2002 deadline.

Daniel Schneider,

Acting Advisory Committee Management Officer.

[FR Doc. 02–22560 Filed 9–4–02; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 67 FR 39444 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: Written comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, NSF Reports Clearance Officer at (703) 292–7556 or sent e-mail to *splimpto@nsf.gov.*

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Review and Correction of Information under Section 515.

OMB Control No.: 3145–NEW.

Proposed Project: In accordance with section 515 of Public Law 106–554, codified at 44 U.S.C. 3516, note, the National Science Foundation (NSF) has developed mechanisms to allow affected persons to seek and obtain correction of information maintained and disseminated by this agency. To seek a correction under section 515 of information maintained or disseminated by the National Science Foundation, individuals should follow the procedure described at *http://www.nsf.gov/home/pubinfo/infoqual.htm.*

As part of this effort, NSF has developed a form to assist the public in reviewing NSF's information products.

The form also may be found at the website above.

Estimate of Burden: 15 minutes.

Respondents: Individuals.

Estimated Number of Responses: 50.

Estimated Total Annual Burden on Respondents: 12.5 hours, based on 15 minutes per respondent.

Frequency of Responses: On occasion.

Dated: August 29, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–22591 Filed 9–4–02; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Board of Directors Meeting

Time & Date: 2 p.m. Tuesday, September 10, 2002.

Place: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

Status: Open.

Contact Person for More Information: Jeffrey T. Bryson, General Counsel/Secretary, 202–220–2372.

Agenda:

I. Call to Order
II. Approval of Minutes: May 20, 2002, Annual Meeting
IX. Personnel Committee Report 7/11/02
X. Audit Committee Report 7/11/02
XI. Budget Committee Report 7/20/02
XII. Treasurer's Report
XIII. Executive Director's Report
VII–A. Campaign for Homeownership Update
XIV. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 02–22662 Filed 8–30–02; 4:11 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corp.; Oconee Nuclear Station, Units 1, 2, and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, issued to Duke Energy Corporation (the licensee), for operation of Oconee Nuclear Station, Units 1, 2, and 3, located in Seneca, South Carolina. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action is administrative in nature and would incorporate several editorial changes in the Technical Specifications.

The proposed action is in accordance with the licensee's application dated July 11, 2002.

The Need for the Proposed Action

The proposed action corrects several errors in the Technical Specifications.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no environmental impacts.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Oconee Nuclear Station, Units 1, 2, and 3 dated March 1972 and the Final Supplemental Environmental Impact Statement (NUREG–1437, Supplement 2), dated December 9, 1999.

Agencies and Persons Consulted

On August 7, 2002, the staff consulted with the South Carolina State official, Mr. Henry Porter of the Division of Waste Management, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 11, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of August 2002.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Section 1, Project Directorate II–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–22597 Filed 9–4–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–254]

Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR 50.55a(g)(4)(ii) for Facility Operating License No. DPR–29, issued to Exelon Generation

Company, LLC (the licensee), for operation of the Quad Cities Nuclear Power Station, Unit 1, located in Rock Island County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a schedular extension for Quad Cities Nuclear Power Station (Quad Cities), Unit 1, from implementation of inservice examinations of the reactor pressure vessel (RPV) nozzle-to-vessel welds and nozzle inside radius sections, per American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Table IWB–2500, Examination Category B–D, Item Nos. B3.90 and B3.100, by the end of the current 120-month inspection interval, as required by 10 CFR 50.55a, ''Codes and standards,'' paragraph (g)(4)(ii). The current interval ends on February 17, 2003 for Quad Cities Unit 1. This schedular exemption requests an extension for the performance of the third interval inspections until the completion of the Unit 1 refueling outage in January 2005.

The proposed action is in accordance with the licensee's application dated July 10, 2002.

The Need for the Proposed Action

The proposed action is needed to prevent unnecessary radiation worker exposure. Quad Cities Unit 1 was not specifically designed or constructed to permit easy access to the RPV nozzle-to-vessel welds and nozzle inside radius sections for inservice inspection, from the inside or outside surface. The task to access a nozzle for inservice examination employs several work groups and a significant number of man-hours with the attendant large radiation exposure accumulation. The estimated radiation dose avoided by exempting the nine nozzles until the fourth inspection interval is a minimum of 60 man-rem.

The licensee wishes to extend the inspection schedule in order to reduce unnecessary radiation exposure. Such an extension requires an exemption because 10 CFR 50.55a(g)(4)(ii) requires inservice examinations of the RPV nozzle-to-vessel welds and nozzle inside radius sections, per the ASME Code, Section XI, Table IWB–2500, Examination Category B–D, Item Nos. B3.90 and B3.100, by the end of the current 120-month inspection interval.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Agencies and Persons Consulted

On July 25, 2002, the staff consulted with the Illinois State official, Mr. F. Niziolek of the Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 10, 2002. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 27th day of August 2002.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–22598 Filed 9–4–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 20a–1 SEC File No. 270–132 OMB Control No. 3235–0158.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title of the collection of information is ''Rule 20a–1 under the Investment Company Act of 1940, Solicitation of Proxies, Consents and Authorizations.'' Rule 20a–1(a) requires that the solicitation of a proxy, consent or authorization with respect to a security issued by a registered fund be in compliance with Regulation 14A (17 CFR 240.14a–1 to 14a–104), Schedule 14A (17 CFR 240.14a–101), and all other rules and regulations adopted under section 14(a) of the Securities Exchange

Act of 1934 (15 U.S.C. 78n(a)). Rule 20a–1(b) requires a fund's investment adviser, or a prospective adviser, to transmit to the person making a proxy solicitation the information necessary to enable that person to comply with the rules and regulations applicable to the solicitation.

Regulation 14A and Schedule 14A establish the disclosure requirements applicable to the solicitation of proxies, consents and authorizations. In particular, Item 22 of Schedule 14A contains extensive disclosure requirements for registered investment company proxy statements. Among other things, it requires the disclosure of information about fund fee or expense increases, the election of directors, the approval of an investment advisory contract and the approval of a distribution plan.

The Commission requires the dissemination of this information to assist investors in understanding their fund investments and the choices they may be asked to make regarding fund operations. The Commission does not use the information in proxies directly, but reviews proxy statement filings for compliance with applicable rules.

It is estimated that approximately 1,000 registered investment companies are required to file one proxy statement annually. The total annual reporting and recordkeeping burden of the collection of information is estimated to be approximately 106,200 hours (1,000 responses × 106.2 hours per response).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: August 28, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22573 Filed 9–4–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 46429; File No. SR–NASD–99–53]

Order With Respect to the Implementation of NASDAQ'S SuperMontage Facility

On January 19, 2001, the Commission conditionally approved a proposed rule change submitted by the National Association of Securities Dealers, Inc. (the ''NASD''), on behalf of The Nasdaq Stock Market (''Nasdaq''), that would establish a new order display and collection facility for Nasdaq-listed securities (''SuperMontage'').[1] To address the concerns expressed by several market participants that certain Commission rules would effectively make their participation in the SuperMontage mandatory,[2] the Commission conditioned its approval of the SuperMontage on the implementation of an alternative display facility (''ADF'') by the NASD.

Specifically, the Commission conditioned its approval of the SuperMontage on the following, which must be implemented prior to or at the same time as the SuperMontage:

(1) That the NASD will offer a quote and trade reporting alternative that satisfies the Order Handling Rules, Regulation ATS, and other regulatory requirements for ATSs, ECNs, and market makers;

(2) That NASD quotes disseminated through the exclusive securities information processor (''SIP'') for Nasdaq-listed securities will identify the ATS, ECN, or market maker source of the quote;[3] and

(3) That participation in SuperMontage will be entirely voluntary, because NASD quotes will be included in the Nasdaq quotation management system while Nasdaq is the exclusive SIP, but only for display purposes, and the NASD will provide access to its quotes on a market-neutral basis.[4]

On July 24, 2002, the Division of Market Regulation approved, pursuant to delegated authority, operation of the ADF as a pilot program for nine months.[5] The ADF pilot program permits registered market makers and registered ECNs to display their best-priced quotes or customer limit orders in Nasdaq-listed securities through the NASD. ADF market participants are required to provide other ADF market participants with direct electronic access to their quote, and to provide all other members of the NASD or a national securities exchange with the option to obtain direct electronic access or indirect electronic access through private linkages. The ADF also serves as a trade reporting and trade comparison facility. The ADF will therefore allow market participants to satisfy their order display and execution access obligations under the Order Handling Rules and Regulation ATS. The NASD staff has indicated that several ECNs have expressed an interest in fulfilling their quote display obligations through the ADF and are in varying stages of adapting their systems to participate in the ADF. [6]

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[1] Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (File No. SR–NASD–99–53) (the ''SuperMontage Approval Order'').

[2] Rules 11Ac1–1(c)(5) and 11Ac1–4 under the Securities Exchange Act of 1934 (the ''Exchange Act'') permit a market maker or specialist to place a better-priced proprietary or customer limit order with an electronic communications network (''ECN'') anonymously without updating its public quote to reflect the better-priced order, as long as the ECN displays the order in the public market through a self-regulatory organization (''SRO'') and provides equivalent access to such order. 17 CFR 240.11Ac1–1(c) and 240.11Ac1–4 (the ''Order Handling Rules''). Regulation ATS requires alternative trading systems (''ATSs''), including ECNs, that trade 5% or more of the average daily trading volume in an exchange-or Nasdaq-listed security to display and provide execution access to their quotes through an SRO. 17 CFR 242.301(b).

[3] The Commission stated in the SuperMontage Approval Order that it would require Nasdaq and the exchanges trading Nasdaq securities on an unlisted trading privileges (''UTP'') basis to renegotiate existing intermarket plans to provide for a new exclusive SIP or multiple non-exclusive SIPs for Nasdaq securities. The Commission further stated that if the revised plan provided for a new exclusive SIP, the operator of the new processor should not be a Plan participant except under certain conditions. SuperMontage Approval Order, 66 FR at 8052–55.

[4] *Id.,* 66 FR at 8053–54.

[5] Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002). The NASD filed a proposal to establish an ADF on December 7, 2001. Exchange Act Release No. 45156 (December 14, 2001), 67 FR 388 (January 3, 2002). The NASD subsequently filed an amendment to the proposal on May 24, 2002, to respond to issues raised by commenters. Exchange Act Release No. 45991 (May 28, 2002), 67 FR 39476 (June 7, 2002).

[6] Market Participants are not required to use either the ADF or SuperMontage to quote or report trades. For instance, beginning the week of August 5, 2002, the Cincinnati Stock Exchange has provided Island ECN (''Island'') with the ability to represent orders in certain Nasdaq securities in the national best bid or offer. As a result, Island has indicated that it may choose not to represent customer limit orders in SuperMontage. *See* Notice to Island Subscribers dated August 5, 2002,

In addition, on July 1, 2002, Nasdaq launched a new technology platform (the ''Internal SIP'') on which Nasdaq will perform its duties as the exclusive SIP for the Nasdaq UTP Plan until a new securities information processor is chosen.[7] Quotation information provided by ADF market participants will be available through two Internal SIP feeds. The Internal SIP will disseminate the consolidated best bid and offer of the ADF, along with the best bid and offer of each UTP Exchange and Nasdaq market participant, through the UTP Quotation Data Feed. In addition, the Internal SIP will disseminate the individual quotations of each broker or dealer quoting in the NASD ADF via the OTC Montage Data Feed (OMDF).

Based on these developments, the Commission believes that participation in SuperMontage will be voluntary, because market makers, exchange specialists, ECNs and ATSs will have alternative venues in which to display their quotes, including the ADF.

Certain market participants have indicated that they are firmly committed to using the ADF as their order collection and display facility but require further time to adapt and test their systems to participate through the ADF. To prevent any unfairness, the Commission believes that SuperMontage should begin operation on October 11, 2002, assuming that within five business days from the entry of this Order, one or more market participants certifies, under oath, that such entity at the time of the oath intends to use ADF as its primary order collection and display facility for a significant portion of its business in Nasdaq securities, and provides a list of the Nasdaq securities for which it currently intends to post quotes on the ADF. In the absence of any such certification, SuperMontage shall become effective immediately after the fifth business day of the entry of this order. Accordingly, subject to the certification process, the Commission finds that the implementation of the ADF satisfies the conditions stated in the SuperMontage Approval Order. As referenced in Amendment No. 5 to the SuperMontage proposal, and consistent with subsequent conversations with the Commission staff, we understand that the NASD will roll out SuperMontage over a six-week period.

The Commission continues to review Nasdaq's pending application to register as a national securities exchange. The entry of this Order does not address or resolve the issues presented in that application, does not make any findings with respect thereto, and does not suggest what, if any, future actions the Commission may take with regard to that application.

By the Commission.

Dated: August 29, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22574 Filed 9–4–02; 8:45 am]

BILLING CODE 8010–01–P

available at *http://island.com/prodserv/developers/resources/emailarchive/20020805.asp*.

[7] *See* Letter from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, to Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission (June 28, 2002).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46425; File No. SR–NYSE–2002–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the New York Stock Exchange, Inc. To Adopt Amendments to Exchange Rule 342 (''Offices—Approval, Supervision and Control'') August 28, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 12, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The NYSE filed an amendment to the proposed rule change on August 16, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal consists of the adoption of proposed amendments to NYSE Rule 342 (''Offices—Approval, Supervision and Control''). The proposed amendments would recognize the National Association of Securities Dealers' General Securities Principal Examination (''Series 24 Examination'') as an acceptable qualification alternative to the General Securities Sales Supervisor Qualification Examination (''Series 9/10 Examination'') for supervisory persons whose duties do not include the supervision of options or municipal securities sales activity. In addition, the amendments update and clarify certain provisions of the Rule.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

Rule 342. Offices—Approval, Supervision and Control

(a) through (d)—NO CHANGE—Inclusion of (d) below is for reference purposes only.

(d) Qualified persons acceptable to the Exchange shall be in charge of:

(1) Any office of a member or member organization,

(2) Any regional or other group of offices,

(3) Any sales department or activity.

(e) through Supplementary Material .12—NO CHANGE.

.13 Acceptability of supervisors. (a) Generally.—Any member, allied member or employee who is a candidate for acceptability under (d)*(1), (2), or (3)* above *must* [should] have a creditable *three year* record as a registered representative or equivalent experience, and [is expected to] *must* pass [either the Allied Member Examination or the Branch Office Manager Examination to qualify under (d)(1) or (2), or] *the General Securities Sales Supervisor Qualification Examination (Series 9/10) or another* [an] examination acceptable to the Exchange which demonstrates competency *relevant to assigned responsibilities* [to supervise a specific sales department or activity to qualify under (d)(3)]. *The General Securities Principal Examination (Series 24), if taken and passed after July 1, 2001, is an acceptable alternative for persons whose duties do not include the supervision of options or municipal securities sales activity.* The examination requirement may be waived at the discretion of the Exchange. [Special examinations may be arranged for persons whose principal work is in unusual fields.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated August 15, 2002, and attachments (''Amendment No. 1'').

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Recognition of the Series 24 Examination

The Exchange proposes to amend NYSE Rule 342 (''Offices—Approval, Supervision and Control'') to recognize the National Association of Securities Dealers' (''NASD'') General Securities Principal Examination (''Series 24 Examination'') as an acceptable qualification alternative to the General Securities Sales Supervisor Qualification Examination (''Series 9/10 Examination'') for supervisory persons whose duties do not include the supervision of options or municipal securities sales activity. The proposed amendment is an Exchange initiative to eliminate, when possible, duplicative examination qualification requirements. As of July 2, 2001, NASD has enhanced the Series 24 Examination by including test questions sufficient to provide appropriate coverage of NYSE rules.

Background and Detail

NYSE Rule 342 prescribes the Exchange's general supervisory requirements for members and member organizations. Among these requirements are qualification standards for personnel delegated supervisory responsibility. NYSE Rule 342.13 (''Acceptability of Supervisors'') requires that a person delegated certain supervisory responsibilities [4] should ''have a creditable record as a registered representative or equivalent experience, and is expected to pass either the Allied Member Examination or the Branch Office Manager Examination * * *.'' The ''Branch Manager Examination'' is now known as the General Securities Sales Supervisor Qualification Examination or the Series 9/10 Examination. Currently, one must pass the Series 9/10 Examination, or its historical equivalent (*e.g.*, the Series 8 Examination) in order to qualify as a branch office manager. On-site qualified branch office managers are required in branch offices with four or more registered persons.

The proposed amendments would eliminate the reference to the ''Branch Office Manager Examination'' and specify the Series 9/10 Examination as the referenced qualification requirement. In addition, the Series 24 Examination would be referenced and, if taken and passed after July 1, 2001, would be recognized as an alternative to the Series 9/10 Examination for persons whose duties do not include the supervision of options or municipal securities sales activity.

Though not included in the proposed rule amendments, a person with a Series 24 registration who is delegated responsibility to supervise options sales activity could qualify to do so by passing the Options Principal Examination (''Series 4 Examination'') or, alternately, the Series 9 Examination. If delegated responsibilities include supervision of municipal securities sales activity, such person could qualify by passing the Municipal Securities Principal Examination (''Series 53 Examination'') or the Series 10 Examination. The Exchange is currently working with the NASD to develop a comprehensive examination that will incorporate the elements of both the Series 24 and the Series 9/10 Examinations and would qualify persons as an NYSE Securities Sales Supervisor or an NASD Securities Principal.

Additional Amendments to Rule 342.13

The proposed rule amendments to NYSE Rule 342.13 would also accomplish the following:

- Clarify that, absent a waiver by the Exchange, the qualification requirement to supervise ''any sales department or activity''[5] is the Series 9/10 Examination, the Series 24 Examination, or another examination acceptable to the Exchange which demonstrates competency relevant to assigned responsibilities.
- Codify that supervisor candidates must have a creditable ''three year'' record as a registered representative or equivalent experience. The addition of the ''three year'' requirement codifies the current written Interpretation of the Rule.
- Eliminate reference to the ''Allied Member Examination.'' This examination is no longer given to Allied Member candidates, since qualification examination requirements are now determined on a case-by-case basis according to the functions and responsibilities of the prospective Allied Member.
- Eliminate reference to ''special examinations'' that ''may be arranged for persons whose principal work is in unusual fields.'' The Rule's prior reference to an ''examination acceptable to the Exchange which demonstrates competency relevant to assigned responsibilities'' renders the ''special examinations'' reference redundant.
- Clarify the prerequisites outlined in the first sentence of NYSE Rule 342.13 by replacing the word ''should'' and the phrase ''is expected to'' with the less ambiguous word, ''must.''

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of section 6(c)(3)(B) of the Act.[6] Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience, and competence for persons associated with Exchange members and member organizations.

In addition, the Exchange, under section 6(c)(3)(B),[7] may bar a natural person from becoming a member or person associated with a member if such natural person does not meet such prescribed standards of training, experience, and competence as are prescribed by the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

[4] Reference is made to 342(d)(1), persons in charge of ''any office of a member or member organization'' and 342(d)(2), persons in charge of ''any regional or other group of offices.''

[5] Incorporated into 342.13 by reference to 342(d)(3).

[6] 15 U.S.C. 78f(c)(3)(B).

[7] *Id.*

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–24 and should be submitted by 21 days from September 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22605 Filed 9–4–02; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) has determined that Cape Verde has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act (AGOA). Therefore, imports of eligible products from Cape Verde qualify for the textile and apparel benefits provided under the AGOA.

DATES: Effective August 28, 2002.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Director for African Affairs, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The AGOA (Title I of the Trade and Development Act of 2000, Pub. L. No. 106–200) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as ''beneficiary sub-Saharan African countries,'' provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2002), the President designated Cape Verde as a ''beneficiary sub-Saharan African country.'' Proclamation 7350 delegated to the United States Trade Representative the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Cape Verde has taken, I have determined that Cape Verde has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting ''Cape Verde'' in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act,* 66 FR 7837 (2001).

Jon M. Huntsman, Jr.,

Acting United States Trade Representative.

[FR Doc. 02–22616 Filed 9–4–02; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–53]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions for exemption.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Vanessa Wilkins (202) 267–8029,or Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 30, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11574.

Petitioner: AirNet Systems, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit AirNet Systems to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 13, 2002, Exemption No. 6772B

Docket No.: FAA–2002–11567.

Petitioner: King Airelines, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit King to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 13, 2002, Exemption No.6093C

Docket No.: FAA–2001–9492.

Petitioner: Arctic Circle Air Service, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Arctic Circle to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 13, 2002, Exemption No. 7523A.

Docket No.: 29119.

Petitioner: ERA Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 121.643(a)(2) and (3).

Description of Relief Sought/ Disposition: To permit ERA to operate its DHC–6 aircraft under the fuel supply requirements of 14 CFR part 135 in lieu of the fuel supply requirements of part 121 supplemental operations.

Denial/May 7, 2002, Exemption No. 7765.

Docket No.: FAA–2002–6459D.

Petitioner: Atlantic Aero, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Atlantic to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 2, 2002, Exemption No. 6459D

Docket No.: FAA–2002–11291.

Petitioner: Northwest Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit Northwest Airlines to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command who is completing the initial or upgrade training specified in Section 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations.

Grant/May 1, 2002, Exemption No. 6782B

Docket No.: FAA–2002–11748.

Petitioner: B2W Corporation.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit B2W to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/April 30, 2002, Exemption No.6083C

Docket No.: FAA–2002–11941.

Petitioner: Grand Canyon Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Grand Canyon Airlines to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/April 30, 2002, Exemption No. 6101C

Docket No.: FAA–2002–11598.

Petitioner: Gulf and Ohio Airways.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Gulf and Ohio Airways to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/April 30, 2002, Exemption No. 7208A

Docket No.: FAA–2001–11710.

Petitioner: Rotorcraft Leasing Company, L.L.C.

Section of 14 CFR Affected: 14 CFR 135.152(a).

Description of Relief Sought/ Disposition: To permit Rotorcraft Leasing Company to operate a mixed fleet of Bell 212 and 412 helicopters without those helicopters being equipped with an approved digital flight data recorder.

Grant/April 16, 2002 Exemption No. 7320A

Docket No.: FAA–2001–8939.

Petitioner: Experimental Aircraft Association, Inc.

Section of 14 CFR Affected: 14 CFR 103.1(a) and (e).

Description of Relief Sought/ Disposition: To permit individuals authorized by the EAA to give instruction in powered ultralight vehicles that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed.

Grant/April 4, 2002, Exemption No. 3784K

Docket No.: FAA–2000–8425.

Petitioner: Aero Sports Connection, Inc.

Section of 14 CFR Affected: 14 CFR 131.1(a) and (e).

Description of Relief Sought/ Disposition: To permit individuals authorized by the ASC to give instruction in powered ultralight vehicles that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed.

Grant/April 4, 2002, Exemption No. 6080E

Docket No.: FAA–2001–9976.

Petitioner: United States Ultralight Association, Inc.

Section of 14 CFR Affected: 14 CFR 103.1(a) and (e).

Description of Relief Sought/ Disposition: To permit individuals authorized by the USUA to give instruction in powered ultralight vehicles that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed.

Grant/April 4, 2002, Exemption No. 4274J

Docket No.: FAA–2002–11946.

Petitioner: Frontier Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.391(a)(4).

Description of Relief Sought/ Disposition: To permit Frontier to use two flight attendants aboard airplanes configured with more than 100 seats when (1) a third flight attendant becomes unable to perform his or her duties and a replacement flight attendant cannot be made available without lengthy delay and (2) all seats in excess of 100 are blocked from use.

Denial/April 3, 2002, Exemption No. 7749

Docket No.: FAA–2002–10716.

Petitioner: United States Ultralight Association, Inc.

Section of 14 CFR Affected: 14 CFR 91.319(a)(1) and (2).

Description of Relief Sought/ Disposition: To permit United States Ultralight Association members who own aircraft with an experimental certificate to be compensated for the use of the aircraft in transition training

conducted by authorized flight instructors.

Grant/March 29, 2002, Exemption No. 7750

Docket No.: 30059.
Petitioner: The Aviation Department of The Saudi Arabian Oil Company.
Section of 14 CFR Affected: 14 CFR 61.51(f).
Description of Relief Sought/ Disposition: To permit Saudi Aramco's commercial helicopter pilots flying as second pilots, pursuant to company-mandated flight safety policies aboard Bell 212, 214ST, or 412 helicopters operated by Saudi Aramco, to count such time as second-in-command time toward fulfillment of the flight time requirements of 14 CFR 61.157(h)(3)(ii)(B) or § 61.61(a), in order to qualify to take the airline transport pilot practical tests.

Grant/March 26, 2002, Exemption No. 7747

Docket No.: FAA–2002–11573.
Petitioner: Avcenter, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Avcenter to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/April 29, 2002, Exemption No. 7204A

Docket No.: FAA–2002–11840.
Petitioner: Davis Aerospace Technical High School.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit Davis Aerospace Technical High School and Black Pilots of America to conduct local sightseeing flights at the Detroit City Airport, for its annual open house on May 19, 2002, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant/May 16, 2002, Exemption No. 7768

Docket No.: FAA–2002–11555.
Petitioner: United Parcel Service.
Section of 14 CFR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and appendix F to part 121.
Description of Relief Sought/ Disposition: To permit United Parcel Service to combine recurrent flight and ground training and proficiency checks for UPS's pilots in command, seconds in command, and flight engineers in a single annual training and proficiency evaluation program.

Grant/May 15, 2002, Exemption No. 6434C

Docket No.: FAA–2002–11758.
Petitioner: U.S. Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit U.S. Helicopters to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No.6452C

Docket No.: FAA–2002–11718.
Petitioner: Captain David Carpenter.
Section of 14 CFR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit Captain David Carpenter to act as a pilot in operations conducted under part 121 after reaching your 60th birthday.

Denial/May 16, 2002, Exemption No. 7774

Docket No.: FAA–2002–11768.
Petitioner: Twin Otter International, Ltd.
Section of 14 CFR Affected: 14 CFR 121.345(c)(2) and 135.143 (c)(2).
Description of Relief Sought/ Disposition: To permit Twin Otter International Ltd to operate certain aircraft under part 121 and part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 6111D

Docket No.: FAA–2002–11959.
Petitioner: American Air Network, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit American Air Network to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7299A

Docket No.: FAA–2002–11932.
Petitioner: Helicopter Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Helicopter Services Inc to operated certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 6109C

Docket No.: 27502.
Petitioner: Bemidji.
Section of 14 CFR Affected: 14 CFR 135.265(d).
Description of Relief Sought/ Disposition: To permit Bemidji to provide its pilots with 24 consecutive hours of rest within any consecutive 168 hours instead of within any 7 consecutive days.

Denial/May 15, 2002, Exemption No. 7767

Docket No.: FAA–2002–11936.
Petitioner: Airway Flight Services.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Airway Flight Services to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7287A

Docket No.: FAA–2002–12117.
Petitioner: Alaska Air Taxi.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Alaska Air Taxi to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7247A

Docket No.: FAA–2002–12039.
Petitioner: Eastway Aviation Charter Management.
Section of 14 CFR Affected: 14 CFR 135.167.
Description of Relief Sought/ Disposition: To permit Eastway Aviation Charter Management to operate between 50 and 162 nautical miles from shore without life rafts or pyrotechnic signaling devices provided the minimum enroute cruising altitude is FL250 or higher

Denial/May 20, 2002, Exemption No. 7773

Docket No.: FAA–2002–11995.
Petitioner: Thunder Air Charter, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Thunder Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7315A

Docket No.: FAA–2002–12163.
Petitioner: John A. Porter.

Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).

Description of Relief Sought/ Disposition: To permit John A Porter to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

Grant/May 16, 2002, Exemption No. 6521C

Docket No.: FAA–2002–11759.

Petitioner: Aero Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Aero Charter to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7250A

Docket No.: FAA–2002–12152.

Petitioner: Ameriflight, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Ameriflight to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 6830B

Docket No.: FAA–2002–11841.

Petitioner: Warbelows Air Ventures, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Warbelows to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7344A

Docket No.: FAA–2002–11715.

Petitioner: Chevron U.S.A. Production Company.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Chevron to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 5948D

Docket No.: FAA–2002–11703.

Petitioner: Ketchum Air Service, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Ketchum to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7300A

Docket No.: FAA–2002–11930.

Petitioner: High Adventure Air Charter.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit High Adventure to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 20, 2002, Exemption No. 7288A

Docket No.: FAA–2000–8063.

Petitioner: Eagle Canyon Airlines, Inc., dba Scenic Airlines.

Section of 14 CFR Affected: 14 CFR 121.345(c)(2).

Description of Relief Sought/ Disposition: To permit Scenic to operate certain aircraft under part 121 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 23, 2002, Exemption No. 6839B

Docket No.: FAA–2002–12354.

Petitioner: Keystone Helicopter Corporation.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Keystone to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 29, 2002, Exemption No. 7783

Docket No.: FAA–2002–12189.

Petitioner: Department of Air Force.

Section of 14 CFR Affected: 14 CFR 91.215(b) and (c).

Description of Relief Sought/ Disposition: To permit the U.S. Air Force to conduct certain military training flight operations in designated airspace above 10,000 feet mean sea level without being required to operate the aircraft transponders, subject to certain conditions and limitations.

Grant/May 22, 2002, Exemption No. 4633I

Docket No.: FAA–2002–12104.

Petitioner: Lake and Peninsula Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Lake and Peninsula Airlines Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 23, 2002, Exemption No. 7357A

Docket No.: FAA–2002–11928.

Petitioner: Mid-Atlantic Freight, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Mid-Atlantic Freight Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 23, 2002, Exemption No. 7291A

Docket No.: FAA–2001–10229.

Petitioner: Air Wisconsin Airlines Corporation.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit Air Wisconsin to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424.

Grant/May 22, 2002, Exemption No. 7778

Docket No.: FAA–2002–12133.

Petitioner: SkyWest Airlines.

Section of 14 CFR Affected: 14 CFR 121.463(c).

Description of Relief Sought/ Disposition: To permit SkyWest to allow its dispatchers to accomplish the required 5 hours of dispatcher operating familiarization time in the Canadair Regional Jet CL–65 aircraft.

Grant/May 28, 2002, Exemption No. 7780

Docket No.: FAA–2002–12108.

Petitioner: M and R Helicopters, L.L.C.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit M and R Helicopters to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 23, 2002, Exemption No. 7777

Docket No.: FAA–2000–8527.

Petitioner: SIMCOM Training Center.

Section of 14 CFR Affected: 14 CFR 91.9(a) and 91.531(a)(1) and (2).

Description of Relief Sought/ Disposition: To permit SIMCOM and

operators of Cessna Citation model 550, S550, 552, and 560 airplanes to operate those airplanes without a pilot who is designated as second in command.

Grant/May 28, 2002, Exemption No. 7487C

Docket No.: FAA–2002–11888.
Petitioner: ComAir, Inc.
Section of 14 CFR Affected: 14 CFR 121.463(c).
Description of Relief Sought/ Disposition: To permit ComAir to allow its dispatchers to accomplish the required 5 hours of dispatcher operating familiarization time in the Canadair Regional Jet CL–65 aircraft.

Grant/May 28, 2002, Exemption No. 7781

Docket No.: FAA–2002–11757.
Petitioner: Dale Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c).
Description of Relief Sought/ Disposition: To permit Dale Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

Grant/May 23, 2002, Exemption No. 7776

Docket No.: FAA–2001–9687.
Petitioner: Pacific Helicopter Tours, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Pacific Helicopter Tours to operate its two Bell 212 helicopters (Serial Nos. 3095, and 30957) and four Sikorsky S–61N helicopters (Serial Nos. 61364, 61488, 61771, and 61821) without those helicopters being equipped with an approved digital flight data recorder.

Grant/May 31, 2002, Exemption No. 7257C

Docket No.: FAA–2002–12412.
Petitioner: Air Transport Training International, Inc.
Section of 14 CFR Affected: 14 CFR 141.27(b)(2).
Description of Relief Sought/ Disposition: To permit Air Transport to reapply for a provisional pilot school certificate less than 180 days after the May 31, 2002, expiration date of its certificate, and without having trained and recommended 10 students for pilot certification and ratings.

Grant/May 31, 2002, Exemption No. 7785

Docket No.: FAA–2002–12168.
Petitioner: West Bend Air, Inc.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit West Bend to conduct local sightseeing flights without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Denial/May 31, 2002, Exemption No. 7786

Docket No.: FAA–2002–12404.
Petitioner: Vintage Aircraft Group, Inc.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit Vintage to conduct local sightseeing flights at Pine Hill Airport, for it's fly-in breakfast on June 2, 2002, Aviation Day Open House on August 10 and 11, 2002, and a second fly-in breakfast on September 2, 2002, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.

Grant/May 30, 2002, Exemption No. 7784

[FR Doc. 02–22628 Filed 9–4–02; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 181/EUROCAE Working Group 13 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance.

DATES: The meeting will be held September 17–20, 2002 starting at 9 a.m.

ADDRESSES: The meeting will be held at the RTCA Inc., Suite 805, 1828 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 181/EUROCAE Working Group 13 meeting. *Note: Working Groups 1& 4 will meet separately September 17–19.* The Plenary agenda will include:

- September 20:
- Opening Plenary Session (Chairman Remarks, Review/Approval of Previous Meeting Minutes)
- MOPS Status
- Working Group Reports
- Report on Charter and TOR discussions
- Industry Activities
- Closing Plenary Session (New Business, Review of Action Items, Future Meeting Schedule, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 29, 2002.

Janice L. Peters,

FAA Special Assistant RTCA Advisory Committee.

[FR Doc. 02–22623 Filed 9–4–02; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 201: Aeronautical Operational Control (AOC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 201 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 201: Aeronautical Operational Control.

DATES: The meeting will be held on September 19, 2002 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at NBAA, 1200 Eighteenth Street, NW., Suite 400, Washington, DC 20036–2598.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee

201 meeting. *SC–201, Aeronautical Operational Control (AOC), Message Hazard Mitigation (AMHM), was established by the RTCA Program Management Committee on August 27, 2002. SC–201 will produce two documents that describe a number of acceptable procedural mitigations for those Aircraft Communications Addressing and Reporting System (ACARS) messages deemed to pose a hazard if corrupted. The documents are scheduled for completion on or before April 2004.* The agenda will include:

- September 19:
- Opening Session (Welcome, Introductory and Administrative Remarks, Review Federal Advisory Committee Act and RTCA Procedures, Review Agenda, Background, Review Terms of Reference)
- Existing AOC messages under consideration
- Action timeline
- Organize Working Groups as appropriate
- Develop detailed schedule(s)
- Develop document outline(s)
- Assign drafting tasks, identify existing text
- Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 29, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–22624 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186/ EUROCAE Working Group 51: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186/EUROCAE Working Group 51 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186/ EUROCAE Working Group 51: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held September 23–27, 2002 starting at 9 a.m.

ADDRESSES: The meeting will be held at EUROCONTROL, Rue le la Fusee 96, Brussels, B–1130, Belgium.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*; (2) Mr. Robert Darby, (e-mail) *bob.darby@eurocontrol.be,* (Phone) (011) 32–2–729–3332.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for a Special Committee 186/EUROCAE Working Group 51 meeting. The Plenary agenda will include:

- September 23–24:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/ Approval of Meeting Agenda, Review/ Approval of Meeting Minutes)
- SC–186 Activity Reports:
- WG–1, Operations and Implementation
- WG–2, Traffic Information Service—Broadcast (TIS–B)
- WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
- WG–4, Application Technical Requirements
- WG–5, Universal Access Transceiver (UAT) MOPS
- WG–6, ADS–B Minimum Aviation System Performance Standard (MASPS)
- EUROCAE WG–51 Activity Reports
- Discuss Joint RTCA/EUROCAE Work
- ASA MASPS Rev A and GSA MASPS Applications and work structure
- Package 1/RTCA correlation matrix
- ADS–B MASPS
- 1090 MOPS
- Closing Plenary Session (Review Action Items/Work Program, Date, Place and Time of Next Meeting, Adjourn)

Note: Specific working group sessions will meet as follows: (1) September 25: SC–186/ WG–1, 2, 3 & 4 and WG–51/SG–3; (2) September 26: SC–186/WG–1, SC–186/WG–1, 3 & 4; (3) September 27: SC–186/WG–1 & 4, WG–51/SG–3.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 29, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–22625 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hartsfield Atlanta International Airport, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and to impose and use the revenue from a PFC at Hartsfield Atlanta International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508)) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, College Park, Georgia, 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Arthur L. Bacon, Director of Finance of the City of Atlanta, Department of Aviation at the following address: City of Atlanta, Department of Aviation, P.O. Box 20509, Atlanta, Georgia 30320–2509.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Atlanta, Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Terry R. Washington, P.E, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, College Park, Georgia, 30337–2747, Telephone Number 404–305–7143. The application maybe reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and to impose and use the revenue from a PFC at Hartsfield Atlanta International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 28, 2002, the FAA determined that the application to impose and to impose and use the revenue from a PFC submitted by The City of Atlanta was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 12, 2002. The following is a brief overview of the application.

PFC Application No.: 02–03–C–00–ATL.

Level of proposed PFC: $4.50.

Proposed charge effective date: May 1, 2005.

Proposed charge expiration date: January 2022.

Total estimated net PFC revenue: $1,280,997,615.

Brief Description of proposed project(s):

Construction of 5th Runway (Impose and use);

Taxiway ''L'' Extension (Impose and use);

Taxiway Construction and Intersection Upgrades (Impose and use);

Airfield Pavement Replacement (Impose and use);

Airfield Lighting Systems (Impose and use);

New End Around Taxiway (Impose only);

Approach Clearance and Landscape Safety (Impose and use);

Surface Movement Guidance System (Impose and use);

Consolidated Rental Car Facility (CONRAC) Automated People Mover System (Impose only);

Airport Access Roadway (Impose only).

Class or classes or air carriers which the public agency has requested not be required to collect PCFs: Air Taxi/Commercial Operators (ATCO) when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded within a 25 mile radius of the airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Atlanta's Department of Aviation.

Issued in College Park, Georgia, on August 28, 2002.

Embree C. Hunnicutt, Jr.,

Acting Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 02–22626 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Southeast Texas Regional Airport, Beaumont, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Southeast Texas Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Byron L. Broussard, Manager of Southeast Texas Regional Airport at the following address: Airport Manager, Southeast Texas Regional Airport, 4875 Parker Drive, Beaumont, Texas 77705.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Southeast Texas Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 27, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 20, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: March 1, 2005.

Proposed charge expiration date: September 1, 2005.

Total estimated PFC revenue: $166,800.

PFC application number: 02–04–C–00–BPT.

Brief description of proposed projects(s):

Projects To Impose and Use PFC's

1. Update Masterplan
2. Airport Safety Improvements
3. Acquire Forward Looking Infrared System
4. Acquire and Install Replacement Passenger Loading Bridge
5. Conduct Runway 16/34 Extension Benefit Cost Analysis
6. PFC Application and Administrative Fees

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice

and other documents germane to the application in person at Southeast Texas Regional Airport.

Issued in Forth Worth, Texas on August 27, 2002.

Naomi L. Saunders

Manager, Airports Division.

[FR Doc. 02–22627 Filed 9–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mendocino County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project on State Route 101 (SR 101) in Mendocino County, near the town of Hopland, California.

FOR FURTHER INFORMATION CONTACT: Harry Khani, Transportation Engineer, Federal Highway Administration, 980 Ninth Street, Suite 400, Sacramento, California 95814, telephone: (916) 498–5056, e-mail: *Harry.Khani@fhwa.dot.gov.* Alan Escarda, California Department of Transportation (Caltrans) Project Manager, 1656 Union Street, Eureka, CA 95501, telephone: (707) 441–2097, e-mail: *Alan_Escarda@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with Caltrans proposes to construct a four-lane freeway or expressway on SR 101 in Southern Mendocino County. The project limits extend from kp 14.2 to 28.3 (pm 8.8/17.6). The project will bypass the community of Hopland and upgrade the last section of two-lane conventional highway on SR 101 between Ukia and the San Francisco Bay Area to a four-lane freeway or expressway. The project is needed to reduce operational conflicts, accommodate existing and future traffic demand, reduce travel time, increase safety, improve air quality, reduce noise in Hopland and provide the facility concept identified in the ''Inter-regional Transportation Strategic Plan''.

Five alignments are being proposed at this time as well as a ''No Build'' alternative. All of the alignments potentially affect oak woodlands, riparian forest and pre-historic cultural resources. Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A Public Open House has been held to solicit opinions from the community and a Project Development Team has been formed to determined the scope of the project. In addition, a public hearing will be held when the Draft EIS is complete. Public notice will be given of the time and location of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 13, 2002.

Maiser Khaled,

Chief, District Operations North, California Division, Federal Highway Administration.

[FR Doc. 02–21931 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–13014; Notice 1]

Dorel Juvenile Group; Receipt of Application for Determination of Inconsequential Non-Compliance

Dorel Juvenile Group [Cosco] (DJG), of Columbus, Indiana, failed to comply with S5.1.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child Restraint Systems,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' DJG has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of the application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgement concerning the merits of the application.

The following summarizes the DJG petition based upon information provided with the petition in accordance with the requirements of 49 CFR Part 556, ''Exemption for Inconsequential Defect or Noncompliance.''

Summary of the Petition

On September 7, 2001, as a result of its fiscal year 2001 testing, NHTSA notified DJG of a potential noncompliance regarding DJG's child restraint system (CRS). The noncompliance is the separation of the tether strap and steel belt slot adjustment channel from the Cosco Alpha Omega CRS seat shell produced from November 1, 2000 through January 10, 2001 (6 Models and 86,476 units). S5.1.1(a) of FMVSS No. 213 states that each child restraint system shall ''Exhibit no complete separation of any load bearing structural element * * *.''

DJG does not think that tether separation during the sled test is the same as a complete separation of a load bearing structural element. DJG believes that the regulatory history of S5.1.1 shows that the purpose of the requirement is to reduce the likelihood of injury during collapse or disintegration of the system; therefore, the cutting of the tether strap does not present a risk of collapse or disintegration. DJG states that the agency's compliance test data show tether separation of the Alpha Omega CRS under dynamic loading provides significantly improved results compared to other Alpha Omega CRS without tether separation under dynamic loading. Therefore, DJG filed this petition on the basis that the noncompliance is inconsequential to motor vehicle safety.

Availability of the Petition and Other Documents

The petition and other relevant information are available for public inspection in NHTSA Docket No. NHTSA–2002–13014. You may call the Docket at (202) 366–9324 or you may visit the Docket Management in Room PL–401, 400 Seventh Street, SW., Washington, DC 20590 (10 a.m. to 5 p.m., Monday through Friday). You may also view the petition and other relevant information on the Internet. To do this, do the following:

(1) Go to Docket Management System (DMS) Web page for the Department of Transportation (*http://dms.dot.gov/search*).

(2) On the next page (*http://dms.dot.gov/search/*

SearchFormSimple.cfm), type the docket number ''13014.'' After typing the docket number, click on ''search.''

(3) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments and other materials.

Comments

Interested persons are invited to submit written data, views and arguments on the petition of DJG described above. Comments should refer to the Docket Number and be submitted to: U.S Department of Transportation Docket Management, Room PL 401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 7, 2002.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: August 29, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–22552 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–13242; Notice 1]

Goodyear Tire & Rubber Company, Receipt of Application for Decision of Inconsequential Noncompliance

Goodyear Tire & Rubber Company (Goodyear) has determined that approximately 2,400 of the 66,697 P275/55R20 Eagle LS and P245/70R16 Wrangler SRA tires manufactured and shipped during the period May 25, 2002 to June 16, 2002, do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New pneumatic tires.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Goodyear has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

FMVSS No. 109 (S4.3(d)) requires that each tire shall have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies (both sidewall and tread area) of the tire. The tires were marked with the material identified as polyester when it was actually nylon. The error occurred as a result of a roll of nylon being incorrectly identified as polyester.

Goodyear believes that the noncompliance is inconsequential to motor vehicles safety because the nylon fabric involved is much stronger than polyester fabric normally used in these tires, the end result being tires with increased endurance. These tires have been tested and the results indicate that all the performance requirements of FMVSS No. 109 were met or exceeded. The error is considered as an isolated instance. Goodyear states that additional steps have now been put in place to insure the usage of only the correct fabric in the future.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: October 7, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 30, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–22632 Filed 9–4–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34239]

St. Lawrence & Atlantic Railroad Company—Lease and Operation Exemption—Rail Lines of Fraser N.H. LLC

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board grants an exemption under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323–25, for St. Lawrence & Atlantic Railroad Company, a Class III rail carrier, to lease and operate over lines of Fraser N.H. LLC (Fraser), a Class III rail carrier, consisting of: (1) 5.5 miles of rail line between milepost 154.6 at Berlin, NH, and milepost 149.1 at Gorham, NH; and (2) 0.5 miles of rail line in the vicinity of Berlin, a total distance of 6.0 miles in Coos County, NH.

DATES: This exemption will be effective September 5, 2002. Petitions to reopen must be filed by September 25, 2002.

ADDRESSES: Send an original and 10 copies of pleadings referring to STB Finance Docket No. 34239 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of pleadings to petitioner's representative: Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Ave., NW., Suite 200, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dá 2 Dá Legal Copy Service, Room 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *''www.stb.dot.gov.''*

Decided: August 28, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–22543 Filed 9–04–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 28, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 7, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0066.

Form Number: IRS Form 2688.

Type of Review: Extension.

Title: Application for Additional Extension of Time To File U.S. Individual Income Tax Returns.

Description: Internal Revenue Code section 6081 permits the Secretary to grant a reasonable extension of time for filing any return, declaration, statement, or other document. This form is used by individuals to ask for an additional extension of time to file U.S. income tax returns after filing for the automation extension, but still needing more time.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,453,000.

Estimated Burden Hours Per Respondent:

Learning about the law or the form—13 min.

Preparing the form—16 min.

Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,089,750 hours.

OMB Number: 1545–0967.

Form Number: IRS Form 8453–F.

Type of Review: Extension.

Title: U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

Description: This form is used to secure taxpayer signatures and declarations in conjunction with electronic and magnetic media filing of trust and fiduciary income tax returns. This form, together with the electronic and magnetic media transmission, will comprise the taxpayer's income tax return (Form 1041).

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 min.

Learning about the law or the form—4 min.

Preparing the form—21 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 880 hours.

OMB Number: 1545–0970.

Form Number: IRS Form 8453–P.

Type of Review: Extension.

Title: U.S. Partnership Declaration and Signature for Electronic Filing.

Description: This form is used to secure general partner's signature and declaration in conjunction with the electronic filing of a partnership return (Form 1065). Form 8453–P, together with the electronic transmission, will comprise the partnership's return.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 min.

Learning about the law or the form—5 min.

Preparing the form—18 min.

Copying, assembling, and sending the form to the IRS—16 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 390 hours.

OMB Number: 1545–1237.

Regulation Project Number: REG–209831–96 Final.

Type of Review: Extension.

Title: Consolidated Returns—Limitations on the Use of Certain Losses and Deductions.

Description: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. These regulations amend the current regulations regarding the use of certain losses and deductions by such corporations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 8,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,000 hours.

OMB Number: 1545–1257.

Form Number: IRS Form 8827.

Type of Review: Extension.

Title: Credit for Prior Year Minimum Tax—Corporations.

Description: Section 53(d), as revised, allows corporations a minimum tax credit based on the full amount of alternative minimum tax incurred in tax years beginning after 1989, or a carryforward for use in a future year.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents: 25,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 25,000 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–22557 Filed 9–4–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
September 5, 2002

Part II

Nuclear Regulatory Commission

10 CFR Part 72

Geological and Seismological Characteristics for Siting and Design of Dry Cask Independent Spent Fuel Storage Installations and Monitored Retrievable Storage Installations; Extension of Comment Period; Proposed Rule

Draft Regulatory Guide; Extension of Comment Period; Notice

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN: 3150–AG93

Geological and Seismological Characteristics for Siting and Design of Dry Cask Independent Spent Fuel Storage Installations and Monitored Retrievable Storage Installations; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On July 22, 2002 (67 FR 47745), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule that would amend its regulations in 10 CFR Part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' for the geological and seismological criteria of a dry cask storage facility. The State of Utah has requested a 15-day extension of the comment period. In view of the importance of the proposed rule and the amount of time that the State of Utah says is required in order to provide meaningful comments, the NRC has decided to extend the comment period of the proposed rule for an additional 15 days. In a separate document, the NRC is also extending the comment period for the Draft Regulatory Guide DG–3021, ''Site Evaluations and Determination of Design Earthquake Ground Motion for Seismic Design of Independent Spent Fuel Storage Installations and Monitored Retrievable Storage Installations,'' for an additional 15 days.

DATES: The comment period has been extended and now expires on October 22, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format) if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, Room O–1F23, 11555 Rockville Pike, Rockville, Maryland. These same documents may also be viewed and downloaded electronically via the rulemaking Web site.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Keith K. McDaniel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5252, e-mail, *KKM@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of August, 2002.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 02–22596 Filed 9–4–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Extension of Comment Period

In July 2002, the Nuclear Regulatory Commission issued for public comment a draft of a new guide in its Regulatory Guide Series. Draft Regulatory Guide DG–3021, ''Site Evaluations and Determination of Design Earthquake Ground Motion for Seismic Design of Independent Spent Fuel Storage Installations and Monitored Retrievable Storage Installations,'' was issued to propose guidance on a proposed revision to 10 CFR Part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste'' (67 FR 47745).

The State of Utah has requested a 15-day extension of the comment period for both the proposed rule and the draft regulatory guide. In view of the importance of the proposed rule and the amount of time that the State of Utah says is required to provide meaningful comments, the NRC has decided to extend the comment period, for both the proposed rule (published elsewhere in this issue of the **Federal Register**) and the draft regulatory guide, until October 22, 2002.

Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received by October 22, 2002. Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD.

You may also provide comments on both the proposed rule and the draft regulatory guide via the NRC's interactive rulemaking Web site through the NRC home page (*http://www.nrc.gov*). This site provides the ability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guide and the related documents, contact Mr. M. Shah at (301) 415–8537; e-mail *MJS3@NRC.GOV*.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; e-mail *PDR@NRC.GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to *DISTRIBUTION@NRC.GOV;* or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 22nd day of August, 2002.

For the Nuclear Regulatory Commission.

Mabel F. Lee,

Director, Program Management, Policy Development and Analysis Staff, Office of Nuclear Regulatory Research.

[FR Doc. 02–22332 Filed 9–4–02; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Thursday,
September 5, 2002

Part III

Federal Communications Commission

47 CFR Part 76

Revisions to Cable Television Rate Regulations; Final Rule and Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 02–144; FCC 02–177]

RIN: 4102

Revisions to Cable Television Rate Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document clarifies how the Commission will review appeals of local rate orders regarding adjustments to cable television rates for the basic service tier pending resolution of the issues in the *Notice of Proposed Rulemaking* published elsewhere in this issue.

EFFECTIVE DATE: September 5, 2002.

FOR FURTHER INFORMATION CONTACT: John Norton, Media Bureau, 202–418–7037 or via e-mail at *jnorton@fcc.gov;* Wanda Hardy, Media Bureau, 202–418–2129 or via e-mail at *whardy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's *Order for Interim Rate Adjustments for BST Channel Charges* (''*Order*'') MB 02–144, FCC 02–177, adopted June 13, 2002 and released June 19, 2002, as corrected by *Order* MB–02–144, FCC 02–228 adopted August 6, 2002 and released August 14, 2002. The complete texts of these orders are available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

Synopsis of Order

Interim Rate Adjustments for BST Channel Changes

1. In light of the confusion created by section 76.922(g)(8) of the Commission's rules and the intent expressed in the *Going Forward Order* that there be some mechanism for dealing with channel changes if the incentives in paragraph (g) were not renewed, we clarify how channel changes should be handled pending action on the Notice of Proposed Rule Making. *See* 47 CFR 76.922(g); *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate* Regulation (''*Going Forward Order*''), 59 FR 62614, December 6, 1994. We base this clarification on the provisions in paragraphs (g) and (h) and Forms 1210 and 1240 for the basic service tier (''BST''), which are understood by cable operators and franchising authorities. We also take into consideration the sunset of cable programming service tier (''CPST'') rate regulation. For rate adjustments filed with franchising authorities after this clarification, franchising authorities reviewing rates should accept rate adjustments for channels added to the BST using the per channel adjustment factor in § 76.922(g)(2), based on the number of channels that would have been subject to regulation if CPST rate regulation had not ended. Franchising authorities should also accept and may require rate adjustments for channel deletions and substitutions consistent with § 76.922(g)(4) and (g)(6), respectively. The calculations should be done using FCC Forms 1210 and 1240. We will review appeals of local rate orders consistent with this approach. We recognize that some operators removing channels from the BST before this clarification may have read paragraph 98 of the *Going Forward Order* to allow BST rate adjustments based on the per channel adjustment factors from the table in § 76.922(g)(2), and previously in 47 CFR 76.922(e)(1994).

2. In reviewing any appeals of local rate orders regarding this methodology, we will consider an operator's use of this methodology before this clarification to be reasonable; provided that, for systems moving a substantial number of channels from the BST to a CPST, the resulting overall rate structure is reasonable; and further provided that this methodology is generally consistent with the system's methodology for its rate adjustments for the majority of any channels moved from the CPST to the BST on or after the January 1, 1998 sunset of paragraph (g). In reviewing appeals of local rate orders concerning rate adjustments for the movement of channels from the CPST to the BST, we will find reasonable adjustments that are consistent with § 76.922(g)(5) and the Commission's rate forms for CPST channels moved on or before March 31, 1999, the sunset of CPST rate regulation; provided that the rate adjustments are computed from CPST rates that were subject to rate regulation; and further provided that adjustments for channels moved from the BST during this same period were computed consistently with § 76.922(g)(5) and the Commission's rate forms.

3. The provisions in § 76.922(f), (g) of the Commission's rules concerning external costs, including the permitted 7.5% mark-up on programming cost increases, continue to apply. This clarification is consistent with Commission rate forms, which have remained in effect since their adoption, and with the Commission's handling of rate complaints and stays of local rate appeals. Without this clarification, subscribers may experience a decrease or change in BST service without a corresponding adjustment to their rates. The clarification with respect to the movement of channels between tiers maintains the balance between regulated revenue sources, which has been a consistent part of our rate regulations, for the period that the CPST was subject to rate regulation. Because of our concern about determining the CPST residual from unregulated rates, we will not find franchising authority orders unreasonable for disallowing the movement of an unregulated residual amount for channels moved from the CPST to the BST after the sunset of CPST rate regulation. However, franchising authorities that have accepted such a residual movement from the CPST to the BST either in orders or by inaction within the period for reviewing a Form 1240 should not change that determination in the true-up process. Our intent with these interim guidelines is to create some stability in the rate-making process pending resolution of this proceeding, not to overturn rate adjustments previously accepted based on a good faith interpretation of our rules and rate forms.

4. At the conclusion of the rulemaking proceeding, we will consider whether BST rates should be adjusted to conform to the structure adopted by the Commission. In addition, in the *Order* we clarify how operators using FCC Form 1240 and Worksheet 4 of that form may compute the channel residual during the interim period. The instructions for Worksheet 4 direct operators projecting their next maximum permitted rate to compute the residual using their previous average permitted charge, which is the charge projected in the previous rate form and entered on Line A1 of the current rate form. The instructions then direct the operator to subtract average external costs and average total per channel adjustments for ''Caps Method'' channels using figures from Line 710 of Worksheet 7 and Line 214 of Worksheet 2 for ''the appropriate period.'' The instructions also direct the operator to use the average number of channels on the system for ''the appropriate period.'' We clarify that, when computing the

channel residual for the new projected period, operators may use the projected period from the previous Form 1240 as the appropriate period. In this way, the projected external costs, Caps Method per channel adjustment, and channel count used to calculate the permitted charge shown on Line 401 for the projected period would be used to adjust it for computing the residual.

Ordering Clause

5. This *Order* is adopted pursuant to authority contained in sections 1, 2(a), 3, 4(i), 4(j), 303(r), 601(3), 602, and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 153, 154(i), 154(j), 303(r), 521, 522, and 543; and adopted pursuant to authority contained in sections 4(i) and 623 of the Communications Act as amended, 47 U.S.C. 154(i), and 543, and § 1.108 of the Commission's Rules, 47 CFR 1.108.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–22426 Filed 9–4–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 02–144; FCC 02–177]

RIN: 4102

Revisions to Cable Television Rate Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission proposes to update its cable television rate regulations to reflect the end of its jurisdiction over rates for cable programming services pursuant to the Telecommunications Act of 1996. The Commission proposes to review and update its rules governing rate regulation of basic services and associated equipment by local franchising authorities.

DATES: Comments are due on or before November 4, 2002; reply comments are due on or before December 4, 2002. Written comments by the public on the proposed information collection(s) are due November 4, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before November 4, 2002.

FOR FURTHER INFORMATION CONTACT: John Norton, Media Bureau, 202–418–7037 or via e-mail at *jnorton@fcc.gov;* Wanda Hardy, Media Bureau, 202–418–2129 or via e-mail at *whardy@fcc.gov*. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202–418–0214, or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Media Bureau's *Notice of Proposed Rulemaking* (''*NPRM*'') MB 02–144; FCC 02–177, adopted June 13, 2002 and released June 19, 2002 and revised by *Order* MB 02–144, FCC 02–228, adopted August 6, 2002 and released August 14, 2002. The complete texts of this *NPRM* and *Order* are available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419 comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998). This NPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to OMB for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection(s) contained in this proceeding.

2. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. Although multiple docket numbers appear in the caption of this proceeding, commenters should transmit one electronic copy of the comments only to MB Docket No. 02–144, Revisions to Cable Television Rate Regulations. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. Although more than one docket number appears in the caption of this proceeding, commenters should submit copies only to MB Docket No. 02–144, Revisions to Cable Television Rate Regulations. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. One copy of each filing also must be filed with Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554. In addition, parties must also send four (4) copies of each paper filing to Wanda Hardy, Media Bureau, 445 12th Street, SW, Room 3–A862, Washington, DC 20554. Parties filing electronically must send one electronic copy via e-mail to *whardy@fcc.gov*.

Synopsis of the Notice of Proposed Rulemaking

3. This *NPRM* was initiated to reflect the March 31, 1999 sunset of Commission jurisdiction to regulate rates for cable programming services (''CPS'') enacted by the Telecommunications Act of 1996 (''1996 Act''). 47 U.S.C. 543(c)(4). The *NPRM* also proposes to update the rules governing franchising authority rate regulation of the basic service tier (''BST'') and associated equipment pursuant to authority in 47 U.S.C. 543(a)(2)(A), (b) for cable systems not subject to effective competition.

Background

4. The Commission carried out its ratemaking responsibility pursuant to 47 U.S.C. 543 by developing a common set of ''tier neutral'' benchmarks and regulations so that the same methodology was used to set rates for both the BST and the CPS tier (''CPST'') and the Commission's rate rules would not create an incentive to place services in any particular rate-regulated tier. Although the sunset of CPST rate regulation has changed one of the predicates of the rate rules, the Commission proposes to concentrate on improving the existing process rather than create a new one for the BST. However, comments suggesting broader changes are solicited.

Deletion or Modification of the Rules That Address CPS Tier Rates

5. The *NPRM* proposes to eliminate all rules that pertain solely to the regulation of CPS rates. It seeks comment on what rules should be changed or eliminated and asks whether there are linkages between the BST and CPST rules or forms that might not readily be recognized and that would need to be accounted for.

6. The *NPRM* seeks comment on removing the following rule sections or

paragraphs: 47 CFR 76.901(d); 76.922(c)(4); 76.924(e)(1)(ii); 76.924(e)(2)(ii); 76.934(c)(2); 76.934(d); 76.934(h)(3)(iii); 76.934(h)(6); 76.934(h)(10); 76.950; 76.951; 76.953; 76.954; 76.955; 76.956; 76.957; 76.960; 76.961; 76.962; 76.963(b); 76.980(b), (d) through (f); 76.985 (FCC Form 329 and Instructions); 76.986; 76.987; 76.1402; 76.1605; and 76.1606. The *NPRM* seeks comment on other rules that continue to be applicable to BST ratemaking but should be updated or amended to eliminate references to CPST or to reflect the end of CPST rate regulation. These are: 47 CFR 76.922(a); 76.922(b)(5); 76.922(b)(7); 76.922(e)(2)(iii)(C); 76.922(f)(4); 76.922(f)(8); 76.922(g); 76.922(i)(1), (2); 76.922(k); 76.924(a); 76.924(e)(1)(iii); 76.933(e); 76.933(g)(5); 76.934(c)(3); 76.934(e); 76.934(f); 76.934(g)(1); 76.934(g)(2) (retaining the last sentence); 76.934(h)(2)(ii)(A); 76.934(h)(4)(i), (v); 76.934(h)(8)(ii); 76.963(a); 76.990(a); 76.990(b)(3); 76.1800. The *NPRM* also seeks comment on whether the sunset of CPST rate regulation should be reflected by changes to other rules. The *NPRM* seeks comment on eliminating the following rules as obsolete: 47 CFR 76.922(b)(6)(ii); 76.922(e)(3)(ii); 76.922(e)(4); and 76.934(h)(8)(ii)(last sentence). The *NPRM* asks whether additional rules have become obsolete and should be removed. The Commission's rules also refer to FCC Form 1211. This form is not in use and references will be deleted from the Commission's rules. *See* 47 CFR 6.922 and 76.934.

7. The *NPRM* also proposes to modify or eliminate the rate forms and rate form instructions consistent with changes made to the rules in this proceeding and asks about changes needed to reflect the end of CPST rate regulation. The forms used for rate regulation are FCC Forms 1200, 1205, 1210, 1220, 1230, 1235, and 1240. FCC Forms 1215, A La Carte Channel Offerings (May 1994), and 1225, Cost of Service Filing for Regulated Cable Services for Small Systems (Apr. 1994), were dropped from the Commission's information collection budget effective April 30, 1997. The *NPRM* proposes to eliminate references to these forms from the rules, including 47 CFR 76.922(b)(6) and 76.934(g).

Rate Adjustments When Channels Are Added to or Deleted From the BST

1. Calculating Rate Adjustments

8. 47 CFR 76.922(g) governed how rates were to be adjusted when channels were added to or deleted from a tier or moved between tiers. The intent of language in § 76.922(g)(8) providing for the sunset of this section has been debated. This provision and the sunset of CPST rate regulation, have left questions about how BST rates should be adjusted for these channel changes.

9. The *NPRM* seeks comment on the following possibilities. One possibility would be to adjust BST rates only for changes in the number of BST channels by adding or subtracting the specific ''external'' costs associated with the added or deleted channel and the associated 7.5% mark-up adjustment provided in 47 CFR 76.922(f). Another possible approach would be to adjust rates further for changes in the number of channels by adding or subtracting the ''per-channel adjustment factor'' from the table in 47 CFR 76.922(g)(2), but identifying the specific amount of adjustment not by reference to the number of ''regulated channels'' but by reference to the current number of channels that would be subject to regulation if CPST rate regulation had not ended.

10. Alternatively, the *NPRM* seeks comment on whether rate adjustments for changes in the number of channels on the BST should include some other adjustment to the tier residual and whether the type of adjustment should depend on whether channels are added to or deleted from the BST. The tier residual is the tier charge after external costs and other per channel adjustments have been subtracted. Paragraph (g) provided that cable systems could add channels to the BST by adjusting for external cost changes, including the 7.5% markup, and using the chart in paragraph (g)(2) to reflect the incremental change to the total tier residual from the added channel or channels, but were to adjust rates for dropped channels based on the pro rata share of the tier residual for the dropped channel or channels in addition to external cost and markup adjustments. Cable systems dropping channels that had been added using the alternative ''caps'' channel adjustment incentive in 47 CFR 76.922(g)(3) would adjust rates based on the actual per channel adjustment taken when the channel was added to the tier. Should this approach be reinstated or should something similar be adopted? Alternatively, if some adjustment to the residual is appropriate when channels are added to the BST, should an adjustment be made other than a per-channel adjustment like that in the chart in 47 CFR 76.922(g)(2)? If some other residual adjustment is appropriate, how should that adjustment be determined?

11. The *NPRM* also seeks comment as to whether the movement of channels to the BST from previously regulated programming tiers is relevant in determining the BST rate adjustments associated with those channels. Section 76.922(g) provided that systems moving channels between regulated tiers would move the external costs and residual value with the channel on a revenue neutral basis. Systems moving previously unregulated channels, such as premium channels, would not move any residual value to the BST. Channels added to the CPST pursuant to the caps incentives could not be moved to the BST.

12. The *NPRM* asks whether new BST per-channel values should, instead, be established through new benchmarks based on an updated comparison of BST rates charged by competitive and non-competitive systems? If so, should the Commission look only at cable system rates, or should it also consider the rates of alternative providers, such as DBS? Could a simple formula be developed? Should the operator's base rate be recalibrated using new benchmarks or should new per-channel values be applied only to channels added to and deleted from the BST after this rulemaking? Or should the Commission consider adjusting tier rates for changes in the number of channels based on rates at competitive systems with comparable market and channel characteristics? How would comparability be evaluated? Should the Commission allow channels added to the CPST pursuant to the caps methodology to be moved to the BST?

2. ''Single Tier'' Systems

13. The Commission's rules currently provide that cable operators using the annual rate adjustment methodology may make an additional rate adjustment to reflect channel additions if the operator offers only a BST and does not offer a CPS tier. Should this option be retained for ''single tier'' systems? In determining whether a cable operator offers a single tier or multiple tiers of service, should digital service tiers be considered?

Headend Upgrades

14. The *NPRM* states that the Commission plans to modify 47 CFR 76.922(g)(7) to reflect the sunset of special incentives for single tier small systems to add channels by recovering for headend upgrade adjustments.

Digital Broadcast Television Rate Adjustment Issues

15. 47 CFR 76.922(f)(1)(vii) allows operators to recover headend equipment costs necessary for the carriage of digital broadcast television (''DTV'') signals as

an external cost. 47 CFR 76.922(j)(1) also allows cable operators to recover costs of improvements necessary for carriage of digital signals through the network upgrade surcharge. So that operators cannot recover more than once for the same cost, the NPRM seeks comment on a proposal to clarify that operators may use either method for adjusting rates, but not both.

16. In *Carriage of Digital Television Broadcast Signals,* CS Docket No. 98–120, 66 FR 16533 (March 26, 2001), the Commission proposed to allow cable operators adding digital broadcast signals to their channel line-ups to increase rates for each 6 MHz of capacity devoted to such carriage and solicited comment on the proper adjustment methodology. The *NPRM* asks commenters to update the record with comments in this proceeding regarding rate adjustments for carrying digital broadcast services on a rate regulated BST.

Initial Regulated Rates

17. The Notice also seeks comment on how initial rate levels should be determined for systems first becoming subject to regulation. Under the current rules, the initial regulated rate, if the system was in operation in 1992, would be calculated using rate and subscribership data from 1992 and 1994 and external cost data from 1994 and adjusted to a current permissible rate level using the price caps methodology. Should the Commission consider alternatives to this process? One option would be to eliminate franchising authority review of the operator's entire rate structure and, instead, limit review to the operator's most recent rate increase or its next rate increase after the franchising authority becomes certified to regulate rates. Should the Commission be concerned that the policy of reviewing an operator's entire rate structure at this point could create an uncertain business environment for affected cable operators and could discourage the investment necessary for upgrading networks and adding new services? Would limiting review be consistent with the statutory directive in section 623(b)(1) that regulations be designed to protect subscribers from BST rates that exceed rates that would be charged if the system were subject to effective competition? Another option would be to impute a rate from another regulated system with as nearly comparable characteristics as possible. The Notice asks how comparability should be evaluated and how disputes should be resolved under this option. For systems subject to effective competition in the past, another option would be to use the last ''competitive'' rate as the starting point for regulation with the price caps methodology followed thereafter. Are there other ways to determine initial regulated rates when unregulated systems are brought under rate regulation? If the approach in the current rules is no longer required, is there any reason to retain the methods for determining the permitted rate for a tier on May 15, 1994, as set forth in 47 CFR 76.922(b) of the Commission's rules and referred to in the last five sentences of § 76.922(d)(2)? Can other rules or paragraphs also be eliminated if the current approach is no longer required?

18. If the Commission were to retain the current approach to establishing initial regulated rates, can the Commission continue to use the current Form 1200? Form 1200 applies the competitive differential to the operator's total revenues from sources that were subject to regulation when the form was developed, including the CPST. The *NPRM* seeks comment as to whether the end of CPST rate regulation requires any revision to Form 1200 when that form is used as the first step in determining the current maximum permitted BST rate.

Rate Structures and Uniform Regional Rates

19. The Commission has previously explored techniques of permitting greater rate structure flexibility. In *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992—Rate Regulation, Uniform Rate Setting Methodology,* CS Docket No. 95–174, 62 FR 15121 (March 31, 1997), the Commission adopted rule changes to facilitate operators having rates that could be uniform on a regional basis. *See* 47 CFR 76.922(n). In *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, Cable Pricing Flexibility,* CS Docket No. 96–157, 61 FR 45387 (August 29, 1996) (docket remains open), comment was sought on techniques allowing operators, on a revenue neutral basis, to adjust BST and CPST prices on a more flexible basis when both tiers were subject to rate regulation. Has Docket 96–157 been by-passed by the sunset of CPST tier rate regulation? The *NPRM* asks whether there are other changes in the rules that might be useful in order to create greater flexibility in rate structures or more uniform regional rates while continuing to maintain rules designed to keep BST rates reasonable.

Rates for Commercial Subscribers

20. Issues relating to the establishment of commercial rates in the Commission's 5th NPRM in MM Docket No. 92–266, 59 FR 51869 (October 13, 1994), are unresolved. *See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation,* 60 FR 54815 (October 26, 1995). That proceeding generally explored three basic questions. First, to what extent was 47 U.S.C. 543 intended to apply to commercial rates? Second, how should commercial rates be defined in the cable context? And third, because commercial subscribers may have greater access to competitive sources of supply, are market forces sufficient to ensure that rates are reasonable in the absence of direct regulation? Interested parties are invited to update the record on these or related issues regarding commercial rates.

Small System Issues

21. Recognizing the continuing difficulties faced by operators of smaller systems, the *NPRM* seeks comment on any changes in the rate rules that might address the problems associated with the simultaneous growth in competition and the need for additional investment to upgrade facilities. Will changes proposed in this *NPRM,* such as elimination of consideration of the CPST from our rules and rate forms, have an untoward effect on small systems? Should the presumptively reasonable per channel rate in 47 CFR 76.934(h)(5) be reexamined if CPST channels, expenses, and rate base are no longer included on FCC Form 1230?

22. The Commission has asked for comment about the process for setting initial regulated rates. 47 CFR 76.922(b)(5) allows small systems owned by small cable companies to use streamlined rate reductions for setting initial regulated rates. Do small systems have need for streamlined rate reductions in light of the availability of small system rate relief in 47 CFR 76.934, including the small system cost-of-service methodology in § 76.934(h) and FCC Form 1230?

Cost-of-Service Rate Process

23. Another rate issue concerns the information and labor intensive ''cost-of-service'' rate setting process available for high cost systems that could not receive a constitutionally adequate rate of return under the benchmark system. The Commission adopted interim cost rules to permit operators to recover operating expenses and a fair return on investment for regulated services, while

protecting subscribers from unreasonable rates. It finalized the rules with adjustments in *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, and Adoption of a Uniform Accounting System for Provision of Regulated Cable Service (''Final Cost Order''),* 61 FR 9411 (March 8, 1996). The Commission addressed issues concerning the rate base, including used and useful plant, intangible assets, start-up losses, and tangible assets. It also addressed issues concerning a presumptive rate of return, depreciation, taxes, cost allocation, accounting requirements, affiliate transactions, and hardship relief. At the same time, it issued a *Further Notice of Proposed Rulemaking (''FNPRM''),* 59 FR 51869 (October 13, 1994), to explore an optional alternative to the presumptive unitary rate of return for cost-of-service filings. This *FNPRM* as well as petitions for reconsideration of the *Final Cost Order* remain pending. (*See* Jones Intercable, Inc. and Benchmark Communications, Inc., Petition for Reconsideration (filed April 8, 1996) (addressing the straight channel allocator for allocating the cost of commonly used plant, the treatment of unactivated channels, and distributions by non-subchapter C corporations; seeking clarification that adjustments for depreciation expense also be made to accumulated depreciation; and advocating application of a First Amendment intermediate scrutiny test to the rate-setting process); Petition by the Southern New England Telephone Company for Partial Reconsideration of the *Second Report and Order* (filed February 26, 1996) (addressing affiliate transactions). An appeal of the adopted rules in *Comcast Cable Communications, Inc.* v. *FCC* (D.C. Cir. Case No. 96–1148), has been held in abeyance.)

24. With the demise of CPST regulation, is the cost-of-service process no longer needed as an alternative for BST regulation? What further actions should be taken in the pending ''COS'' docket in light of the end of CPST rate regulation? We also seek comment on any impact these questions will have on determinations of equipment and installation rates pursuant to 47 CFR 76.923 and FCC Form 1205, Determining Regulated Equipment and Installation Costs (June 1996), and on determinations of rate increases for network upgrade surcharges pursuant to 47 CFR 76.922(j) and FCC Form 1235, Abbreviated Cost of Service Filing For Cable Network Upgrades (February, 1996). Both incorporate cost-of-service components and cost allocation categories from 47 CFR 76.924.

Abbreviated Cost-of-Service Showing on FCC Form 1235

25. The *NPRM* seeks comment as to whether the abbreviated cost-of-service option, which is permitted for significant network upgrades, continues to meet a need in light of the breadth of unregulated services that can now be delivered over cable systems, including CPST. Should the Commission continue to allow operators to file abbreviated cost-of-service showings? Even if the option is eliminated for most cable systems, should the option continue to be available for systems that meet the definition of ''small system'' under the Commission's rules?

26. If the Commission retains the abbreviated cost-of-service option for the BST, the *NPRM* proposes to modify FCC Form 1235 to remove the requirement that cost assignments to the CPST and a CPST revenue requirement be shown. The *NPRM* also proposes to modify FCC Form 1235 so that rate base recoveries will be limited to an operator's average upgrade investment over the life of the upgrade rather than its total investment over the life of the upgrade. The *NPRM* also asks whether other adjustments to the abbreviated cost-of-service showing are needed.

Rates of Interest

27. Operators using the annual rate adjustment methodology calculated on FCC Form 1240 must correct for over- and underestimations of projected costs, with interest at 11.25%. The *NPRM* seeks comment as to whether the Commission should revise the rate of interest in 47 CFR 76.922(e)(3)(i) and the Instructions for Form 1240, Module H, Lines H4 and H8, and what an appropriate rate of interest should be. Should it be fixed in the rules and rate form calculation or tied to some kind of indicator? If the latter, what should the indicator be? If the rate of interest in § 76.922(e)(3)(i) is revised, should that revised rate of interest be used for the interest on franchise fee refunds owed by the franchising authority to the cable operator pursuant to 47 CFR 76.942(f)? The interest rate currently specified in § 76.942(f) is 11.25%.

28. 47 CFR 76.942(e) currently provides that refunds for subscriber rate overcharges shall be ''computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments.'' Should the rule specify which rate should be used or whether the higher (or lower) of the two rates is to be used?

Unbundling

29. Operators setting initial regulated rates were required to unbundle equipment costs from programming rates. The Commission has expressed concern about evasions of rate regulation, such as charging for services previously provided without extra charge, unless the value of that service, as reflected in new charges, ''was removed from the base rate number when calculating the reduction in rates necessary to establish reasonable [programming service] rates.'' *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation,* Third Order on Reconsideration, MM Docket No. 92–266, 59 FR 17961 (April 15, 1994). Questions have been raised about the continued applicability or the appropriate response to this Commission concern. The *NPRM* requests comment on this matter.

Refunds

30. 47 CFR 76.942 addresses refunds of previously paid rates in excess of maximum permitted rates. The *NPRM* asks whether and, if so, how this rule should be updated.

Re-evaluation of the BST Rate Regulation Process

31. The foregoing discussion has addressed adjustments to the Commission's rate rules based on the assumption that the current benchmark/price cap process should continue. The *NPRM* seeks comment as to whether a more fundamental change to the rate regulations should be enacted, for example, by recalibrating the ''competitive differential'' between monopoly systems (those subject to regulation) and competitive systems (those not subject to regulation because of the presence of effective competition) focusing specifically on basic tier service. The initial process of attempting to calculate the competitive differential was based on 1992 data for a relatively small sample of competitive systems and did not focus on basic tier service separate from CPST service. Would there now be significant value in attempting to recalibrate the whole process through a new rate comparison? Would it be possible to find appropriate samples, and how should the resulting differential be used in the resulting rate setting process? Should the Commission consider data from all four types of systems reflected in the statutory effective competition test in 47 U.S.C. 543(l) or focus on particular types of systems? Should the Commission take

upgrades into account as a separate factor? This task could conceivably be accomplished (although with some considerable effort) by expanding the annual price survey process pursuant to 47 U.S.C. 543(g), (k), and 47 CFR 76.1800 Note 2.

32. Is there another method for regulating BST rates that will ensure reasonable rates for basic service through a simplified regulatory process? For any alternatives proposed, commenters should discuss how the alternative would be implemented. Commenters should also address the regulatory costs to cable operators and franchising authorities from implementing a proposed alternative, and how the Commission would review the reasonableness of a franchising authority's rate action. If an alternative is adopted, should it replace the traditional approach to rate regulation or be available as an alternative to traditional rate regulation?

Equipment and Inside Wiring Rate Regulation

33. Associated with basic service tier rate regulation is the regulation of certain charges for equipment that is used with the provision of basic service. The Commission has regarded virtually all equipment used for the receipt of video service as associated with the basic tier of service. *See* 47 CFR 76.923(a). Two changes warrant a new a look at this issue. One is the introduction of tiers of digital video service that involve the use of a digital set-top box, the functions and cost of which are largely associated with non-basic service offerings. The other is the adoption of 47 U.S.C. 549, entitled ''Competitive Availability of Navigation Devices,'' which is intended to create a competitive market for equipment used to access cable and other MVPD services. In light of these changes, should the categorization of equipment be reconsidered? In particular, would it be appropriate to associate digital equipment or other equipment that involves investments very largely used to receive CPST or other unregulated services with the non-regulated tiers for rate regulation purposes? If it is appropriate, should this association be discretionary or mandatory for the cable operator?

34. Alternatively, the *NPRM* seeks comment on whether a process should be established so that when a competitive market for equipment or wiring can be demonstrated to exist, governmental rate setting should cease and the presence of competitive alternatives allowed to ensure that the rates in question meet the statutory ''actual cost'' standard. Would this be consistent with existing precedent, such as the treatment of ''new product'' CPS tiers and an inside wire maintenance service plan covering both cable television and telephone wiring? Are there other changes in the equipment rate regulation rules that might be used to assist in the creation of a more competitive market for equipment in a manner consistent with 47 U.S.C. 549? Operators might, it has been suggested, avoid regulation of a type of equipment by certifying that a particular type of equipment is available for sale or lease from third party sources and that subscribers have been advised of that fact. Would or should substitution of marketplace regulation for direct regulation of equipment rates affect the regulation of rates for installing or maintaining the affected equipment and charges for customer-initiated changes in equipment pursuant to 47 CFR 76.923, 76.980(c)?

35. The *NPRM* also seeks comment on whether FCC Form 1205 can be simplified in any way to ease the burden of regulation on both cable operators and franchising authorities. Once an operator has established equipment rates based on its costs, is there a less burdensome way to adjust equipment or installation rates that would be consistent with the statutory actual cost standard in 47 U.S.C. 543(b)(3)? Can any information used in setting rates be standardized based on industry-wide information? If so, how would that process work?

Recovery of Lost Revenues for Equipment and Installation Due to Subsequently Reversed Rate Orders

36. If a franchising authority disallows any or all of a proposed increase for equipment and installation rates and the local rate order is reversed on appeal to the Commission, the cable operator may be unable to recoup revenues lost or refunds paid pursuant to the erroneous rate order. Should the Commission allow cable operators to recover the amount of revenues lost or excess refunds paid due to local rate orders subsequently reversed by the Commission through an entry on Form 1205, perhaps as an ''other'' expense on Form 1205, Schedule B? The Notice does not propose to allow operators voluntarily setting rates below the permitted rate to recover the shortfall.

Charges for Changes in Service Tiers

37. Charges for changes in service tiers initiated by the subscriber have been limited to actual costs by 47 CFR 76.980. What is the effect of the end of CPST rate regulation on regulation of rates for service tier changes?

Effective Competition Showings

38. 47 U.S.C. 543(a) provides that rate regulation in a community ends when effective competition is present. 47 CFR 76.906 states that cable systems are presumed not to be subject to effective competition, and 47 CFR 76.907(b) gives the cable operator the burden of rebutting this presumption. The *NPRM* seeks comment on whether there are techniques consistent with the Communications Act to improve and expedite effective competition showings and review as competition, particularly from satellite service, becomes more prevalent.

Procedures for Commission Review of Local Rate Decisions

39. The *NPRM* seeks comment on whether there are procedural aspects of the Commission's review of local rate decisions that might be improved. In particular, should the deference already given to these local rate decisions be increased so that the Commission would intervene only when there were significant deviations from the established rules?

Interim Rate Adjustments for BST Channel Changes

40. At the conclusion of the rulemaking proceeding, the Commission will consider whether BST rates should be adjusted to conform to the structure adopted by the Commission.

Initial Regulatory Flexibility Analysis

41. As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, as amended (''RFA''), the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by November 4, 2002. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').

42. *Need for, and Objectives of, the Proposed Rules.* The Commission developed rules and forms for the regulation of cable television rates when both the basic service tier (''BST'') and the cable programming service tiers (''CPST'') were subject to rate regulation. The Commission proposes to update these regulations and rate forms. Updating is needed so that the rules and

rate forms will reflect the end of CPST rate regulation pursuant to 47 U.S.C. 543(c)(4). Updating is also needed because 47 CFR 76.922(g), the Commission's rule for adjusting rates for changes in the number of channels on the BST has sunset, and cable operators and franchising authorities need guidance about how to adjust rates when the number of BST channels changes. Updating would be needed for rules and rate forms available specifically to small cable systems owned by small cable operators as well as for rules and rate forms used by large systems.

43. The Commission also proposes changes in the regulation of both BST and equipment rates with the objective of improving the existing regulatory structure for all cable systems. For small cable systems owned by small cable operators, the Commission proposes to consider rule changes with the additional objectives of: (1) Ensuring that the regulatory process does not impede the ability of small systems to raise capital and respond to competitive challenges, and (2) avoiding an untoward effect on small systems from other changes being considered for the rate rules generally. The Commission also proposes to discontinue the streamlined rate reduction ratemaking method that may no longer be useful for small systems in order to eliminate unneeded requirements.

44. For cable systems in general, including small cable systems, the Commission proposes changes to its rules and rate forms with the objectives of: resolving whether the rates charged to commercial subscribers are regulated rates; eliminating some of the regulatory burdens associated with equipment and inside wiring rates; and reducing the regulatory burden associated with showings that a cable system is no longer subject to rate regulation. The Commission also proposes changes that would streamline the setting of initial regulated rates for previously unregulated systems, which would be available to small systems not choosing to use one of the special small system ratemaking options.

45. In addition, the Commission proposes broader changes to the regulatory process with the objective of ensuring reasonable BST rates through a simplified regulatory process. Change could be accomplished by recalibrating the competitive differential that forms the basis for determining regulated rates or by another alternative proposed by commenters.

46. *Legal Basis.* The authority for the action proposed in this rulemaking is contained in §§ 1, 2(a), 3, 4(i), 4(j), 303(r), 601(3), 602, and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 153, 154(i), 154(j), 303(r), 521, 522, and 543.

47. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). Section 601(6) generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' Section 601(3) provides that the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act., 15 U.S.C. 632, unless the agency has a more appropriate definition of the term. A ''small business concern'' under 15 U.S.C. 632 is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

48. The SBA has developed a small business size standard for cable and other program distribution, which includes all such companies generating $11 million or less in revenue annually. 13 CFR 121.201. The IRFA invites cable operators to provide a more precise estimate of the affected small cable entities.

49. The Commission has developed its own small business size standard for a small cable operator for the purposes of rate regulation. Under 47 CFR 76.901(e), a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on the Commission's most recent information, it estimates that there were 1,439 cable operators that qualified as small cable companies at the end of 1995 and that the number has decreased since then. A ''small system'' under the Commission's rules is one serving ''15,000 or fewer subscribers. The service area of a small system shall be determined by the number of subscribers that are served by the system's principal headend, including any other headends or microwave receive sites that are technically integrated to the principal headend.'' 47 CFR 76.901(c).

50. 47 U.S.C. 543(m)(2) also contains a size standard for a ''small cable operator,'' which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that the number of systems meeting the subscribership limit totals approximately 1,450. The Commission does not have information gross annual revenues, and therefore is unable to estimate accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

51. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities.* Cable operators whose basic service tier rates are regulated must justify their basic service tier and associated equipment and installation rates using FCC Forms 1200, 1205, 1210, 1220, 1230, 1235, and/or 1240. (The Commission's rules also reference FCC Forms 1211, 1215, and 1225. Form 1211 is not in use and references will be deleted from the Commission's rules. The Commission advised the Office of Management and Budget that it would no longer support use of FCC Forms 1215 and 1225, and dropped these forms from its information collection budget effective April 30, 1997. The Commission proposes to drop references to these forms from its rules.) When changes to the rate rules are determined, rate forms will be modified accordingly. Elimination of information regarding the CPST is anticipated, because CPST is no longer subject to rate regulation. One of the affected forms would be FCC Form 1230 used for small system cost-of-service showings pursuant to 47 CFR 76.934(h). Entities using FCC Form 1230 have previously aggregated data for CPST and BST. If CPST data is no longer included, they would bear the burden of excluding CPST data from the data included on the rate form. In addition, the presumptively reasonable rate in 47 CFR 76.934(h) of the Commission's rules may change to reflect the elimination of CPST data from the relevant data on FCC Form 1230.

52. The Commission's rules currently offer regulatory options to small systems owned by small cable operators that are less burdensome than the regulations applicable to larger cable systems and operators. One option, the streamlined rate reduction for systems first becoming subject to rate regulation in 47 CFR 76.922(b)(5), could be eliminated as unnecessary pursuant to proposals in the *NPRM.* Form 1230 will continue to be available.

53. *Steps Taken to Minimize Significant Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has

considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' 5 U.S.C. 603(c)(1)–(c)(4).

54. The Commission will consider potential revisions to cable television rate regulations in order to conform the rules to the sunset of CPST rate regulation and to improve the existing regulatory structure. Alternatively, the Commission will consider broader changes.

55. The Commission will consider amending 47 CFR 76.934, the rule addressing small system cost of service showings, to reflect the end of CPST rate regulation, and making conforming changes to its FCC Form 1230, which is used for establishing permitted rates on small systems. Except for possibly requiring elimination of CPST data from the data used to complete the form, these changes should not increase the regulatory burden small systems face as a result of rate regulation, but eliminating CPST-associated costs and expenses from the rate base could have an impact on the resulting BST per channel rate. An alternative is to consider changes in the rate rules that might address continuing difficulties faced by operators of small systems, such as the problems associated with the simultaneous growth in competition and the need for additional investment to upgrade facilities.

56. Small systems owned by small cable companies can choose to adjust their regulated rates using the price cap methodology included in 47 CFR 76.922(d), (e), 76.934(h)(8). 47 CFR 76.922(g), the rule governing changes in the number of channels has sunset and is under review in the *NPRM*. The approach ultimately adopted in this proceeding could require revisions to FCC Forms 1210 and 1240. While an increase in the burden of computing rate adjustments on rate forms is not anticipated, the approach adopted in the rulemaking proceeding could affect the maximum permitted rate computed on the rate forms, particularly for systems moving a large number of channels from or to the BST. A corollary issue is the appropriate adjustment to rates for adding or removing digital television broadcast signals from the BST.

57. The Commission also has under consideration a less burdensome way to set initial regulated rates than the way currently provided in the rules when a previously unregulated system first becomes subject to rate regulation. Options include limiting the period addressed in the rate review and looking to the rates of comparable systems. These changes would apply to large systems, but any changes made by the Commission would be available to small systems. The Commission will consider whether there is a continued need for the streamlined rate reduction method in 47 CFR 76.922(b)(5) that is available only to small systems setting initial regulated rates.

58. With respect to equipment rates, the Commission has three matters under consideration: the definition of equipment that is subject to regulation; whether reliance can be placed on competitive forces to ensure reasonable rates; and the rate form used primarily by large cable companies. Because small cable systems owned by small cable companies have the option of using the small cable cost of service ratemaking methodology on FCC Form 1230, the regulatory burden of equipment rate regulation is currently less than that experienced by large cable systems. The regulatory approaches addressed in the NPRM with respect to equipment look toward easing the regulatory burden on cable operators generally and, if adopted, should not result in increased burdens on small cable systems.

59. Finally, the Commission is considering the showing needed to establish effective competition. Only cable systems that are not subject to effective competition are subject to rate regulation by franchising authorities. Small systems would benefit from any efficiencies in demonstrating effective competition.

60. *Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposed Rules*. None.

Procedural Provisions

Ex Parte Rules

61. This proceeding will be treated as a ''permit-but-disclose'' proceeding, subject to the ''permit-but-disclose'' requirements under 47 CFR 1.1206(b) of the Commission's rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance and not merely a listing of the subjects discussed. Pursuant to 47 CFR 1.1206(b)(2), more than a one or two sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules. Finally, one copy of each disclosure filing also must be filed with other offices, as follows: (1) Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554; (2) John Norton, Media Bureau, 445 12th Street, SW, Room 4–C764, Washington, DC, 20554; (3) Wanda Hardy, Media Bureau, 445 12th Street, SW., Room 3–A862, Washington, DC, 20554.

62. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Brian Millin at (202) 418–7426, TTY (202) 418–7365, or send an email to access@fcc.gov.

Paperwork Reduction Act

Initial Paperwork Reduction Act of 1995 Analysis

63. This NPRM contains proposed information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (''PRA''). Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due 60 days from date of publication of this NPRM in the **Federal Register**.

64. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

FCC Forms: Individual Information

65. *OMB Control Number:* 3060–0601.
Title: Setting Maximum Initial Permitted Rates for Regulated Cable

Services Pursuant to Rules Adopted February 22, 1994, ''First Time Filers Form''.

Form Number: FCC Form 1200.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 20.

Estimated Time per Response: 6–10 hours.

Frequency of Response: One-time reporting requirement; third party disclosure.

Total Annual Burden: 200 hours.

Total Annual Costs: $30,000.

Needs and Uses: The FCC Form 1200 is used by cable operators when they first become subject to rate regulation in order to establish the cable system's maximum initial permitted rate based on the Commission's benchmark methodology. This rate is adjusted for subsequent changes in external costs, inflation, and channel changes. On average, only about 15–20 franchising authorities file for certification to regulate rates each year, so we expect that FCC Form 1200 will be required for about the same number of systems each year. The form is filed with and reviewed by local franchising authorities that have exercised jurisdiction over BST rates.

66. OMB Control Number: 3060–0703.

Title: Determining Regulated Equipment and Installation Costs, ''Equipment Form''.

Form Number: FCC Form 1205.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,000. 47 U.S.C. 543(a)(7) allows cable operators to aggregate equipment costs into broad categories on a company, regional, system, or franchise level, so the number of forms prepared by an operator with multiple systems may be substantially less than the number of copies of the completed form that the operator files with franchising authorities. Thus, the estimate of the number of respondents and the total annual burden and costs may be high.

Estimated Time per Response: 4–12 hours.

Frequency of Response: Annual reporting requirements; third party disclosure.

Total Annual Burden: 48,000 hours.

Total Annual Costs: $7,200,000.

Needs and Uses: Cable operators use FCC Form 1205 to justify their equipment and installation rates. The form is filed with and reviewed by local franchising authorities that have exercised regulatory jurisdiction over those rates. The form is to be completed using financial data from the company's general ledger and subsidiary records maintained in accordance with generally acceptable accounting principles.

67. *OMB Control Number:* 3060–0595.

Title: Updating Maximum Permitted Rates for Regulated Cable Services.

Form Number: FCC Form 1210.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1500.

Estimated Time per Response: 8–10 hours.

Frequency of Response: Quarterly and annual reporting requirements; third party disclosure.

Total Annual Burden: 15,000 hours.

Total Annual Costs: $2,250,000.

Needs and Uses: Cable operators use FCC Form 1210 for justifying BST rate adjustments due to changes in external costs, inflation, and the number of channels on the BST. The form is filed with and reviewed by franchising authorities that have exercised jurisdiction over BST rates. Operators may elect to use FCC Form 1240 instead of FCC Form 1210.

68. *OMB Control Number:* 3060–0594.

Title: Cost of Service Filing for Regulated Cable Services.

Form Number: FCC Form 1220.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 30.

Estimated Time per Response: 40 hours.

Frequency of Response: Once and on occasion reporting requirements after 2 years; third party disclosure.

Total Annual Burden: 1200 hours.

Total Annual Costs: $180,000.

Needs and Uses: Operators may elect to use the cost-of-service methodology computed on FCC Form 1220 in lieu of FCC Forms 1200, 1210, or 1240 when setting the maximum initial permitted BST rate or adjusting the BST rate in order to justify a rate above the levels determined by the Commission's benchmark and price cap methodologies. The form is filed with and reviewed by franchising authorities that have exercised jurisdiction over BST rates.

69. *OMB Control Number:* 3060–0644.

Title: Establishing Maximum Permitted Rates for Regulated Cable Services on Small Cable Systems.

Form Number: FCC Form 1230.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5.

Estimated Time per Response: 2.25 hours.

Frequency of Response: On occasion reporting requirements; third party disclosure.

Total Annual Burden: 11.25 hours.

Total Annual Costs: $16,875.

Needs and Uses: The Commission's rules allow a small cable system (15, 000 or fewer subscribers) owned by a small cable company (no more than 400,000 subscribers) to use a very simplified cost-of-service method to set its maximum permitted rate. The form for this, FCC Form 1230, is filed with and reviewed by franchising authorities that have exercised jurisdiction over BST rates.

70. *OMB Control Number:* 3060–0688.

Title: Abbreviated Cost of Service Filing for Cable Network Upgrades.

Form Number: FCC Form 1235.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 200.

Estimated Time per Response: 10–20 hours.

Frequency of Response: On occasion reporting requirements; third party disclosure.

Total Annual Burden: 4000 hours.

Total Annual Costs: $600,000.

Needs and Uses: Operators that have undertaken significant network upgrades may use FCC Form 1235 to justify a surcharge to the BST rate to recover the costs of the upgrade. The form is filed with and reviewed by franchising authorities that have exercised jurisdiction over BST rates.

71. *OMB Control Number:* 3060–0685.

Title: Updating Maximum Permitted Rates for Regulated Cable Services.

Form Number: FCC Form 1240.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5500.

Estimated Time per Response: 8–10 hours.

Frequency of Response: Annual reporting requirements; third party disclosure.

Total Annual Burden: 55,000 hours.

Total Annual Costs: $8,250,000.

Needs and Uses: FCC Form 1240 is used by cable operators as an alternative to FCC Form 1210 to compute annual BST rate adjustments for changes in external costs, inflation, and the number of channels. Because it enables cable operators to project cost changes and include past unrecovered costs in a true-up, it is substantially more popular with cable operators than FCC Form 1210.

The form is filed with and reviewed by franchising authorities that have exercised jurisdiction over BST rates.

Contact For Further Information

72. For additional information concerning the information collections contained in this document, contact Judith B. Herman at (202) 418–0214, or via the Internet at *jboley@fcc.gov.*

Ordering Clause

73. This *NPRM* is issued pursuant to the authority contained in sections 1, 2(a), 3, 4(i), 4(j), 303(r), 601(3), 602, and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 153, 154(i), 154(j), 303(r), 521, 522, and 543.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–22427 Filed 9–4–02; 8:45 am]

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Federal Register

Thursday,
September 5, 2002

Part IV

The President

Proclamation 7588—National Days of Prayer and Remembrance, 2002

Federal Register
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Thursday, September 5, 2002

Presidential Documents

Title 3—

The President

Proclamation 7588 of August 31, 2002

National Days of Prayer and Remembrance, 2002

By the President of the United States of America

A Proclamation

As we remember the tragic events of September 11, 2001, and the thousands of innocent lives lost on that day, we recall as well the outpouring of compassion and faith that swept our Nation in the face of the evil done that day. In designating September 6-8 as National Days of Prayer and Remembrance, I ask all Americans to join together in cities, communities, neighborhoods, and places of worship to honor those who were lost, to pray for those who grieve, and to give thanks for God's enduring blessings on our land. And let us, through prayer, seek the wisdom, patience, and strength to bring those responsible for the attacks to justice and to press for a world at peace.

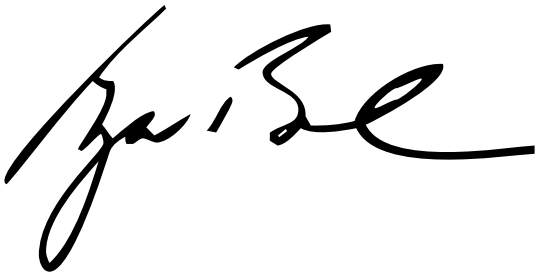
For the families and friends of those who died, each new day has required new courage. Their perseverance has touched us deeply, and their noble character has brought us hope. We stand with them in faith, and we cherish with them the memory of those who perished.

In the aftermath of the attacks, the words of the Psalms brought comfort to many. We trust God always to be our refuge and our strength, an ever-present help in time of trouble. Believing that One greater than ourselves watches over our lives and over this Nation, we continue to place our trust in Him.

The events of September 11 altered our lives, the life of this Nation, and the world. Americans responded to terror with resolve and determination, first recovering, now rebuilding, and, at all times, committing ourselves to protecting our people and preserving our freedom. And we have found hope and healing in our faith, families, and friendships. As we confront the challenges before us, I ask you to join me during these Days of Prayer and Remembrance in praying for God's continued protection and for the strength to overcome great evil with even greater good.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 6, through Sunday, September 8, 2002, as National Days of Prayer and Remembrance. I ask that the people of the United States and places of worship mark these National Days of Prayer and Remembrance with memorial services, the ringing of bells, and evening candlelight remembrance vigils. I invite the people of the world to share in these Days of Prayer and Remembrance.

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



[FR Doc. 02–22779
Filed 9–4–02; 8:45 am]
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction

with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 223/P.L. 107–211

To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Aug. 21, 2002; 116 Stat. 1050)

H.R. 309/P.L. 107–212

Guam Foreign Investment Equity Act (Aug. 21, 2002; 116 Stat. 1051)

H.R. 601/P.L. 107–213

To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes. (Aug. 21, 2002; 116 Stat. 1052)

H.R. 1384/P.L. 107–214

Long Walk National Historic Trail Study Act (Aug. 21, 2002; 116 Stat. 1053)

H.R. 1456/P.L. 107–215

Booker T. Washington National Monument Boundary Adjustment Act of 2002 (Aug. 21, 2002; 116 Stat. 1054)

H.R. 1576/P.L. 107–216

James Peak Wilderness and Protection Area Act (Aug. 21, 2002; 116 Stat. 1055)

H.R. 2068/P.L. 107–217

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''. (Aug. 21, 2002; 116 Stat. 1062)

H.R. 2234/P.L. 107–218

Tumacacori National Historical Park Boundary Revision Act of 2002 (Aug. 21, 2002; 116 Stat. 1328)

H.R. 2440/P.L. 107–219

To rename Wolf Trap Farm Park as ''Wolf Trap National Park for the Performing Arts'', and for other purposes. (Aug. 21, 2002; 116 Stat. 1330)

H.R. 2441/P.L. 107–220

To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes. (Aug. 21, 2002; 116 Stat. 1332)

H.R. 2643/P.L. 107–221

Fort Clatsop National Memorial Expansion Act of 2002 (Aug. 21, 2002; 116 Stat. 1333)

H.R. 3343/P.L. 107–222

To amend title X of the Energy Policy Act of 1992, and for other purposes. (Aug. 21, 2002; 116 Stat. 1336)

H.R. 3380/P.L. 107–223

23 To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. (Aug. 21, 2002; 116 Stat. 1338)

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