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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.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300, 301, and 319

[Docket No. 02–071–1]

Cold Treatment of Fruits

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, by revising the cold treatment schedules under which fruits are treated for the Mediterranean fruit fly (Medfly) and other specified pests. Based on a review of those treatment schedules, we have determined that it is necessary to extend the duration of cold treatment for Medfly. We are also amending the regulations for importing fruits and vegetables to provide that inspectors at the port of first arrival will sample and cut fruit from each shipment cold treated for Medfly to monitor the effectiveness of the cold treatment. These actions are necessary to protect against the introduction and dissemination of Medflies into and within the United States.

DATES: This interim rule is effective October 15, 2002. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of October 15, 2002. We will consider all comments that we receive on or before December 16, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–071–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–071–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–071–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. I. Paul Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which is maintained by the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), contains approved treatment schedules for agricultural commodities and is incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1.

The PPQ Treatment Manual contains three cold treatment schedules for the treatment of fruits for the Mediterranean fruit fly (Medfly). Those schedules are prescribed to treat commodities for a variety of pests, including Medfly, that occur in the regions from which the commodities originate. The three schedules are:

T107–a. Target pests: *Ceratitis capitata* (Medfly) or *Eutetranychus orientalis* (Oriental citrus mite).

Temperature	Exposure Period (days)
32 °F or below	10
33 °F or below	11
34 °F or below	12
35 °F or below	14
36 °F or below	16

T107–c. Target pests: Species of *Anastrepha* (other than *Anastrepha ludens*) or *C. capitata* (Medfly).

Temperature	Exposure period (days)
32 °F or below	11
33 °F or below	13
34 °F or below	15
35 °F or below	17

T107–f. Target pests: *Bactrocera cucurbitae* (Melon fly), *Bactrocera dorsalis* (Oriental fruit fly), *C. capitata* (Medfly), and *Eutetranychus orientalis* (Oriental citrus mite).

Temperature	Exposure period (days)
32 °F or below	10
33 °F or below	11
34 °F or below	12
35 °F or below	14

T107–a generally applies to commodities imported from Europe, Africa, western Asia, and Central America, while T107–c generally applies to commodities from South America and the Caribbean. T107–f applies to a few select commodities imported from eastern Asia. T107–a and T107–f are also used to treat fruits moving interstate from Hawaii or from any areas of the continental United States that may, from time to time, be quarantined because of Medfly.

Medfly in Cold-Treated Clementines

Between November 20 and December 11, 2001, live Medfly larvae were intercepted in clementines from Spain that had been imported into the United States subject to cold treatment schedule T107–a. In response to the Medfly interceptions, APHIS suspended the importation of Spanish clementines pending an investigation into the cause of the infestations. Prior to November and December 2001, there had never been multiple confirmed finds of

Medfly larvae in fruit of any kind that had been legally imported into the mainland United States from any source.

As part of its response to the Medfly larvae finds in Spanish clementines, APHIS is sponsoring additional research on the application of cold treatments for imported fruits. In addition, APHIS asked a panel composed of APHIS regulatory personnel and USDA technical experts on fruit flies to conduct a review of available scientific literature related to the efficacy of the T107–a cold treatment for Medfly, with the intention of using the panel's findings as guidelines on the future application of cold treatment for Medfly.

The panel completed its evaluation and found that the previously approved T107–a cold treatment schedule, while providing a very high level of Medfly mortality, lacks evidence to support that it provides Probit 9 level quarantine security (*e.g.*, a survival rate of no more than 0.0032 percent of target pests) in all cases. Based on its review of the available scientific literature and of all factors involved in quarantine cold treatments against Medfly eggs and larvae, the panel recommended increasing the length of the required cold treatment at each temperature by 2 days. The panel's recommendations are contained in a document entitled ''Evaluation of cold storage treatment against Mediterranean Fruit Fly, *Ceratitis capitata* (Wiedemann) (Diptera:Tephritidae)'' (May 2, 2002) (referred to elsewhere in this document as the ''cold treatment evaluation''). To provide support for the panel's recommendations, USDA's Office of Risk Assessment and Cost-Benefit Analysis did a quantitative analysis of available data, including data recently made available by the Australian Department of Agriculture. This analysis, entitled ''Quantitative Analysis of Available Data on the Efficacy of Cold Treatment Against Mediterranean Fruit Fly Larvae'' (September 2002) (referred to elsewhere in this document as the ''quantitative analysis''), concluded that there is uncertainty as to whether treatments of less than 14 days and at temperatures in the 32–33 °F range will achieve the Probit 9 level of security. Therefore, we have decided to eliminate those treatment options. Both the cold treatment evaluation and the quantitative analysis can be viewed on the Internet at *http://www.aphis.usda.gov/oa/clementine/index.html.* Copies may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Determination by the Secretary

In this document, APHIS is revising the cold treatment schedules that are used to treat fruits for infestation with Medfly in order to prevent the introduction of Medfly into the United States or the dissemination of Medfly within the United States.

Under § 412(a) of the Plant Protection Act (7 U.S.C. 7712), the Secretary of Agriculture may prohibit or restrict the importation, entry, and interstate movement of any plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of a plant pest or noxious weed into or within the United States.

The Secretary has determined that it is not necessary to prohibit the importation or interstate movement of the fruits that have been eligible for entry or interstate movement if cold treated with schedules T107–a, T107–c, or T107–f. This determination is based on the finding that the application of the extended cold treatment as described in this document, in addition to all other existing applicable requirements, will provide the protection necessary to prevent the introduction and dissemination of plant pests into the United States. The factors considered in arriving at this determination include: (1) The findings of the cold treatment evaluation, (2) the findings of the quantitative analysis on the efficacy of cold treatment, and (3) the findings of USDA technical experts.

Therefore, we are amending the PPQ Treatment Manual by revising treatment schedules T107–a, T107–c, and T107–f. Treatment T107–a is revised by eliminating cold treatment options of less than 14 days and lower than 34 °F and extending the remaining treatments by 2 days, as shown in the following table, and by removing the Oriental citrus mite from the list of target pests. (Cold treatment for the Oriental citrus mite will now be applied according to the revised T107–f, which is described later in this document.) There should be no effect on fruit quality due to the increased holding times, based on anecdotal information from New Zealand's Ministry of Agriculture and Forestry. We are confident that the revised treatment schedules will provide Probit 9 level quarantine security.

T107–a. Target pests: *Ceratitis capitata* (Medfly).

Temperature	Previous exposure period (days)	Revised exposure period
32 °F or below.	10	No longer an approved treatment.
33 °F or below.	11	No longer an approved treatment.
34 °F or below.	12	14 days.
35 °F or below.	14	16 days.
36 °F or below.	16	18 days.

We are also establishing a new treatment schedule for use in cases where commodities need to be treated for both Medfly and *Anastrepha* spp. fruit flies (other than *A. ludens*). Such commodities, which have been subject to treatment T107–c in the past, will now need to be treated in accordance with treatment T107–a–1, as follows:

T107–a–1. Target pests: *Ceratitis capitata* (Medfly) and species of *Anastrepha* (other than *A. ludens*).

Temperature	Exposure period (days)
34 °F or below	15
35 °F or below	17

In conjunction with changing treatment schedule T107–a and establishing treatment schedule T107–a–1, we are changing treatment schedules T107–c and T107–f by removing Medfly from the list of target pests for each treatment. Treatment T107–c, which had been used for commodities requiring treatment for Medfly and *Anastrepha* spp. fruit flies (except *A. ludens*), will now be limited to species of *Anastrepha* (other than *A. ludens*). Similarly, treatment T107–f, which had been used for commodities requiring treatment for Medfly, melon fly, Oriental fruit fly, or Oriental citrus mite, will now be limited to melon fly, oriental fruit fly, or oriental citrus mite. The revised T107–c and T107–f treatment schedules are as follows:

T107–c. Target pests: Species of *Anastrepha* (other than *Anastrepha ludens*).

Temperature	Exposure period (days)
32 °F or below	11
33 °F or below	13
34 °F or below	15
35 °F or below	17

T107–f. Target pests: *Bactrocera cucurbitae* (Melon fly), *Bactrocera dorsalis* (Oriental fruit fly), and *Eutetranychus orientalis* (Oriental citrus mite).

Temperature	Exposure period (days)
32 °F or below	10
33 °F or below	11
34 °F or below	12
35 °F or below	14

Following is a list of all fruits, by country, that are affected by these changes to the PPQ Treatment Manual.

(**Note:** In the following table, which was drawn from the PPQ Treatment Manual, varieties of *Citrus reticulata* such as clementines and satsumas are covered by the general term ''tangerines.'')

Country	Commodity	Previous treatment	New treatment
Algeria	Ethrog Grape,[1] Grapefruit, Tangerine, Pear, Plum	T107–a	T107–a (revised).
Argentina	Apple, Apricot, Cherry, Grape,[2] Kiwi, Peach, Pear, Plum, Nectarine, Quince, Pomegranate.	T107–c	T107–a–1.
Armenia	Grape [1]	T107–a	T107–a (revised).
Austria	Grape [1]	T107–a	T107–a (revised).
Azerbaijan	Grape [1]	T107–a	T107–a (revised).
Belarus	Grape [1]	T107–a	T107–a–1.
Belize	Ethrog	T107–a	T107–a (revised).
	Carambola	T107–c	T107–c.
Bosnia	Ethrog	T107–a	T107–a (revised).
Brazil	Apple, Grape	T107–c	T107–a–1.
Bulgaria	Grape [1]	T107–a	T107–a (revised).
Chile [3]	Apple, Apricot,[4] Cherry, Grape [5] Kiwi,[6] Loquat, Nectarine,[4] Peach,[4] Pear, Persimmon, Plum, Plumcot, Quince, Sand Pear.	T107–a	T107–a (revised).
China	Sand Pear, Ya Pear	T107–f	T107–f.
Columbia	Grape	T107–c	T107–c.
Costa Rica	Ethrog	T107–a	T107–a (revised).
Croatia	Ethrog	T107–a	T107–a (revised).
Cyprus	Ethrog, Grape [1], Grapefruit, Orange, Tangerine	T107–a	T107–a (revised).
Dominican Republic	Grape	T107–c	T107–c.
Ecuador	Ethrog	T107–a	T107–a (revised).
	Apple, Grapefruit, Orange, Tangerine	T107–c	T107–a–1.
Egypt	Grape [1], Orange, Pear	T107–a	T107–a (revised).
El Salvador	Ethrog	T107–a	T107–a (revised).
Estonia	Grape [1]	T107–a	T107–a (revised).
France	Apple, Ethrog, Grape [1], Kiwi, Pear	T107–a	T107–a (revised).
Georgia	Grape [1]	T107–a	T107–a (revised).
Germany	Grape [1]	T107–a	T107–a (revised).
Greece	Ethrog, Grape,[1] Kiwi, Orange, Pomegranate, Tangerine	T107–a	T107–a (revised).
Guatemala	Ethrog	T107–a	T107–a (revised).
Guyana	Apple, Orange	T107–c	T107–c.
Haiti	Apricot, Pomegranate	T107–c	T107–c.
Honduras	Ethrog	T107–a	T107–a (revised).
Hungary	Grape [1]	T107–a	T107–a (revised).
India	Litchi	T107–f	T107–f.
Israel, incl. Gaza	Apple, Apricot, Ethrog, Grape,[1] Grapefruit, Litchi, Loquat, Nectarine, Orange, Peach, Pear, Persimmon, Pomegranate, Pummelo, Plum, Tangerine.	T107–a	T107–a (revised).

Country	Commodity	Previous treatment	New treatment
Italy	Ethrog (North Atlantic ports only), Grape,[1] Grapefruit, Kiwi, Orange, Persimmon, Tangerine.	T107–a	T107–a (revised).
Jordan	Apple Persimmon	T107–a	T107–a (revised).
Kazakhstan	Grape [1]	T107–a	T107–a (revised).
Kyrgyzstan	Grape [1]	T107–a	T107–a (revised).
Latvia	Grape [1]	T107–a	T107–a (revised).
Lebanon	Apple	T107–a	T107–a (revised).
Libya	Grape [1]	T107–a	T107–a (revised).
Lithuania	Grape [1]	T107–a	T107–a (revised).
Luxembourg	Grape [1]	T107–a	T107–a (revised).
Macedonia	Ethrog	T107–a	T107–a (revised).
Martinique	Ethrog	T107–a	T107–a (revised).
Mexico	Carambola	T107–c	T107–c.
Moldova	Grape [1]	T107–a	T107–a (revised).
Morocco	Apricot, Ethrog, Grape,[1] Grapefruit, Orange, Peach, Pear, Plum, Tangerine.	T107–a	T107–a (revised).
Panama	Ethrog	T107–a	T107–a (revised).
Peru	Grape	T107–c	T107–a–1.
Portugal	Ethrog, Grape [1]	T107–a	T107–a (revised).
Russia	Grape [1]	T107–a	T107–a (revised).
Slovenia	Ethrog	T107–a	T107–a (revised).
South Africa	Apple, Grape, Pear	T107–a	T107–a (revised).
Spain	Apple, Ethrog, Grape,[1] Grapefruit, Loquat, Orange, Ortanique, Tangerine.	T107–a	T107–a (revised).
	Kiwi	T107–c	T107–a (revised).
Switzerland	Grape [1]	T107–a	T107–a (revised).
Syrian Arab Republic	Ethrog, Grape [1]	T107–a	T107–a (revised).
Taiwan	Carambola	T107–f	T107–f.
Tajikistan	Grape [1]	T107–a	T107–a (revised).
Trinidad & Tobago	Grapefruit, Orange, Tangerine	T107–c	T107–c.
Tunisia	Ethrog, Grape,[1] Grapefruit, Orange, Peach, Pear, Plum, Tangerine.	T107–a	T107–a (revised).
Turkey	Ethrog, Grape, Orange	T107–a	T107–a (revised).
Turkmenistan	Grape [1]	T107–a	T107–a (revised).
Ukraine	Grape [1]	T107–a	T107–a (revised).
Uruguay	Apple, Grape,[1] Nectarine, Peach, Pear, Plum	T107–c	T107–a–1.
Uzbekistan	Grape [1]	T107–a	T107–a (revised).
Venezuela	Grape, Grapefruit, Orange, Tangerine	T107–c	T107–a–1.
Zimbabwe	Apple, Kiwi, Pear	T107–a	T107–a (revised).

[1] Treatment T101–h–2 also required for this commodity if imported from designated country.
[2] Treatment T101–i–2 also required for this commodity if imported from designated country.
[3] From Arica Province of Region 1 or Chanaral Township of Region 3 only.
[4] Treatment T101–a–3 also required for this commodity if imported from designated country.
[5] Treatment T101–i–2–1 also required for this commodity if imported from designated country.
[6] Treatment T104–a–1 also required for this commodity if imported from designated country.

Movement of Domestically Produced Fruits

In our domestic quarantine notices in 7 CFR part 301, Subpart-Mediterranean Fruit Fly (§§ 301.78 through 301.78–10) contains regulations pertaining to the interstate movement of host material from areas of the continental United States that may, from time to time, be quarantined because of Medfly. In § 301.78–10, paragraph (b)(3) sets out a cold treatment schedule for regulated citrus fruit that has been harvested. That schedule has been the same as schedule T107–a in the PPQ Treatment Manual, so we are revising § 301.78–10(b)(3) in this interim rule so that the schedule set out in that paragraph is consistent with the revised schedule T107–a in the PPQ Treatment Manual.

The Hawaiian and Territorial Quarantine Notices are contained in 7 CFR part 318. Part 318 does not set out any cold treatment schedules, but refers instead to the PPQ Treatment Manual. Therefore, no changes need to be made to part 318.

Monitoring Treatment Effectiveness

In our foreign quarantine notices in 7 CFR part 319, Subpart-Fruits and Vegetables (§§ 319.56 through 319.56–6) contains regulations for importing fruits and vegetables into the United States. In conjunction with the changes to the cold treatment schedules for Medfly, we are also amending § 319.56–2d, ''Administrative instructions for cold treatments of certain imported fruits.'' Specifically, we are providing that, at the port of first arrival in the United States, an inspector will sample and cut fruit from each shipment that has been cold treated for Medfly to monitor treatment effectiveness. If a single live Medfly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that the prescribed cold treatments do not appear to be effective against Medfly, APHIS may suspend the importation of fruit from the originating country and conduct an investigation into the cause of the deficiency. We believe that these additional precautions will provide assurance that the revised cold treatment schedules are effective against Medfly.

This rule does not allow the importation or interstate movement of any commodities that were not previously allowed to be imported or moved interstate subject to cold treatment and other applicable requirements.

Immediate Action

Immediate action is necessary to protect against the introduction into and

dissemination within the United States of Medflies. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this interim rule on small entities. Based on the information we have, there is no basis to conclude that adoption of this interim rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this interim rule.

The Plant Protection Act (7 U.S.C. 7701–7772) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, and interstate movement of any plant, plant product, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of a plant pest into or within the United States.

In this interim rule, we are amending the PPQ Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, by revising the cold treatment schedules under which fruits are treated for Medfly and other specified pests. We are also amending the cold treatment schedule in our domestic Medfly regulations to be consistent with the changes to the PPQ Treatment Manual. Based on a review of those treatment schedules, we have determined that it is necessary to extend the duration of cold treatment for Medfly.[1] The revisions are described in detail earlier in this document. This action is necessary to protect against the introduction or dissemination of Medflies into and within the United States.

In addition, we are amending the regulations for importing fruits and vegetables to provide that inspectors at the port of first arrival will sample and cut fruit from each shipment cold treated for Medfly to monitor the effectiveness of the cold treatment. If a single live Medfly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that the prescribed cold treatments do not appear to be effective against Medfly, APHIS may suspend the importation of fruit from the originating country and conduct an investigation into the cause of the deficiency.

Fruit cutting and inspection charges associated with the interim rule will more than likely be small. APHIS, in a regulatory impact analysis (RIA) conducted for a rulemaking related to the importation of clementines from Spain (referred to below as the clementine RIA),[2] indicates that bulk shipments of fruit will more than likely pass inspection because the proportion of fruit infested with live Medfly will more than likely be extremely low after the application of the revised cold treatment schedules. In addition, the amount of fruit that is cut in the United States will more than likely be low relative to the value of imports, amounting to between 0.24 percent and 0.31 percent of gross import value. As a result, we state at the outset that costs associated with cutting and inspecting fruit will not have a significant negative economic impact on a substantial number of small importers.

The United States Small Business Administration (SBA) defines a small fruit importer (NAICS 42248, Fresh Fruit and Vegetable Wholesalers) as one with 100 or fewer employees. It is not clear if the majority of U.S. importers of fruits from countries known to be infested with Medfly are designated as small entities under SBA's size standards; however as we demonstrate below, economic impacts associated with this rule are not expected to be significant.

Import data for 1996–2000 for fruits that require cold treatment for Medfly under the revised schedule T107–a are shown in Table 1. Import data are not reported separately for all of the fruits that are subject to cold treatment for Medfly, so similar fruits are combined into categories in Table 1.[3] Import data for litchis, pomegranates, and carambola are not available, and there were no imports of mountain papaya and very few imports of cherries that required cold treatment for Medfly during 1996–2000; therefore, data for these fruits are not included in Table 1.

In order to estimate costs associated with extending Medfly cold treatment periods, it is necessary to estimate 2002 import levels, because additional cold treatment expenses vary with the amount of imported fruit. We base the 2002 import level for ethrogs on the 5-year average, because annual growth rates were extremely volatile during 1996–2000. We base the 2002 import level for pears and quinces on the 2000 import level because the import data provided little guidance regarding a likely value for 2002. We base the 2002 import level for clementines, ortaniques, and tangerines on the 2000 import level and annual import growth in 2000 because growth rates were highly volatile during the preceding years and imports apparently leveled off in 1999.[4] We report estimates of 2002 import levels for these and the remaining fruits in Table 1.

[1] Certain commodities that are subject to the extended cold treatment, *i.e.*, commodities that are subject to treatment for Medfly and Anastrepha spp. (except Anastrepha ludens), will not necessarily be subject to additional days of cold treatment due to the fact that treatment for Anastrepha spp. is already longer than the extended Medfly treatment requires. Thus, such commodities may be subject to 1 additional day of treatment, or none at all, depending on the temperature at which they are held. Nevertheless, for the purposes of this analysis, we assume that all commodities will be subject to additional days of treatment.

[2] ''Amending Import Rules for Clementines from Spain: Regulatory Impact Analysis.'' Animal and Plant Health Inspection Service. Riverdale, MD. Available on the Internet at *http://www.aphis.usda.gov/oa/clementine/index.html.*

[3] USDA–FAS, ''U.S. imports and import values for various fruit.'' Available on the Internet at: *http://www.fas.usda.gov/ustrade/.*

[4] In particular, expected imports for 2002 are given by $x(1 + y)^2$, where x denotes the import value for 2000 and y denotes import growth for 2000.

TABLE 1.—FRUIT IMPORTS THAT ARE SUBJECT TO T107 COLD TREATMENT FOR MEDFLY.*

Commodity	Average import level (1,000 kg)	Weighted import level ($/kg)	Average import value ($1,000)	Percentage of world imports	Expected imports 2002 (1,000 kg)
Apple	4,128	$0.86	$3,550	2.52	[1] 4,128
Apricot	4	2.48	10	0.23	[1] 4
Clementine, ortanique, and tangerine	52,176	1.43	74,354	86.32	[2] 95,952
Ethrog	160	2.79	446	32.17	[1] 160
Grape	33,399	426.18	14,234	3.29	[3] 52,369
Grapefruit and pummelo	356	0.91	323	3.31	[1] 356
Kiwi	6,080	1.05	6,384	6.91	[1] 6,080
Orange	6,361	1.07	6,776	8.34	[1] 6,361
Peach and nectarine	10	0.95	10	0.02	[3] 17
Pear and quince	35,915	0.96	34,478	44.81	[4] 58,228
Plum, loquat, persimmon, and plumcot	124	0.99	123	0.54	[4] 513

* Imports, prices, and percentages of world imports are averages for 1996–2000. Prices are weighted averages converted to 2002 dollars, using the consumer price index for fresh fruit (from U.S. Bureau of Labor Statistics). Data are from USDA–FAS, ''U.S. imports and import values for various fruit,'' except for grapes, which are from Bureau of Census data: 080610, U.S. fresh grape imports. Quantity data for grapes are in cubic meters; grape prices are in dollars per cubic meter.

[1] Five-year average.

[2] Based on the 2000 import level and annual import growth for 2000.

[3] Based on the 2000 import level and average annual import growth for 1999 and 2000.

[4] The 2000 import level.

As shown in Table 1, very low percentages of apple, apricot, cherry, grape, grapefruit and pummelo, kiwi, mountain papaya, orange, peach and nectarine, and plum, loquat, persimmon, and plumcot imports undergo cold treatment for Medfly; as a result, the interim rule will likely not affect a substantial number of small importers of these fruits. Thirty-two percent of ethrogs, 44 percent of pears and quinces, and 86 percent of clementines, ortaniques, and tangerines must be cold treated for Medfly. Therefore, the interim rule may affect a substantial number of U.S. importers of these fruits and we estimate economic impacts for these fruits. We do not estimate economic impacts for the remaining fruits because it is unlikely that a substantial number of small importers of those fruits will be significantly affected by the interim rule. Furthermore, economic impacts for ethrogs, pears and quinces, and clementines, ortaniques, and tangerines can be considered as representative of the economic impacts for the other fruits.

The overwhelming majority of cold-treated fruit imports are treated aboard ship while in transit to the United States, although treatment can also be carried out at authorized ports. When cold treatment is conducted in transit, the treatment period must be met before unloading. For countries with sailing times to the United States longer than the extended treatment periods, the interim rule will only lead to increases in cold treatment costs. For countries with sailing times to the United States shorter than the extended treatment periods, the interim rule will lead to increases in cold treatment and shipping costs. To account for the extended treatment periods in these instances, vessels will either adjust sailing times to coincide with the length of the treatment period, sit at the dock, or go into anchorage near the U.S. port. As a result, labor, fuel, and opportunity costs associated with delaying shipments of other cargoes will more than likely be added to shipping charges.

Costs associated with extending treatment periods have been estimated for clementine imports from Spain, in the clementine RIA cited earlier in this analysis. We use the same parameters and methods to estimate additional cold treatment expenses for clementines, ortaniques, and tangerines. It costs approximately $0.50 per day to cold treat a pallet of fruit at U.S. ports. This provides an approximate upper bound on cold treatment costs because most fruits are cold treated in transit, which may be less expensive on average. We therefore use this as our unit cost to calculate cold treatment expenses in the analysis.

Historically, the Spanish have exported clementines, ortaniques, and tangerines to the United States under the 11 day (33 °F) or 12 day (34 °F) cold treatment schedules. As a result, Spanish clementines, ortaniques, and tangerines shipped to the United States will undergo at least 2 to 3 days (34 °F) of extra cold treatment. We assume the average bulk shipment will undergo an additional 2.5 days of cold treatment. The following daily charges will likely be added to the cost of shipping clementines, ortaniques, and tangerines to the United States: $10,000 chartering fee (although this fee is highly variable depending on the availability of bulk ships); $2,160 docking fee ($0.27 per metric ton with an average ship size of 8,000 metric tons); $990 fuel at anchorage fee (five to six tons at $180 per ton); and $0.50 per pallet cold treatment fee.

These cost figures are based on recent charges quoted by a representative from Lauritzen, a company that specializes in the bulk shipment of fruit. Ninety percent of clementines, ortaniques, and tangerines shipments come into the United States in bulk shipments. Using a bioeconomic model, which incorporates variation in clementines designated for export to the United States and fruit cutting and rejection of shipments in Spain according to farm-level variation in numbers of fruit infested with Medflies, additional shipping and cold treatment expenses averaged $1.23 million (±$15,000, with 95 percent confidence). U.S. imports of clementines averaged 88,461 metric tons (±1,042 metric tons). As a result, total regulatory expenses were $13.92 per metric ton, or $5.57 per metric ton per day. Average import price in the United States was $1.05 per kilogram, thus import value averaged $92.65 million. Total regulatory expenses were therefore 1.33 percent of gross value.

These estimates can be used to estimate regulatory costs associated with shipments of clementines, ortaniques, and tangerines from Spain, Morocco, Israel, and Italy. Applying the $13.92 per metric ton fee to 95,952 metric tons (Table 1), total regulatory costs, assuming fruits are cold treated for an additional 2.5 days on average, are $1.34 million. To determine whether

these costs are significant, we estimated the value of clementine, ortanique, and tangerine imports for 2002 using the Spanish clementine import demand curve estimated in the clementine RIA. Plugging in the expected 2002 import level and converting the price to 2002 dollars using the consumer price index for oranges, including tangerines,[5] gives a price of $0.84 per kilogram.[6] Using this expected price, the expected value of imports for 2002 is approximately $78.47 million. Additional treatment expenses associated with the interim rule amount to only 1.7 percent of this total and, as a result, the interim rule will likely not have a significant negative economic impact on small importers of clementines, ortaniques, and tangerines, even in the unlikely event that importers bear the entire economic burden.[7]

We use the same parameters and methods to estimate additional cold treatment expenses for ethrogs, pears, and quinces under the assumption that these fruits and clementines, ortaniques, and tangerines have roughly the same dimensions. For ethrogs, assuming an additional 2.5 days of cold treatment and shipping expenses, total regulatory costs for 2002 came to $2,227. This amounts to only 0.5 percent of the estimated value of ethrog imports for 2002 ($446,400), which is based on the estimated import level (160 metric tons) and the weighted average price ($2.79 per kilogram) during 1996–2000 (see Table 1). As a result, the interim rule will more than likely not have a significant negative economic impact on small importers of ethrogs.

For pears and quinces, additional cold treatment expenses for 2002 came to $1.3 million, which amounts to 2.32 percent of the estimated value of pear and quince imports for 2002 ($56 million), based on the estimated import level (58,228 metric tons) and weighted average price ($0.96 per kilogram) during 1996–2000 (*see* Table 1). During 1996–2000, 95 percent of the pear and quince imports from regions with Medfly came from Argentina, and the remainder came from China, South Africa, and Spain. The direct sailing time from Argentina is approximately 10 days, which is 4 days less than the shortest treatment period. As a result, this rule will add an additional 4 days of cold treatment and shipping charges for shipments of pears and quinces to the United States from Argentina. Total regulatory expenses for 2002 are $1.30 million, which amounts to 2.32 percent of the estimated value of pear and quince imports for 2002 ($56 million), based on the estimated import level (58,228 metric tons) and weighted average price ($0.96 per kilogram) during 1996–2000 (Table 1).

Countries that import citrus from the United States may change their cold treatment guidelines to reflect the changes being made to our cold treatment requirements; however, such changes would only affect U.S. exporters in the event of a Medfly outbreak in the continental United States. Indirect impacts of this rule, therefore, are highly uncertain and depend on the probability that Medflies are introduced and become established, as well as the regional extent of outbreaks and the efficiency with which they are controlled and eradicated. Because potential economic impacts on U.S. fruit importers are low relative to import values and because Medfly outbreaks within the United States will more than likely be confined to particular areas and eradicated efficiently, this rule will likely not have a significant negative economic impact on a substantial number of small exporters in the United States. However, in the event of a Medfly outbreak, exporters who wish to export affected commodities from areas quarantined for Medfly should expect to pay an additional $5.57 per metric ton per day of extra cold treatment. For example, exports from quarantined areas on the west coast to Asia would have to undergo an additional 2.5 days of cold treatment; therefore, each metric ton of affected produce would cost an additional $13.92 to ship. The same cost schedule applies to affected commodities on the east coast destined for European markets. Because shipment times from the west coast to Europe and from the east coast to Asia are longer than the revised cold treatment periods, this rule would have no impact on the cost schedules associated with those exports.

Summary

With the exception of small importers of ethrogs, clementines, ortaniques, pears, quinces, and tangerines, our analysis shows that the interim rule will more than likely not significantly affect a substantial number of small importers of fruits in the United States. Further, our analysis shows that the economic impact on small importers of ethrogs, clementines, ortaniques, pears, quinces, and tangerines will more than likely not be significant. Further, our analysis shows that the interim rule will not significantly affect a substantial number of small fruit exporters. Nonetheless, we request public comments on our analysis and invite the submission of additional data regarding affected entities, whether small or large.

This interim rule contains no new information collection requirements.

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 301

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

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR Chapter III as follows:

PART 300—INCORPORATION BY REFERENCE

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

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

2. In § 300.1, paragraph (a) is amended as follows:

a. In paragraph (a)(3), by removing the word ''and''.

b. In paragraph (a)(4), by removing the period and adding the word ''; and'' in its place.

c. By adding a new paragraph (a)(5) to read as set forth below.

[5] U.S. Bureau of Labor Statistics, ''Consumer price index-oranges, including tangerines, not seasonally adjusted.'' Available on the Internet at *http://data.bls.gov/labjava/outside.jsp?survey=cu.*

[6] The y-intercept of the demand curve is $3.71 and the coefficient on kilograms of imports is −3.01E–08.

[7] This would be the case, for example, if import demand was perfectly inelastic and export supply was perfectly elastic. Available data indicate that import demand is elastic and that export supply is not perfectly elastic.

§ 300.1 Plant Protection and Quarantine Treatment Manual.

(a) * * *

(5) Treatments T107–a, T107–a–1, T107–c, and T107–f, dated September 2002.

* * * * *

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

4. In § 301.78–10, paragraph (b)(3) is revised to read as follows:

§ 301.78–10 Treatments.

* * * * *

(b) * * *

(3) *Cold treatment:* 14 days at 1.11 °C. (34 °F.) or below; 16 days at 1.67 °C. (35 °F) or below; or 18 days at 2.22 °C. (36 °F.) or below.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

5. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

6. In § 319.56–2d, a new paragraph (b)(8) is added to read as follows:

§ 319.56–2d Administrative instructions for cold treatments of certain imported fruits.

* * * * *

(b) * * *

(8) *Inspection of fruits after cold treatment for Mediterranean fruit fly.* An inspector will sample and cut fruit from each shipment cold treated for Mediterranean fruit fly (Medfly) to monitor treatment effectiveness. If a single live Medfly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that the safeguards contained in this section do not appear to be effective against the Medfly, APHIS may suspend the importation of fruits from the originating country and conduct an investigation into the cause of the deficiency.

* * * * *

Done in Washington, DC, this 8th day of October, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–26063 Filed 10–11–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 1942

RIN 0570–AA32

Rural Business Enterprise Grants and Television Demonstration Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) adopts its interim rule published May 16, 2001 (66 FR 27013–27014), as a final rule without change. This action makes the revision to the definition of small and emerging private business enterprise final. The intended effect will ensure that grantees can assist small businesses in rural areas without eligibility restrictions for the use of technological innovations or commercialization of new products or processes.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Cavanaugh, Rural Development Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW, Washington, DC 20250, Telephone (202) 690–2516. The TDD number is (800) 877–8339 or (202) 708–9300.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be non-significant and has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.769, Rural Development Grants.

Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this rule.

Intergovernmental Review

The Rural Business Enterprise Grant (RBEG) Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) retroactive effect will be given to this rule starting August 11, 1988; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq,* an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal

mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Background

This regulatory package is an RBS initiative to make the RBEG Program more effective at stimulating economic development by reducing certain eligibility requirements for small and emerging private business enterprises (small business) located in rural areas. There has been much confusion on the definition of small business since it was first published in the **Federal Register** on August 11, 1988. At that time, the RBEG Program was called the Industrial Development Grant Program. The name of the program was changed in 1992 and still contained the small and emerging business definition. The RBEG Program has been administered by two separate agencies since inception of the program. The Farmers Home Administration (FmHA) originally administered the RBEG Program. In 1996, it was transferred to RBS. FmHA misinterpreted the definition of small and emerging business in its regulations as only needing to meet the first two parts of the definition in order to be eligible for assistance and funded grants based on this misinterpretation. RBS has recently determined that the FmHA interpretation is not consistent with the actual regulatory language. Therefore, the Agency wants to correct the definition language and make it retroactive from August 11, 1988, so the revised definition will be applicable to existing grants. Retroactive application of the definition will validate existing grants, which might not otherwise have been eligible under a strict application of the regulatory criteria defining a small business. This will ultimately streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

Discussion of Comments

This rule was published in the **Federal Register** as an interim rule on May 16, 2001 (66 FR 27013–27014). There were five comments received regarding the small and emerging private business enterprise definition change. Three comments were actually requests for general program information. One comment concerned the need to do a survey to prove that those benefiting from the program were all low-income residents. There is no such regulatory requirement in the RBEG Program. This program directly benefits small businesses rather than residents. The last comment suggested that for-profit business enterprises be eligible to receive grant funds to do technical assistance services. The authorizing statute for the RBEG program, section 310B(c) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1932(c), only allows for private nonprofit corporations and public bodies, which includes Federally recognized Indian Tribes, to be eligible to receive grant funds. However, if a grantee does not have the expertise, it may contract with a for-profit business to provide the necessary technical assistance services to the benefiting small businesses.

List of Subjects in 7 CFR Part 1942

Business and industry, Grant programs—Housing and community development, Industrial park, Rural areas.

PART 1942—ASSOCIATIONS

Accordingly, the interim rule amending 7 CFR part 1942 which was published May 16, 2001 (66 FR 27013–27014), is adopted as a final rule without change.

Dated: October 4, 2002.

Thomas C. Dorr,

Under Secretary, Rural Development.

[FR Doc. 02–26108 Filed 10–11–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4284

RIN 0570–AA37

Rural Business Opportunity Grants; Definition of ''Rural and Rural Area''

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) revises its regulation to amend the definition of rural and rural area. This action is needed to comply with the amendment to Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) made by Section 6020 of the Farm Security and Rural Investment Act of 2002. The intended effect of this action is to provide a consistent definition of rural and rural area for programs administered by RBS under the Rural Community Advancement Program. This action will result in additional eligible areas and demand for the RBOG Program.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Cavanaugh, Rural Development Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave., SW., Washington, DC 20250, Telephone (202) 690–2516. The TDD number is (800) 877–8339 or (202) 708–9300.

SUPPLEMENTARY INFORMATION:

Classification

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

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.773, Rural Business Opportunity Grants.

Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this final rule.

Intergovernmental Review

The Rural Business Opportunity Grants Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RBS will conduct

intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in the notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983).

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given to this rule, and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule, unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L 91–190, an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132, Federalism

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Background

This regulatory package is an initiative mandated from Congress to provide a consistent definition of rural and rural area for programs administered by RBS under the Rural Community Advancement Program. This action will increase eligible areas and demand for the Rural Business Opportunity Grants Program by amending the definition of rural and rural areas. The current definition of rural and rural areas limits eligible areas to any area of a State that is not within the boundaries of a city with a population in excess of 10,000 inhabitants. The amended definition will increase the eligible area to 50,000 or less inhabitants.

List of Subjects in 7 CFR Part 4284

Business and industry, Economic development, Grant programs—Housing and community development, Rural areas.

Accordingly, Chapter XLII, title 7, of the Code of Federal Regulations is amended as follows:

PART 4284—GRANTS

1. The authority citation for part 4284 is revised to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 7 U.S.C. 1991, 16 U.S.C. 1005.

Subpart G—Rural Business Opportunity Grants

2. Section 4284.603 is amended by revising the definition of ''rural and rural area'' to read as follows:

§ 4284.603 Definitions.

* * * * *

Rural and rural area. Any area other than a city or town that has a population of greater than 50,000 inhabitants including the urbanized area contiguous and adjacent to such a city or town. The population figure used must be in accordance with the latest decennial census of the United States.

* * * * *

Dated: October 4, 2002.

Thomas C. Dorr,

Under Secretary, Rural Development.

[FR Doc. 02–26109 Filed 10–11–02; 8:45 am]

BILLING CODE 3410–XY–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Commission Records and Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') has adopted amendments to Part 145 of its rules, which governs Commission records and information. These amendments are necessary to conform Part 145 to recent amendments to the Commission's Part 3 rules and recent changes in the organizational structure of Commission staff.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Deputy Director, or Michael A. Piracci, Attorney-Advisor, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

On May 30, 2002, the Commission adopted amendments to its Part 3 rules governing the registration of intermediaries in the futures industry. These amendments were adopted to facilitate the change from a paper-based registration system to an online registration system.[1] Although

[1] The National Futures Association (''NFA'') began processing applications for almost all registration categories through the online registration system on June 3, 2002. Agricultural trade option merchants as well as applicants for registration as futures commission merchants and introducing brokers pursuant to Section 4f(a)(2) of

applications are now filed electronically through NFA's online registration system, the Commission's rules and NFA's rules both retain the same titles for the forms that applicants and registrants are required to file as those used under the previous paper-based system.[2] The online forms do not, however, retain the line item numbering from the paper forms. The online forms, instead, contain headings for the sections that include fillable text boxes and check-off boxes for submitting the required information.

Commission Rule 145.6(b)(2) provides that fingerprint cards and supplementary attachments filed in response to certain items on the registration forms generally will not be available for public inspection. The item numbers of the registration forms referenced in the rule include requests for information regarding, among other things: (1) Disciplinary history; (2) social security number; (3) any pending or anticipated actions; and (4) the reasons for termination of a registrant or principal.

As noted above, the online forms no longer number the line items required to be completed, but do contain section headings. Accordingly, Rule 145.6(b)(2) has been amended to include the relevant sections of the online forms for which the supplementary filings are not available for public inspection. No change has been made, however, in the type of information that generally will not be made available. For example, the rule previously cited to items 6–9 and 14–21 on Form 8–R, which asked for personal identifying information, such as the individual's social security number and date of birth, and a disciplinary history, respectively. The rule has been amended to provide that, additionally, supplementary attachments filed in response to the ''Personal Information'' and the ''Disciplinary Information'' sections of Form 8–R will not generally be available for public inspection.

The Commission has also adopted certain technical amendments to Part 145. For example, the Commission has amended Appendix A to Part 145 so as to reference the appropriate divisions of the Commission, the names of which have changed as a result of the reorganization of the Commission's staff, effective July 1, 2002.

II. Related Matters

Administrative Procedure Act

The Commission has determined that the amendments discussed herein relate solely to agency organization, procedure, and practice. Accordingly, the provisions of the Administrative Procedure Act that generally require notice of proposed rulemaking and that provide other opportunities for public participation are not applicable.[3] The Commission further finds that, because the amendments have no adverse effect upon a member of the public, there is good cause to make them effective immediately upon publication in the **Federal Register.**[4]

Lists of Subjects in 17 CFR Part 145

Confidential business information, Freedom of information.

For the reasons discussed in the foregoing, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 145—COMMISSION RECORDS AND INFORMATION

1. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 99–570, 100 Stat. 3207; Pub. L. 89–554, 80 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); unless otherwise noted.

2. Section 145.6 is amended as follows:

a. By revising paragraph (b)(2) to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

* * * * *

(b) * * *

(2) The fingerprint card and any supplementary attachments filed in response to:

(i) Items 6–9, 14–21, the ''Personal Information,'' or the ''Disciplinary Information'' sections on Form 8–R;

(ii) Item 3 on Form 8–S;

(iii) Items 3–5, 9–11, the ''Withdrawal Reasons,'' the ''Disciplinary Information,'' or the ''Matter Information'' sections on Form 8–T;

(iv) Items 9–10 on Form 7–R;

(v) Item 7 and the ''Additional Customer Information'' section on Form 7–W; and

(vi) Item 7 on Form 8–W generally will not be available for public inspection and copying unless such disclosure is required under the Freedom of Information Act. Changes or corrections to those items reported on Form 3–R will be treated similarly. When such fingerprint cards or supplementary attachments are on file, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.

3. Part 145 Appendix A paragraph (a) is amended by removing ''*Office of Public Affairs*'' and adding in its place ''*Office of External Affairs*''.

4. Part 145 Appendix D paragraph (c) is amended by removing ''Office of Public Affairs'' and adding in its place ''Office of External Affairs''.

Issued in Washington, DC, on October 9, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–26124 Filed 10–11–02; 8:45 am]

BILLING CODE 6351–01–P

the Commodity Exchange Act (notice-registration of securities broker-dealers whose only futures-related activity involves security futures products) still file paper applications.

[2] These forms include, among others: Form 7–R (application for registration as a futures commission merchant, introducing broker, commodity pool operator, and commodity trading advisor); Form 8–R (application for registration as an associated person, floor broker, and floor trader, and for being listed as a principal of a registrant); and Form 7–W (withdrawal from firm registration).

[3] 5 U.S.C. 553(b)(3)(A) (1994).

[4] *See* 5 U.S.C. 553(d)(3) (1994).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. FHWA—2000–7122]

RIN 2125–AE88

Discretionary Bridge Candidate Rating Factor

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the regulation on the discretionary bridge program rating factor in order to incorporate several administrative considerations that have proven effective in the project selection process and to update the rating factor formula to reflect the most current highway system designation. The changes make the selection process easier for the FHWA to administer and the application process easier for the States to understand. Except for the formula change for defense highway status, these changes only incorporate selection procedures that have been used effectively for many years. In addition, formerly designated defense highway bridges are included in the national highway system designation, so the formula change will have minimal impact. None of the changes have an appreciable effect on either program eligibility or the application process.

DATES: This rule is effective on November 14, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Steven L. Ernst, Office of Bridge Technology, 202–366–4619, or Mr. Steven Rochlis, Office of the Chief Counsel, 202–366–1395, FHWA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e. t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resources locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.archives.gov* and at the Government Printing Office's web page at *http://www.access.gpo.gov/nara.*

Background

This rule implements 23 U.S.C. 144(g), as amended by sections 1109 and 1311 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107 (1988). Section 161 of the Surface Transportation Assistance Act of 1982 (STAA), Public Law 97–424, 96 Stat. 2097, at 2135, directed the Secretary of Transportation (Secretary) to establish a rating factor for each discretionary bridge program candidate based on seven specific items. Section 1311 of the TEA–21, as added by Public Law 105–206, 112 Stat. 836 (1998), requires the Secretary to establish criteria for all discretionary programs, including the discretionary bridge program. On November 17, 1983, using the criteria from the STAA, the FHWA issued a final rule on the discretionary bridge regulations (48 FR 52292).

The funding for the discretionary bridge program is derived from contract authority for the bridge program provided in section 1101(a)(3) of the TEA–21. The allocation of the discretionary bridge funding by fiscal year for the discretionary bridge program is codified at 23 U.S.C. 144(g)(1).

This final rule is based on the notice of proposed rulemaking (NPRM) published on January 22, 2002, at 67 FR 2837 where the FHWA requested comments on proposed revisions to the regulation on the discretionary bridge program rating factor. This final rule is based on the NPRM and all comments received in response to the NRPM.

These revisions in this final rule incorporate several administrative considerations that have proven effective in the project selection process and will update the rating factor formula to reflect the most current highway system designation. These changes will:

(1) Require that candidate projects be ready to begin construction in the fiscal year in which funds are available for obligation. This will incorporate the administrative practice that has proven effective to provide that candidate projects are sufficiently developed and ready for construction and that funds are used in a timely manner. Projects that are not ready for construction may languish for years, encountering design, environmental, or funding problems that tie up scarce Federal funding and deny funding for other projects which are ready to build.

(2) Permit additional funds contributed from local, State, county, or private sources or donations from third parties which reduce the total cost or Federal contribution to a project to be used to reduce the total cost for use in the rating factor formula. Reducing the total project cost with additional State, local or third party contributions provides an efficient and equitable assessment of the non-Federal participation, over and above the usual State match. This also continues the FHWA commitment to provide an accurate cost-benefit analysis of candidate projects.

(3) Disallow any discretionary allocation to a State that has transferred Highway Bridge Replacement and Rehabilitation Program funds to other categories of Federal funding in the previous fiscal year. Transferring bridge funds to other categories is an indication that a State does not have a pressing need for bridge funds. This administrative requirement has been used effectively to assure that States first exhaust their regularly apportioned bridge funds before applying for discretionary funds.

(4) Change the term ''D'' in the rating factor formula from defense highway status to ''N'' for national highway system status (NHS). This change is necessary because the defense highways are no longer a recognized national system. The factor ''D'' originated in section 161 of the STAA of 1982, and data is no longer collected for this item. Using the national highway system status is a reasonable alternative, since the NHS is recognized as the nation's premier highway system in 23 U.S.C. 103, and one criteria in the code is that the NHS ''meets national defense requirements.'' In addition, formerly designated defense highway bridges are included in the national highway system, and this change will have little effect on project rankings or selection.

In light of the events of September 11, 2001, and the heightened awareness of security issues, we have determined that discretionary bridge funds could be used for security improvements on eligible bridges.

Discussion of Comments

In response to the NRPM published on January 22, 2002, at 67 FR 2837, we received six comments to the docket. These comments were from three State DOTs, one city DOT, and two private individuals. The following is a summary and discussion of these comments:

One commenter suggested that the FHWA reduce the requirement that the cost of one bridge must be $10 million to be eligible. This is a statutory requirement and cannot be changed by regulation.

There were four comments concerning the proposal to disallow any discretionary allocation to a State that has transferred its Highway Bridge Replacement and Rehabilitation Program funds to other categories of Federal funding in the previous fiscal year. Two commenters supported the proposed change, and two commenters considered the change overly restrictive. We feel that transferring bridge funds to other categories is an indication that a State does not have a pressing need for bridge funds, and that this requirement is therefore not overly restrictive.

There were five comments concerning the change of the term ''D'' in the rating factor formula from defense highway status to ''N'' for national highway system status (NHS). Three commenters supported the change. One commenter suggested using the strategic highway network (STRAHNET) indicator to replace the term ''D.'' One commenter suggested that no distinction be made between NHS and non-NHS bridges. One commenter suggested that bridges over the NHS should also be considered in this term. We believe that using the STRAHNET indicator is overly restrictive and that the change to use the NHS for this term is sufficiently broad to meet national defense requirements.

There were four comments questioning the clarity of the use of the words ''leveraged funds'' as a means to reduce the total project cost for use in the rating factor formula. Three commenters supported the change. One comment thought that this change

would allow the use of ''creative financing'' or ''Federal innovative financing techniques.'' We agree that the use of the term ''leverage'' requires clarification. It is the FHWA's intent that only funding or contributions from State, county, local, or private sources be considered as a special consideration under § 650.709. These additional funds or contributions must be non-Federal. This final rule clarifies that the FHWA's intent is to give consideration to additional non-Federal contributions made to a project by the project sponsor or third parties. One commenter in support of using leveraged funds suggested that the FHWA add a term to the formula to reflect the change. The FHWA concluded that this change would over-complicate the formula, and therefore the formula will not be changed, but additional contributions from non-Federal sources will be allowed to reduce the total project cost to compute the rating factor.

There were two comments about the requirement that projects be ready for construction within the fiscal year for which funds are requested. Both of these commenters indicated that the term ''ready for construction'' is not well defined and may be overly restrictive. On the contrary, it is our intent that projects be ready to advertise for bids and that funds be obligated within the fiscal year for which such funds are requested. Additionally, the term ''ready for construction'' is meant to be the least restrictive way to capture this intent.

Section-by-Section Analysis

Section 650.703 Eligible Projects

Paragraph (b) is revised to require that only those projects not previously selected which will be ready to begin construction in the fiscal year in which funds are available for obligation will be eligible for funding. This incorporates the administrative practice that has proven effective to provide that candidate projects are sufficiently developed and ready for construction and that funds are used in a timely manner. Projects that are not ready for construction may languish for years, encountering design, environmental, or funding problems that tie up scarce Federal funding and deny funding for other projects that are ready to build.

Paragraph (c) is added to make any State that has transferred Highway Bridge Replacement and Rehabilitation funds to other fund categories ineligible for following fiscal year funding. Transferring bridge funds to other categories is an indication that a State does not have a pressing need for bridge funds. This administrative requirement has been used effectively to assure that States first exhaust their regularly apportioned bridge funds before applying for discretionary funds.

Section 650.707 Rating Factor

In paragraph (b) the term ''D'', ''Defense Highway System Status,'' is changed to ''N'', ''National Highway System Status.'' This revision brings the formula in line with the current definition of the Federal-Aid Highway Systems found in 23 U.S.C. 103.

Section 161 of the Surface Transportation Assistance Act of 1982 (STAA) required the Secretary of Transportation to develop a selection process for discretionary bridges authorized to be funded under 23 U.S.C. 144(g). Section 161 further outlined the seven criteria that must be considered in evaluating bridge eligibility. One of these seven criteria was the ''defense highway system status.''

Created under the Defense Highway Act of 1941 (Public Law 77–295, 55 Stat. 765), the Defense Highway System was designed to be a ''strategic network of highways that conforms to routes designated on the diagrammatic map of principal highway traffic routes of military importance, dated October 25, 1940, revised to May 15, 1941, and approved by the Secretary of War.''

Since the passage of the STAA of 1982, the Defense Highway System is now an element of the National Highway System, created by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914 (1991). Section 1006 of the ISTEA redefined the Federal-aid Highway System to include the Interstate System and the National Highway System. One of the components of the National Highway System is ''a strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities of the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be on or off the Interstate System and shall be designated by the Secretary in consultation with the appropriate Federal agencies and the States.'' (23 U.S.C. 103(b)(2)(D)).

In comparing the components that make up the National Highway System to the elements of the former Defense Highway System, the ''strategic network of highways'' is an essential element of both of these highway systems. Therefore, the elements of the former Defense Highway System make up one of the components of what is now referred to as the National Highway System. Consequently, by changing the definition of the factor ''D'' in the formula from the Defense Highway System Status to ''N'' for National Highway System Status, we do not change the original intent of the formula asestablished in the ISTEA.

Section 650.709 Special Considerations

Paragraph (a) is revised so that additional funds or contributions made by local, State, county, or private sources may be used to reduce the total project cost to calculate the rating factor. Reducing the total project cost with these additional funds provides an efficient and equitable assessment of the non-Federal participation, over and above the usual State match. This also continues the FHWA commitment to provide an accurate cost-benefit analysis of candidate projects.

Paragraph (c) is revised so that only those continuing projects which will be ready to begin construction in the fiscal year in which funds are available for obligation will be considered for funding. This extends the requirement established in section 650.703(b) so that previously selected projects must be ready for construction to the same extent as new projects. As with new projects, previously selected projects that are not ready for construction tie up Federal funds that can be used for ready-to-build projects.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 nor significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. These changes will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. These proposed changes will not affect the total Federal funding available. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this

rule on small entities, such as city and county governments. The modifications are substantially dictated by the statutory provisions of 23 U.S.C. and the TEA–21 and will substantially improve the selection process. Accordingly, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rule will not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined this action does not have a substantial direct affect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this rule does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

We have analyzed this action 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 safety that may disproportionately affect children.

Executive Order 13211 (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. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements, Soil conservation.

Issued on: October 4, 2002.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 650, subpart G as set forth below:

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS [REVISED]

1. Revise the authority citation for part 650 to read as follows:

Authority: 23 U.S.C. 109(a) and (h), 144, 151, 315, and 319; 33 U.S.C. 401, 491 *et seq.;* 511 *et seq.;* sec. 4(b) of Pub. L. 97–134, 95 Stat. 1699 (1981); sec. 161 of Pub. L. 97–424, 96 Stat. 2097, at 3135 (1983); sec. 1311 of Pub. L. 105–178, as added by Pub. L. 105–206, 112 Stat. 842 (1998); 23 CFR 1.32; 49 CFR 1.48(b); E.O. 11988 (3 CFR, 1977 Comp., p. 117); Department of Transportation Order 5650.2, dated April 23, 1979 (44 FR 24678).

2. Revise § 650.703(b) and add § 650.703(c) to read as follows:

§ 650.703 Eligible projects.

* * * * *

(b) After November 14, 2002 only candidate bridges not previously selected with a computed rating factor of 100 or less and ready to begin construction in the fiscal year in which funds are available for obligation will be eligible for consideration.

(c) Projects from States that have transferred Highway Bridge Replacement and Rehabilitation funds to other funding categories will not be eligible for funding the following fiscal year.

3. Revise § 650.707(a) and (b) to read as follows:

§ 650.707 Rating factor.

(a) The following formula is to be used in the selection process for ranking discretionary bridge candidates.

$$\text{Rating Factor (RF)} = \frac{\text{SR}}{\text{N}} \times \frac{\text{TPC}}{\text{ADT'}} \times \left[1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}\right]$$

The lower the rating factor, the higher the priority for selection and funding.

(b) The terms in the rating factor are defined as follows:

(1) SR is Sufficiency Rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition); (If SR is less than 1.0, use SR=1.0);

(2) ADT is Average Daily Traffic in thousands taking the most current value from the national bridge inventory data;

(3) ADTT is Average Daily Truck Traffic in thousands (Pick up trucks and light delivery trucks not included). For load posted bridges, the ADTT furnished should be that which would use the bridge if traffic were not restricted. The ADTT should be the annual average volume, not peak or seasonal;

(4) N is National Highway System Status. N=1 if not on the National Highway System. N=1.5 if bridge carries a National Highway System road;

(5) The last term of the rating factor expression includes the State's unobligated balance of funds received under 23 U.S.C. 144 as of June 30 preceding the date of calculation, and the total funds received under 23 U.S.C. 144 for the last four fiscal years ending with the most recent fiscal year of the FHWA's annual call for discretionary bridge candidate submittals; (if unobligated HBRRP balance is less than $10 million, use zero balance);

(6) TPC is Total Project Cost in millions of dollars;

(7) HBRRP is Highway Bridge Replacement and Rehabilitation Program;

(8) ADT′ is ADT plus ADTT.

* * * * *

4. In § 650.709, revise paragraphs (a) and (c) to read as follows:

§ 650.709 Special considerations.

(a) The selection process for new discretionary bridge projects will be based upon the rating factor priority ranking. However, although not specifically included in the rating factor formula, special consideration will be given to bridges that are closed to all traffic or that have a load restriction of less than 10 tons. Consideration will also be given to bridges with other unique situations, and to bridge candidates in States that have not previously been allocated discretionary bridge funds. In addition, consideration will be given to candidates that receive additional funds or contributions from local, State, county, or private sources, but not from Federal sources which reduce the total Federal cost or Federal share of the project. These funds or contributions may be used to reduce the total project cost for use in the rating factor formula.

* * * * *

(c) Priority consideration will be given to the continuation and completion of projects previously begun with discretionary bridge funds which will be ready to begin construction in the fiscal year in which funds are available for obligation.

[FR Doc. 02–26130 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 103

RIN 1076–AE29

Loan Guaranty, Insurance, and Interest Subsidy; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; correction.

SUMMARY: The Office of Economic Development, Bureau of Indian Affairs published a final rule in the **Federal Register** of January 17, 2001. We are amending this rule to correct wording on how BIA calculates interest subsidy payments in the Loan Guaranty, Insurance and Interest Subsidy Program. The current wording is inaccurate and potentially misleading. This change will make clear that BIA retains the flexibility to recover administrative costs in establishing an interest rate.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: George Gover, Director, Office of Economic Development Programs, 202–208–5324.

SUPPLEMENTARY INFORMATION: The final rule was published in the **Federal Register** on January 17, 2001 (66 FR 3861) with an effective date of April 17, 2001. One feature of the Program, interest subsidy, lets qualified borrowers seek reimbursement of a portion of the interest they pay on a loan guaranteed or insured by BIA. Section 103.22 addresses how BIA calculates the amount of the reimbursement. Section 103.22 is supposed to follow the statutory scheme established in 25 U.S.C. 1511, which directs BIA to pay a borrower the difference between the lender's rate and the interest rate established in 25 U.S.C. 1464 (*i.e.*, the interest rate that BIA would charge a borrower if BIA were making the loan itself). Section 103.22 inadvertently suggests that the calculation of an interest rate under 25 U.S.C. 1464 would equal the rate the Secretary of the Treasury sets. *See,* 25 U.S.C. 1464(a). Section 103.22 fails to account for the flexibility that Interior has to increase this interest rate to recover associated administrative costs. *See,* 25 U.S.C. 1464(b). BIA has not historically used 25 U.S.C. 1464(b) to increase an interest rate established under 25 U.S.C. 1464(a), but it has never consciously abandoned the right to do so.

This document contains a correction to the final regulation, 25 CFR part 103, which was published in the **Federal Register,** Doc. 01–1249, on January 17, 2001 (66 FR 3861).

List of Subjects in 25 CFR 103

Indians—Insurance, Interest subsidy, and Loan guaranty.

Accordingly, 25 CFR part 103, subpart C is corrected by making the following correcting amendment:

Subpart C—Interest Subsidy

1. The authority citation for Subpart C continues to read as follows:

Authority: 25 U.S.C. 1498, 1511.

2. In § 103.22, in the first sentence, remove the words ''by the Secretary of the Treasury.''

Dated: October 8, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–26163 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–XN–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 46

[T.D. ATF–472a]

RIN 1512–AC59

Delegation of Authority; Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to a final rule published by the Bureau of Alcohol, Tobacco and Firearms in the February 7, 2002, **Federal Register**. The final rule concerned the delegation of the Director's authorities in two parts of the Bureau's tobacco regulations. The final

rule did not contain an amendatory instruction for one section of the miscellaneous regulations relating to tobacco products and cigarette papers and tubes.

DATES: This rule is effective October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226; telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Background

We published a final rule (T.D. ATF 472) in the **Federal Register** on February 27, 2002, (67 FR 8878) placing all of the Director's delegated authorities in parts 45 and 46 of title 27 of the Code of Federal Regulations with the ''appropriate ATF officer.'' The final rule also removed references to specific officers subordinate to the Director.

Along with T.D. ATF 472, we published ATF Order 1130.28, Delegation of the Director's Authorities in 27 CFR Parts 45 and 46, which delegated certain of these authorities to the appropriate organizational level. The issuance of Order 1130.28 consolidated all delegations of authority into one delegation instrument. This action simplified the process for determining which ATF officer is authorized to perform a particular function and will facilitate the updating of such delegations in the future.

Need for Correction

As published, T.D. ATF 472 did not amend 27 CFR 46.8, Data to be shown in claim. Paragraph 13 of the final rule's amendatory instructions should have contained an additional instruction removing the words ''regional director (compliance)'' and adding the words ''appropriate ATF officer'' in the last sentence of § 46.8. This document corrects this inadvertent error, which may prove misleading if it is not clarified.

List of Subjects in 27 CFR Part 46

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Accordingly, 27 CFR part 46 is corrected by making the following correcting amendment:

PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Paragraph 1. The authority citation for part 46 continues to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805, 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

§ 46.8 [Amended]

Par. 2. In the last sentence of § 46.8(f), remove the words ''regional director (compliance)'' and add, in substitution, the words ''appropriate ATF officer''.

Signed: October 3, 2002.

Bradley A. Buckles,

Director.

[FR Doc. 02–25999 Filed 10–11–02; 8:45 am]

BILLING CODE 4810–31–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

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

EFFECTIVE DATE: November 1, 2002.

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

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

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

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

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.00 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for October 2002) of 0.30 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for October 2002) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

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

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

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during November 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects

29 CFR Part 4022

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

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

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

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

2. In appendix B to part 4022, Rate Set 109, as set forth below, is added to the table. (The introductory text of the table is omitted.)

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*
109	11–1–02	12–1–02	3.75	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 109, as set forth below, is added to the table. (The introductory text of the table is omitted.)

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
109	11–1–02	12–1–02	3.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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

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

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

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

* * * * *

For valuation dates occurring in the month—	The values of i^t are:					
	i^t	for t =	i^t	for t =	i^t	for t =
*	*	*	*	*	*	
November 2002	.0500	1–25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 8th day of October 2002.

Joseph H. Grant,

Deputy Executive Director and Chief, Operating Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 02–26111 Filed 10–11–02; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–113]

RIN 2115–AE47

Drawbridge Operation Regulations: Harlem River, Newtown Creek, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations that govern the operation of the Willis Avenue Bridge, mile 1.5, and the Madison Avenue Bridge, mile 2.3, both across the Harlem River, and the Pulaski Bridge, mile 0.6, across Newtown Creek in New York City, New York. This temporary final rule allows the bridge owner to close the above three bridges on November 3, 2002, as follows: Willis Avenue and Madison Avenue bridges from 10 a.m. to 5 p.m. and the Pulaski Bridge from 8:30 a.m. to 3 p.m. This action is necessary to facilitate public safety during the running of the New York City Marathon.

DATES: This rule is effective on November 3, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD01–02–113) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110–3350, between 7 a.m. and 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

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM in the **Federal Register**.

Conclusive information about the New York City Marathon was not provided to the Coast Guard until September 12, 2002, making it impossible to draft or publish a NPRM. This closure is not expected to have a significant impact on navigation because vessel traffic on the Harlem River and Newtown Creek is mostly commercial vessels that normally pass under the draws without openings. The commercial vessels that do require openings are work barges that do not operate on Sundays. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to close the bridge in order to provide for public safety and the safety of marathon participants.

Background and Purpose

The Willis Avenue Bridge, mile 1.5, across the Harlem River has a vertical clearance of 24 feet at mean high water (MHW) and 30 feet at mean low water (MLW) in the closed position. The Madison Avenue Bridge, mile 2.3, across the Harlem River has a vertical clearance of 25 feet at MHW and 29 feet at MLW in the closed position. The Pulaski Bridge across Newtown Creek, mile 0.6, has a vertical clearance of 39 feet at MHW and 43 feet at MLW in the closed position.

The current operating regulations for the Willis Avenue and Madison Avenue bridges, listed at 33 CFR 117.789(c), require the bridges to open on signal from 10 a.m. to 5 p.m., if at least four-hours notice is given. The current operating regulations for the Pulaski Bridge listed at 117.801(g) require it to open on signal if at least a two-hour advance notice is given.

The bridge owner, New York City Department of Transportation (NYCDOT), requested a temporary change to the operating regulations governing the Willis Avenue Bridge, the Madison Avenue Bridge, and the Pulaski Bridge, to allow the bridges to remain in the closed position at different times on November 3, 2002, to facilitate the running of the New York City Marathon. Vessels that can pass under the bridges without bridge openings may do so at all times during these bridge closures.

Regulatory Evaluation

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

This conclusion is based on the fact that the requested closures are of short duration and on Sunday when there have been few requests to open these bridges.

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. 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 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 the bridge closures are of short duration and on Sunday when there have been few requests to open these bridges.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1D, 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 ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

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. On November 3, 2002, from 10 a.m. to 5 p.m., § 117.789 paragraph (c) is temporarily suspended and a new paragraph (h) is added to read as follows:

§ 117.789 Harlem River.

* * * * *

(h) The draws of the bridges at 103rd Street, mile 0.0, 3rd Avenue, mile 1.9, 145th Street, mile 2.8, Macombs Dam, mile 3.2, 207th Street, mile 6.0, and the two Broadway Bridges, mile 6.8, shall open on signal if at least four-hours notice is given to the New York City Highway Radio (Hotline) Room. The Willis Avenue Bridge, mile 1.5, and Madison Avenue Bridge, mile 2.3, need not open for vessel traffic.

3. On November 3, 2002, from 8:30 a.m. to 3 p.m., in § 117.801, paragraph (g) is temporarily suspended and a new paragraph (h) is added to read as follows:

§ 117.801 Newtown Creek, Dutch Kills, English Kills, and their tributaries.

* * * * *

(h) The draw of the Pulaski Bridge, mile 0.6, across Newtown Creek, need not open for vessel traffic. The Greenpoint Avenue Bridge, mile 1.3, across Newtown Creek between Brooklyn and Queens, shall open on signal if at least a two-hour advance notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline or NYCDOT Bridge Operations Office.

Dated: October 3, 2002.

J.L. Grenier,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 02–26008 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–112]

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 Atlantic Beach Bridge, at mile 0.4, across Reynolds Channel at New York. This rule allows the bridge owner to open only one lift span for bridge openings, 7 a.m. to 5 p.m., from November 1, 2002 through November 30, 2002. Two span openings will be granted, provided a two-hour advance notice is given, from one hour before to one hour after predicted high tide. This single span operation is necessary to facilitate bridge painting operations at the bridge.

DATES: This rule is effective from November 1, 2002 through November 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (CGD01–02–112) and are available for inspection or copying at the First Coast Guard District, Bridge Administration Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110–3350, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and 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**.

The Coast Guard believes notice and comment are unnecessary because the bridge painting work that will be performed under this temporary final rule is a continuation, for one extra month, of work previously approved by a temporary final rule published on April 25, 2002 (67 FR 20442) entitled

Drawbridge Operation Regulations, Massachusetts.

This second temporary final rule will continue the temporary operating schedule for an extra month in order to complete the work at the bridge. The mariners who normally use this waterway have agreed to the continuation of the single lift span operation from November 1, 2002 through November 30, 2002.

Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the bridge painting work must continue until the end of November to finish this project.

Background and Purpose

The Atlantic Beach Bridge has a vertical clearance of 25 feet at mean high water, and 30 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at § 117.799.

The bridge owner, Nassau County Bridge Authority, requested a temporary regulation to facilitate painting operations at the bridge. The Coast Guard and the bridge owner held a meeting with the mariners who normally use this waterway to coordinate this bridge painting project and minimize the impacts on the marine transportation system. The single span operation was determined to be acceptable to the mariners because double span openings will be available from one hour before to one hour after the predicted high tide, provided a two-hour advance notice is given.

The bridge owner requested a second temporary final rule to complete the bridge painting that will not be finished by October 31, 2002, the end date of the first temporary final rule. The mariners agreed to the extension of the temporary operating schedule through the end of November to allow the bridge painting work to be completed.

Discussion of Rule

The drawbridge operation regulations at § 117.799, for the Atlantic Beach Bridge, at mile 0.4, across the Reynolds Channel, will be temporarily changed. From November 1, 2002 through November 30, 2002, the bridge will open on signal; however, only one lift span will be opened for the passage of vessel traffic between 7 a.m. to 5 p.m., daily. From 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on weekends and holidays, the bridge will open on signal only on the hour and half hour. From one hour before to one hour after predicted high tide, two lift spans will be opened for the passage of vessel traffic, provided at least a two hour advance notice is given by calling the number posted at the bridge.

Regulatory Evaluation

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

This conclusion is based on the fact that the single span operation was found acceptable by the mariners who normally use this waterway.

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. 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 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 the single span operation was found acceptable by the mariners who normally use this waterway.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant

Instruction M16475.1d, 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 ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

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 November 1, 2002 through November 30, 2002, § 117.799 is temporarily amended by suspending paragraph (e) 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 Atlantic Beach Bridge, mile 0.4, across Reynolds Channel, from November 1, 2002 through November 30, 2002, shall open on signal, except as follows:

(1) Only one lift span need be opened for the passage of vessel traffic between 7 a.m. to 5 p.m., daily, except as provided in paragraph (k)(3) of this section.

(2) From 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on weekends and holidays, the draw shall open on signal only on the hour and half hour, except as provided in paragraph (k)(3) of this section.

(3) From one hour before to one hour after the predicted high tide, two lift spans may be opened for the passage of vessel traffic, provided at least a two-hour advance notice is given by calling the number posted at the bridge. For the purposes of this section, predicted high tide occurs 10 minutes earlier than that predicted for Sandy Hook, as given in the tide tables published by the National Oceanic and Atmospheric Administration.

Dated: September 30, 2002.

V.S. Crea,

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

[FR Doc. 02–26009 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Change To Revise the Five Percent Error Limit for Sequenced Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts a proposal to revise Domestic Mail Manual (DMM) M050 to clarify how additional postage is assessed for Standard Mail Enhanced Carrier Route (ECR) and Periodicals carrier route mailings found to be out of sequence. Concurrent with the DMM amendment, the Postal Service will implement new policies and guidelines for assessing additional postage for Standard Mail and Periodicals carrier route mailings found to be out of sequence. Under the revised policies, for all mail required to be sequenced, no more than 5 percent of the total pieces in the entire carrier route portion of the mailing may be out of sequence.

EFFECTIVE DATE: This final rule is effective November 14, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Bronson, (703) 292–3539.

SUPPLEMENTARY INFORMATION: As a result of classification reform (Postal Rate Commission Docket No. MC95–1), the Postal Service required that both Standard Mail items and Periodicals mail claiming the high density or saturation rates be in walk sequence within a tray or package. For Standard Mail items, basic carrier route rate mail was required to be in either walk-sequence or line-of-travel (LOT) order. With the implementation of Commission Docket No. 2000–1, a sequencing requirement (either walk-sequence or LOT) was added for Periodicals basic carrier route rates.

Current standards state that, for each carrier route receiving mail, no more than 5 percent of the total pieces for each carrier route may be out of sequence or sorted to the wrong carrier route. The standard establishing a 5 percent limit for missequenced or missorted mail to an individual carrier route may cause confusion because it appears that the Postal Service has established a separate standard of compliance for sequencing as compared to other eligibility requirements for ECR or carrier route rates. Actually, the Postal Service routinely uses tolerances when evaluating discounted mailings to ensure compliance with eligibility standards. This policy change will standardize the procedure for determining eligibility for carrier route rates with the procedures for determining eligibility for other workshare discounts.

In addition, the 5 percent limit for missequenced or missorted mail currently is applied to an individual carrier route because, until recently, the Postal Service was able to detect such errors only at the delivery unit and could not easily determine the percentage of error for the entire mailing. Due to advances in technology, this is no longer the case. Tools to assist postal employees when evaluating discounted mailings either during the acceptance process or when conducting audits are now available.

In view of the capabilities provided by these tools, the Postal Service is amending the current standards to apply the 5 percent limit for walk-sequence and LOT errors to the entire mailing, not to an individual carrier route.

One such tool is the Mailing Evaluation Readability and Look-up Instrument (MERLIN) currently being deployed to business mail entry units (BMEUs) and detached mail units (DMUs). The Postal Service will announce when it will start using MERLIN to determine sequencing accuracy at a future date. At that time, the Postal Service will use the established statistically valid sampling methods BMEU and DMU employees currently use when operating MERLIN to determine whether the 5 percent error limit for sequencing is exceeded.

On August 8, 2001, the Postal Service published a proposed rule in the **Federal Register** (66 FR 41485) amending the postal standards to clarify the application of the 5 percent error limit for carrier route sequenced mailings. The Postal Service received eight comments, all of which generally supported the proposal. Most of the comments also included questions and suggestions about how compliance with the sequencing standards would be determined and how any postage adjustments would be assessed. Because these administrative issues need not be addressed in the DMM standards, the Postal Service will clarify these policy issues in this notice and amend the DMM by deleting section M050.2.0, Accuracy, for out-of-sequence mail.

Six commenters asked that the Postal Service reconsider the proposed method for calculating additional postage on

missequenced carrier route pieces. Most asserted that charging a non-carrier route presorted rate was too severe or ''punitive.'' Several also asked that the Postal Service clearly state what rate of postage a mailer would default to if errors exceeding the 5 percent tolerance were found. Two respondents argued that the resequencing option (in lieu of paying higher postage rates) is impractical and should not be considered as a way to mitigate the application of non-carrier route presorted rates. In response to these concerns, the Postal Service and mailing industry representatives jointly developed a process for determining the next higher rate for which missequenced carrier route pieces would be eligible.

Currently, an out-of-sequence carrier route mailing is charged the next higher non-carrier route rate for which the mail qualifies. This can often result in large assessments that do not reflect the value that the Postal Service receives from a tray or bundle of mail sorted to the carrier route, even if it is not appropriately sequenced within the route. The Postal Service and the mailing industry developed a policy that uses the current rate structure to promote effective sequencing while recognizing the value of mail sorted to the carrier route. The Postal Service has determined that this new policy is a reasonable application of existing rates to carrier route mailings for which the only problem is improper sequencing.

Effective November 14, 2002, the Postal Service will implement the following policy and guidelines for assessing additional postage for Standard Mail and Periodicals carrier route mailings found to be out of sequence.

For mail that meets all other requirements for high density or saturation rates, if the pieces are found to exceed the 5 percent sequencing error limit (including being found in reverse walk sequence), the number of pieces that are out of sequence will be determined by multiplying the error percentage by the total pieces in the mailing claimed at the carrier route rates. That portion of the mailing will be charged the basic carrier route rate. This rate is available only when the mailer can demonstrate that an approved sequencing product was used in preparing the mail.

For basic carrier route rate mailings only, reverse sequencing will not disqualify a mailing from the basic rates as long as the mailer used an approved sequencing product in preparing the mail. Therefore, no additional postage is assessed for basic carrier route mailings found to be in reverse sequence. If the 5 percent sequencing error limit is exceeded for other reasons, the percentage of error will be assessed against the carrier route portion of the mailing. That percentage of the carrier route portion of the mailing will be charged the next higher rate for which the mail qualifies. For example, if a basic carrier route mailing is found to be 30 percent out of sequence, 30 percent of the pieces in the mailing claimed at the carrier route rates will be charged the next higher rate for which the pieces qualify. The remaining 70 percent of the basic carrier route rate pieces are not considered out of sequence and are charged the basic carrier route rate.

Two commenters asked whether the application of a barcode to carrier route pieces would make any difference in determining the next higher rate. The presence of a barcode may make a difference, since the next higher rate may be an automation rate if the pieces meet automation standards and are properly barcoded.

One respondent asked whether the Postal Service would take into consideration the work done by the mailing industry to ensure that errors are minimized and quality is maintained. The new policies take these efforts into consideration. The Postal Service included the provision to allow mailers who demonstrate that an approved sequencing product was used in preparing the mail to pay the basic carrier route rates for missequenced carrier route pieces originally claimed at high density and saturation rates. In addition, basic carrier route rate pieces found to be in reverse LOT order may still be considered eligible for that rate as long as the mailer can demonstrate that an approved sequencing product was used in preparing the mail.

One commenter expressed concern about how the new rule will be interpreted with respect to carrier route mailings containing mail eligible for different carrier route rates. The writer suggests that LOT and walk-sequence prepared pieces in the same mailing should be evaluated separately with respect to the 5 percent rule. The Postal Service does not concur with the writer's suggestion. Mailings containing pieces claimed at different carrier route rates are similar to mailings containing pieces claimed at different presorted rates. A verification is conducted on a portion of the mailing to determine whether the entire mailing is properly presorted and the results are applied across the entire mailing.

Four commenters asked for clarification regarding how errors are determined for missequenced versus missorted carrier route pieces. Several writers wanted to know whether there would be two separate 5 percent tolerance levels for missequenced and missorted pieces. One writer asked, ''Are there different error percentages for sorting (that is, to the appropriate carrier route) and sequencing (that is, in proper line of travel)?'' Under this policy, sortation and sequencing are evaluated separately and each has a 5 percent tolerance level for errors.

Two respondents asked whether mailers would have access to the same ''technological innovations'' that the Postal Service now has to detect errors. The MERLIN machines used by the Postal Service to evaluate mailings are commercially available. Mailers may contact the Business Mail Acceptance office at Postal Service Headquarters for information about where to purchase MERLIN machines. Information regarding other tools used by postal employees when conducting audits or reviews of ECR and carrier route rate mailings will be announced in a future **Federal Register** notice.

The following table shows some examples of the cost differential between the carrier route rate and the next higher rate in the event that the pieces are found to be out of sequence. The rates shown are for pieces for which no destination rate is claimed. The table does not include every possible rate combination.

Standard mail letters	ECR rate	Next higher non-auto rate	Difference
Basic [4]	$0.194	$0.248 (PRST 3/5 rate) [1]	$0.054
High Density	0.164	$0.194 (Basic ECR letter rate)	0.030
Saturation	0.152	$0.194 (Basic ECR letter rate)	0.042
Standard mail nonletters (3.3 oz. or less) [2]	**ECR rate**	**Next higher rate**	**Difference**
Basic [4]	$0.194	$0.288 (PRST 3/5 rate) [1]	$0.094
High Density	0.169	$0.194 (Basic ECR nonletter)	0.025

Standard mail letters	ECR rate	Next higher non-auto rate	Difference
Saturation	0.160	$0.194 (Basic ECR nonletter)	0.034
Periodicals (Outside-County)	**CR rates**	**Next higher rate**	**Difference**
Basic	$0.163	$0.256 (5-digit nonauto) [3]	$0.093
High Density	0.131	$0.163 (Basic CR rate)	0.032
Saturation	0.112	$0.163 (Basic CR rate)	0.051
Periodicals (In-County)	**CR rates**	**Next higher rate**	**Difference**
Basic	$0.050	$0.087 (5-digit nonauto) [3]	$0.037
High Density	0.034	$0.050 (Basic CR rate)	0.016
Saturation	0.028	$0.050 (Basic CR rate)	0.022

[1] For ECR basic rate pieces, the next higher rate may also be the Presorted basic rate or an automation rate for which the mail qualifies.
[2] Standard Mail letters and nonletters weighing more than 3.3 ounces are subject to both a per-piece charge and a pound rate. The cost differential between the applicable carrier route rate and the applicable next higher rate for pieces weighing more than 3.3 ounces is not shown on this chart.
[3] For Periodicals carrier route basic rate pieces, the next higher rate may also be the 3-digit rate or an applicable automation rate for which the mail qualifies.
[4] The nonmachinable surcharge that is assessed on Standard Mail letter-size pieces meeting the criteria in DMM C050.2.2 does not apply to pieces mailed at the ECR or automation letter rates. When pieces claimed at the ECR basic rates are found to be ineligible for that rate, the pieces may be subject to the nonmachinable surcharge in addition to the applicable presort rate, depending upon the physical characteristics of the pieces. The nonmachinable surcharge is $0.04 per piece for Standard Mail regular Presorted rate pieces and $0.02 for nonprofit Presorted rate pieces.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following section of the Domestic Mail Manual (DMM) as set forth below:

M Mail Preparation and Sortation

M000 General Preparation Standards

* * * * *

M050 Delivery Sequence

* * * * *

2.0 ACCURACY

[Delete 2.0 in its entirety; renumber 3.0 and 4.0 as 2.0 and 3.0.]

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–26162 Filed 10–11–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA085–WDL; FRL–7393–6]

Partial Withdrawal of Approval of 34 Clean Air Act Part 70 Operating Permits Programs in California; Announcement of a Part 71 Federal Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to our authority under the federal operating permits program regulations, EPA is taking final action to withdraw, in part, approval of the following 34 Clean Air Act title V operating permits programs in the State of California: Amador County Air Pollution Control District (APCD), Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD. Our partial withdrawal of title V program approval is based upon EPA's finding that the State's agricultural permitting exemption at Health and Safety Code 42310(e) unduly restricts the 34 local districts' ability to adequately administer and enforce their title V programs, which have previously been granted full approval status. Therefore, EPA is withdrawing approval of those portions of the 34 district title V programs that relate to sources that are subject to title V but are not being permitted because of the state's agricultural permitting exemption (''state-exempt major stationary agricultural sources''). This notice also fulfills EPA's obligation to inform the public of the implementation of a part 71 federal operating permits program (''part 71 program'') for state-exempt major stationary agricultural sources in California.

EFFECTIVE DATE: This action will become effective on November 14, 2002.

ADDRESSES: Copies of the documentation in the administrative record for this action are available for inspection during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region 9, Air Division, Permits Office (AIR–3), at (415) 972–3974 or *rios.gerardo@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' means EPA.

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I. Background
II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses
III. Description of EPA's Final Action
IV. Effect of EPA's Rulemaking
V. Notification of Part 71 Program Effectiveness
VI. Administrative Requirements

I. Background

Title V of the CAA Amendments of 1990 required all state permitting authorities to develop operating permits programs that met certain federal criteria codified at 40 Code of Federal Regulations (CFR) part 70. On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. *See* 66 FR 63503 (December 7, 2001).[1] Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code of major agricultural sources from title V permitting. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

Sections 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority's legal authority does not meet the requirements of part 70 and the permitting authority fails to take corrective action. To commence regulatory action to partially withdraw title V program approval, EPA's part 70 regulations require as a prerequisite that the affected permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**. Our determination regarding the inadequacy of the 34 districts' title V programs was published in a Notice of Deficiency (NOD). *See* 67 FR 35990 (May 22, 2002). Publication of the NOD fulfilled our obligation under part 70 to provide notice to the title V permitting authorities in the State that they are not adequately administering or enforcing their title V operating permits programs. Pursuant to 40 CFR 70.10(b)(2), publication of the NOD commenced a 90-day period during which the State of California had to take significant action to assure adequate administration and enforcement of the local districts' programs. As described in EPA's NOD, the Agency determined that ''significant action'' in this instance meant the revision or removal of California Health and Safety Code 42310(e), so that the local air pollution control districts could adequately administer and enforce the title V permitting program for stationary agricultural sources that are major sources of air pollution.

During the 90-day period that the State was provided to take the necessary corrective action, EPA proposed to partially withdraw title V program approval in each of the 34 California districts with full program approval. *See* 67 FR 48426 (July 24, 2002). Our notice indicated that we were proposing the partial withdrawal of program approval in anticipation that the State of California would not effect the necessary change in state law prior to the end of the 90-day period on August 19, 2002, but that the Agency's final action on the proposal would only occur after the 90 days for the State to take significant action had fully elapsed. Since the State did not take the necessary action to assure adequate administration and enforcement of the title V program within the required time frame, EPA is now taking final action, pursuant to our authority at 40 CFR 70.10(b)(2)(i), to partially withdraw approval of the title V programs for the 34 local air districts listed above.

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received ten sets of comments on our proposal to partially withdraw approval of the 34 local districts' title V programs. Copies of these comments are available for inspection during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. A summary of the significant comments, and our response thereto, follow.

Comment 1: One commenter argues that EPA's proposed partial withdrawal exceeded the Agency's authority because, although the Act authorizes partial state programs, the Act does not authorize ''hybrid'' programs. The commenter claims that ''partial'' in the context of part 70 has a ''solely geographic meaning.'' Thus, the commenter continues, a permissible partial withdrawal of approval of California's part 70 program would be one in which EPA withdrew approval for some but not all of California district title V programs. The commenter concludes that title V allows only geographic partial programs because simultaneous operation of federal and state permitting programs in a single geographic area could lead to confusion, inconsistency and inefficiency.

Response: The Act does allow for a partial part 70 program that is not based on geographic distinctions. The Act grants EPA broad discretion to withdraw approval of a title V program, without regard to whether the basis for withdrawal is geographic or not. Section 502(i) states: ''Whenever the Administrator makes a determination that a permitting authority is not adequately administering or enforcing a program, or portion thereof * * * the Administrator shall provide notice to the State. * * * [U]nless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall * * * promulgate, administer, and enforce a program under this subchapter for that State.'' The statute does not impose a geographic limitation on partial withdrawal of approval of a title V program.

EPA's title V regulations also do not limit the Agency's ability to *withdraw approval* of a state's title V program according to non-geographic criteria. Unlike partial approvals, which EPA did limit to geographic areas per regulation, partial withdrawals are not so limited. The commenter refers to EPA's authority *to approve* state program submittals under 40 CFR 70.4 for its position that 'a partial part 70 program is one that applies to ''all part 70 sources within a limited geographic area.' '' As the full context of this provision makes clear, 40 CFR 70.4(c) sets forth EPA's authority to grant *approval* to a part 70 program based on geographic criteria. This provision is distinct from the authority under which we are acting today. California has had interim approval for its title V programs since 1995 and final approval of its programs since December 2001; thus, we are not partially approving programs under 40 CFR 70.4, but rather partially withdrawing approval under 40 CFR 70.10.

Section 70.10(b), which authorizes EPA to ''withdraw approval of the program *or portion thereof* * * *'' does not limit EPA's authority to partially withdraw approval of approved title V programs to geographic boundaries. We therefore, interpret part 70 as allowing us the discretion to partially withdraw approval of an approved title V program in a manner that is appropriate to the scope and scale of the determination of inadequate administration or enforcement. The approach EPA has taken here is more appropriate than the

[1] Although there are 35 separate permitting authorities in California, one permitting authority, Antelope Valley APCD, was not included in our final action because it only recently obtained its authority to issue part 70 permits and is still under its initial interim approval status granted on December 19, 2000 (65 FR 79314).

full withdrawal of the 34 part 70 programs supported by commenters. The commenters' approach would require EPA to assume full responsibility from California's local air agencies for permitting all types of sources in the title V program, from refineries to power plants to wood products manufacturers, because of a state law problem that pertains only to the agricultural sector. Today's action is appropriately tailored to the problem it has identified—the inability of California's air districts to require major stationary agricultural sources of air pollution to apply for and obtain title V permits because of an exemption in state law. To subject all major sources within California to part 71 without regard to a problem that is actually narrow in scope would be an overly broad remedy that could also entail substantial confusion and inefficiency. Such disruption to the programs that the California air districts have been implementing for approximately 7 years is unwarranted.

We also do not agree with the comment that having some sources subject to a local part 70 program and other sources subject to a federal part 71 program would lead to confusion. First, many sources already successfully comply with multiple permitting schemes; for instance, a new or modified major source may have to comply with both nonattainment New Source Review and Prevention of Significant Deterioration (''PSD'') permitting programs. In fact, in some locations in California, the nonattainment program is administered by the local agency and the PSD program is administered by EPA. Second, EPA does not anticipate that major agricultural sources covered by the federal part 71 program will also be subject to a local part 70 program.

Finally, we note that it is EPA's preference for the State and the local air districts to be the permitting authorities for the agricultural sources affected by today's rule. If and when these agencies have the ability to administer and enforce the title V program as required by the Act and its implementing regulations, EPA intends to take the actions necessary to hand regulatory authority over these sources to the State and local air agencies.

Comment 2: One commenter claims that EPA's proposed action is inconsistent with 40 CFR § 71.4(f). According to the commenter, section 71.4(f) does not authorize a permitting authority to be subject to portions of a part 71 program. This commenter also states that section 71.4(f) contemplates borrowing from a state program to implement a federal program, not vice versa. To be lawful, the commenter continues, EPA's action should completely withdraw approval of the California air districts' part 70 programs and implement a part 71 program covering all sources within the air districts' geographic area; EPA could then borrow portions of California's former part 70 program to help implement the new federal part 71 program.

Response: We disagree with the commenter's statement, as our action is consistent with our authority in part 71. Section 71.4(f) describes EPA's discretionary authority for issuing permits to individual sources, which we may do under ''any or all of the provisions of [part 71] * * * or [after appropriate rulemaking, under] * * * portions of a state or Tribal permit program in combination with the provisions of [part 71].'' By our action today, EPA intends to issue permits to state-exempt major stationary agricultural sources under the provisions of part 71. We do not believe at this time that additional rulemaking to adopt portions of the California programs will be necessary to complete this process. In addition, contrary to the comment, our action today does not require us to ''borrow'' from a federal program to implement a state program. As explained elsewhere in this notice, we are not implementing a state program; rather, we are using our authority under section 502(i) of the Act and 40 CFR 71.4(c) to implement a Federal operating permits program where a state has failed to adequately administer and enforce its own state operating permits program.

Comment 3: One commenter notes that EPA's action is inconsistent with the timing requirements of title V. The commenter contends that EPA's action should be governed by 40 CFR 70.10(a) (''Failure to submit an approvable program''), not, as EPA has proposed, 40 CFR 70.10(b) (''Failure to adequately administer or enforce'') and (c) (''Criteria for withdrawal of State programs''). The commenter claims that if EPA were proceeding under 40 CFR 70.10(a), rather than 70.10(b) and (c), California would have had 18 months to correct the deficiency before mandatory sanctions would apply, and a part 71 program for California would not be effective until June 1, 2003. The commenter states that according to EPA's current view of section 42310(e), California never submitted an approvable program; therefore, EPA should have disapproved the programs and allowed California's interim approvals to expire.

Response: We disagree with the comment and believe that today's action is an appropriate exercise of our authority under 40 CFR 70.10(b) and (c) and that the timing of sanctions and a federal program are consistent with the Act and our regulations. The provisions of 40 CFR 71.4(a)(2) explain that the effective date of a federal operating permit program will be the date of expiration of interim approval of a state program. The expiration date of the interim approvals for California's title V programs was December 1, 2001; therefore, if EPA had allowed the interim approvals to expire, the effective date of a federal operating permits program would have been December 1, 2001 (not, as the commenter suggests, June 1, 2003), and EPA would have been required to set the due date for applications no later than December 1, 2002.

To the extent the comment should be read as stating that EPA should have made a finding that the California air districts had failed to submit fully-approvable programs or required revisions thereto, we believe that such a comment would have been more appropriately raised during the rulemaking we took approximately one year ago in which we proposed and finalized action on the submitted programs by granting them full approval. *See e.g.*, 66 FR 53354; 66 FR 63503. In that rulemaking, EPA allowed the public an adequate opportunity to comment on our action with respect to the California air districts' submittals. After we took action granting full approval, several entities challenged our action by filing petitions for review with the U.S. Court of Appeals for the Ninth Circuit. This particular commenter, however, did not petition the court for review of our action to approve the submitted programs rather than making a finding of failure to submit an approvable program.

Comment 4: One commenter claims that the timeline in 40 CFR 70.4(i)(1) should govern EPA's action because the agricultural permitting exemption is actually an issue of adequate legal authority. The commenter contends that if a permitting authority lacks legal authority to make a necessary revision, 40 CFR 70.4(i)(1) gives a permitting authority two years to make the revisions.

Response: We disagree with the commenter because we believe that our action is an appropriate exercise of our authority under 40 CFR 70.10(b) and (c). Section 70.4(i)(1) states, in part: ''The program shall be revised * * * within 2 years if the State demonstrates that additional legal authority is necessary to

make the program revision.'' Thus, this section allows, but does not require, EPA to grant a State up to two years to revise the deficient part 70 program. *See, e.g.*, Part 70 NPRM, 56 FR 21712, 21731 (May 10, 1991) (''The Agency *might set a longer time up to 2 years* where legislative action is required at the State level to address problems'') (emphasis added); Part 70 NFRM, 57 FR 32250, 32271 (July 21, 1992) (''If the State demonstrates that additional legal authority is necessary to correct the deficiency, the period *may be extended up to 2 years.*'') (emphasis added).

Moreover, this provision must be read in conjunction with 40 CFR 70.10, which allows EPA to withdraw approval of the program (or a portion of the program) 90 days after issuing a Notice of Deficiency to the state, if the state fails to take significant action to correct the deficiency within that 90-day period. EPA interprets 40 CFR 70.4(i)(1) as placing an outer limit on the amount of time that EPA may give to a state to take the necessary steps to supply additional legal authority. EPA does not agree with the commenter that 40 CFR 70.4(i)(1) demands that EPA allow any state a full two years to correct a legal deficiency without regard to the facts and circumstances surrounding the issue.

In addition, it would not be appropriate to give the State another full two years in this instance. First, we note that the State of California has made no demonstration to EPA that two years is necessary to correct the deficiency we have identified. In certain instances, two years might be necessary for a state to address a shortcoming in the legislation relied upon for administration or enforcement of a state's title V program. For example, EPA is aware that some state legislatures meet only every other year. States with such a legislative calendar might be able to demonstrate to EPA that two years is necessary to provide additional legal authority. California's legislature, however, is in session throughout the year, except for various relatively limited periods of recess.[2] EPA's Notice of Deficiency was issued in May 2002 and efforts were under way to repeal the agricultural permitting exemption before August 31, which was the last day for each house to pass bills for the 2002 legislative session. The commenter did not provide a reason why the State might require a full two years to correct the problem we identified in our Notice of Deficiency. Given the state's legislative calendar, we believe that it is feasible for the California Legislature to supply the additional authority in a time frame less than two years.

Second, we informed California more than six years ago that the agricultural exemption (which has existed in the Health and Safety Code since the late 1970's) was a defect in the program that required correction. Indeed, the California Attorney General identified the exemption as defect in the state's legal authority in the legal opinion the State submitted with the original programs in the early 1990's. In addition, EPA's proposed and final interim approval notices in the mid-1990's confirmed that the defect would have to be corrected in order for the state's programs to secure full approval. Thus, the State's long-standing awareness of this issue also weighs in favor of our invoking our discretion inherent in the part 70 regulations to establish a time frame for legislative action that is less than two years.

Comment 5: One commenter argues that EPA has overreached in defining ''significant action'' by requiring action that must be taken within 90 days to avoid 40 CFR 70.10(b)(2) sanctions. The commenter contends that 40 CFR 70.10(b) allows California 18 months to revise or repeal the agricultural exemption before sanctions or implementation of a part 71 program may occur. The commenter continues that EPA's NOD and proposed rule, however, improperly treat complete correction of the identified deficiency as the ''significant action'' that California must take within 90 days. The commenter notes that other EPA NODs have distinguished between the ''significant action'' and actual correction of the identified deficiencies. Finally, the commenter states that EPA is also unreasonable to expect a state law to be revised or repealed in 90 days because generally, the legislative process required to revise or repeal a statute under California law cannot be completed in 90 days.

Response: We disagree with the comment for several reasons. First, EPA is not aware of any significant action taken by the State of California to assure adequate administration and enforcement of the title V program during the 90-day period provided, and none of the commenters provided any evidence that the State took a ''significant action'' within that time frame that EPA should consider as such. Thus, even if we had not specifically identified removal of the exemption as the necessary ''significant action,'' no ''significant action'' occurred within the 90 days provided for in the regulations.

Morever, the Clean Air Act and EPA's regulations do not require us to distinguish the ''significant action'' a state must take within 90 days from the actual correction that must occur. The fact that we may have given a different State with different deficiencies and facts a different timeline does not indicate that our actions here were unlawful. In fact, the existence of statutory and regulatory authorities for discretionary sanctions demonstrate that no such distinction is required. For the reasons stated earlier (*e.g.*, the State's longstanding knowledge the exemption was a problem; the legislature's calendar), we believe it was reasonable for us to identify removal of the exemption as the significant action in the NOD.

The comment suggests that a distinction is essential because it entitles the state to an 18-month period following the issuance of an NOD to completely correct the issue during which time the state is insulated from the imposition of sanctions. However, section 502(i)(1) of the Act and our implementing regulations authorize us to impose discretionary sanctions earlier than 18 months after notifying the state of the deficiency. 42 U.S.C. 7661a(i)(1); 40 CFR 70.10(b)(2)(ii) and (iii). Thus, the suggestion that the State automatically has 18 months during which it is ''insulated'' from sanctions before it must correct the deficiency is premised on a false assumption, since the State enjoys no 18-month period of insulation. Finally, we note that EPA has not imposed discretionary sanctions against California; rather, our NOD started an 18-month clock, expiration of which would result in mandatory sanctions if the State has not corrected the deficiency we identified. *See* 67 FR 35990 (May 22, 2002).

Comment 6: One commenter contends that in a variety of prior correspondence, EPA has acknowledged that there are unique issues regarding the application of title V to agricultural operations and claims that the proposed rule ignores these previously acknowledged positions regarding agriculture's unique position. The commenter also claims that EPA's proposed action breaches our 1998 Memorandum of Understanding (MOU) with the U.S. Department of Agriculture (USDA) where the agencies agreed to confer on agricultural air quality issues.

Response: EPA agrees that agriculture is a unique industry and that the application of title V for this industry poses some special challenges. Section 502(a) of the Clean Air Act (CAA or the Act), however, requires that a title V permitting program apply to every major

[2] The California Legislature's calendar may be consulted at *http://www.leginfo.ca.gov/legislative_calendar.html.*

source; it does not provide for an exemption based on the unique characteristics of the agricultural industry. As discussed in more detail below, the unique aspects of the agricultural industry can and will be addressed in how the title V program is implemented.

With respect to the correspondence from Agency officials submitted by the commenter, we believe that in some cases the commenter misunderstood the meaning of the letters cited, and in other instances EPA's position has evolved from the time the letter was written. For example, the commenter references several EPA letters from the mid-1990s explaining that a source's fugitive criteria pollutant emissions (such as fugitive dust) do not count when determining whether a source is subject to title V permitting requirements. Although EPA has not changed its position on this issue, the commenter appears to have misinterpreted these letters as assurances from EPA that agricultural sources would not be subject to title V *at all.* Non-fugitive emissions from stationary agricultural sources, however, do count toward title V applicability determinations. Thus, putting into place a title V program that considers non-fugitive emissions for applicability purposes is consistent with the correspondence cited by the commenter.

In other letters referenced by the commenter, EPA officials committed to working with the USDA on agricultural emissions issues and acknowledged the lack of sound emission factors for animal agriculture. EPA disagrees that our proposed rule somehow negates the MOU between our Agency and the USDA. EPA has conferred, and continues to confer, with USDA in an effort to develop a reasonable approach for implementing the title V program for major agricultural sources. We will continue to work with USDA on a host of issues related to the identification of major agricultural sources and the appropriate permitting of these sources under title V of the CAA.

Comment 7: Several commenters argue that emission factors and other data used by environmental groups to argue that there are major agricultural sources in California are outdated and inaccurate. They contend that there is very little data on emissions from agricultural practices and those data are unreliable; therefore, they conclude, it is inappropriate to regulate these sources under title V at this time. Commenters state that, in December 2001, EPA admitted that reliable data and a complete inventory of emissions from agricultural operations were not available and supported deferred implementation for a three-year period. They argue that this three-year deferral period is necessary to make informed and scientifically sound determinations as to agricultural emission inventories.

Response: As noted above, section 502(a) of the Clean Air Act specifically prohibits EPA from exempting major sources of air pollution from title V. California has had numerous opportunities over several years to demonstrate that there are no major agricultural sources in California and has failed to do so. Thus, EPA's final action today is necessary to lay the legal groundwork for the permitting of major stationary agricultural sources in California, where the local permitting authorities are restricted by State law from issuing permits to such sources. Thus, while we may agree that data regarding emission factors could be better in three years, implementation of the title V permitting program for major stationary agricultural sources must move ahead based on the best data available at this time.

Nonetheless, EPA's approach for implementing the title V program for major agricultural sources does, and will continue to, address concerns regarding emissions data. For example, today's action calls for applications from state-exempt stationary agricultural sources that are major due to emissions from diesel-powered engines first, to be followed approximately 3 months later by applications from any other state-exempt major stationary agricultural sources. This staggered application deadline is based, in part, upon the fact that more and better data are available with respect to emissions from agricultural engines than are available for other potentially major agricultural sources, such as Concentrated Animal Feeding Operations (CAFOs). Agricultural sources using stationary diesel engines have more than enough information available to them to determine whether they are subject to title V based on emissions from these engines. Both EPA and the State of California have valid emission factors that can be used to calculate diesel engine emissions based on such considerations as the engine age, size, load factor, and annual hours of operation or fuel usage.

With respect to other potential major agricultural sources of air pollution, EPA agrees that the level of information available is not as robust as it is for agricultural engines. For example, emissions from large animal feeding operations (*e.g.*, dairies, poultry operations, swine facilities) are not as well characterized as are those from diesel agricultural engines. Although we acknowledge that implementation of title V must commence before concerns regarding data are fully resolved, we anticipate that the results of a study by the National Academy of Sciences (NAS), ''The Scientific Basis for Estimating Emissions from Animal Feeding Operations'' will be instrumental to the Agency in making the necessary implementation policy decisions. This study, which has received funding and support from both the EPA and USDA, is intended to assess ''the scientific issues involved in estimating air emissions from individual animal feeding operations (swine, beef, dairy, and poultry) as related to current animal production systems and practices in the United States.'' The Agency will continue its commitment to working closely with our sister federal agency, USDA, as we evaluate the NAS findings and results from other ongoing research efforts, and develop specific guidance for the implementation of the title V permitting program for animal agriculture. The additional guidance, which EPA will make widely available through direct outreach to potentially subject sources and through other means, will provide clearer direction as to the types and sizes of operations that are presumptively major under the title V program.

Comment 8: One commenter stated that there is a lack of clarity in EPA's proposed rule as to which operations or agricultural activities meet the definition of ''major source.'' Specifically regarding dairies, the commenter argued that there is no reliable scientific basis at present for determining air emissions from these operations, and that California's estimates for ROGs/VOCs from dairies have been thoroughly discounted in the regulatory and scientific community.

Response: This comment is similar to Comment 7 in that it, in part, argues that scientific information is not available to determine whether agricultural sources are major sources under title V. To the extent the comment is raising this concern, please see our response to Comment 7.

As a general matter, it is a source's responsibility to determine whether it is a major source subject to permitting requirements. Nonetheless, we agree that agricultural sources in California may not be familiar with this process and we intend to provide additional guidance over the next several months.

As for the comment that the proposed withdrawal notice was unclear in explaining which sources may be subject to title V, EPA disagrees. EPA

has provided information regarding the types of agricultural sources that may be subject to title V requirements, as well as information about certain activities that are not subject to the program. For example, stationary diesel irrigation engines are subject to title V permitting if their emissions alone, or in combination with other stationary source emissions at the same contiguous or adjacent site, rise above the title V threshold for the area in which they are located. In addition, EPA has made clear that, pursuant to our existing regulations, nonroad engines are not required to be permitted, and fugitive emissions of criteria pollutants (such as fugitive dust) are not considered in determining a source's title V applicability.

In addition, a September 2001 letter submitted to EPA by CARB Executive Officer Michael P. Kenny describes numerous agricultural emission sources in California that are already subject to permitting. Post-harvest, out-of-field agricultural activities such as fumigation, ginning, milling, drying, and refining are not exempt under California law and are subject to permitting requirements, including title V. These sources are not, therefore, subject to part 71 permitting by EPA.

Moreover, we also note that the part 71 program that applies once the partial withdrawal takes effect applies only to sources that were exempt under the state agricultural exemption. Thus, it is likely that sources know whether they were covered by the state exemption in the past and, therefore, that they may need to determine whether they are a major source for the part 71 program.

With respect to the ROG emission factor currently used by the State of California to estimate dairy emissions, we acknowledge that there have been a number of concerns recently raised regarding the validity of the factor and the appropriateness of its use to characterize emissions from dairies. However, this factor has been relied upon for regulatory analysis by the State and EPA considers it to be part of the existing data that are currently under review by the NAS. Also, as we previously noted, EPA expects to take into account the final NAS report, as well as the results of other relevant research efforts, in making determinations regarding the appropriate emission factors for various types of animal agriculture, including dairies, sufficiently far in advance of the permit application deadline for subject sources.

Comment 9: One commenter argues that multiple agricultural sources should not be grouped together as one source. The commenter contends that irrigation pumps should be classified separately from other farming activities because ''water mining'' has a distinct standard industrial classification (SIC) code. Another commenter urges EPA to develop a definition of ''source'' for title V that results in each individual diesel pump engine being a separate source.

Response: These issues all address how EPA should implement the part 71 program that will become effective once the partial withdrawal occurs. They do not address the issue before EPA in this action, which is whether to partially withdraw approval of the California part 70 programs and impose a federal part 71 program for state-exempt major stationary agricultural sources at this time.

EPA is working with the USDA to determine how to best implement the part 71 program for agricultural sources. We will consider these comments as we move forward and develop our implementation strategy. The Agency will be providing more specific guidance on this subject sufficiently far in advance of the permit application deadlines to allow sources to determine and meet their permitting obligations.

Comment 10: Some commenters note that many irrigation pumps are non-road engines and are therefore excluded from the definition of stationary source. Another commenter asserts that many potential emission sources at dairies should be considered mobile sources, and thus not counted for major source applicability purposes.

Response: EPA agrees that emissions from engines that meet the ''nonroad engine'' definition at 40 CFR 89.2 are not considered stationary source emissions and would not be regulated by title V. Irrigation pumps that meet the 40 CFR 89.2 definition of a nonroad engine would be those internal combustion engines that are ''portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.'' EPA's regulations further clarify that portable or transportable engines would be considered stationary (as opposed to nonroad) if the engine remains at a location (*i.e.*, any single site at a building, structure, facility, or installation) ''for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source.'' Although EPA agrees that some irrigation pumps would meet the 40 CFR 89.2 nonroad engine definition, others would not meet this definition under the current rules.

The commenter that asserts that many potential emission sources at dairies should be considered mobile did not provide any specific examples of the types of emission sources at dairies that they consider to be ''mobile sources.'' This term is typically used to describe a wide variety of vehicles, engines, and equipment that generate air pollution and that move, or can be moved, from place to place. ''On-road,'' or highway, sources include vehicles used on roads for transportation of passengers or freight. ''Nonroad,'' (also called ''off-road'') sources include vehicles, engines, and equipment used for construction, agriculture, transportation, recreation, and many other purposes. The title V program is a stationary source permitting program and does not, therefore, require the permitting of mobile sources. Emissions from any mobile source at dairies (or at any other potentially major agricultural facility) are not regulated by title V.

Comment 11: One commenter argues that CAFOs are indirect sources of emissions, rather than stationary sources, and thus are not subject to title V permitting requirements. The commenter notes that the Clean Air Act defines an indirect source as ''a facility, building, structure, installation, real property, road or highway which attracts, or may attract, mobile sources of pollution.'' Thus, the commenter continues, similar to a highway or a parking lot, a CAFO itself emits nothing; rather, it is the cows that are housed in barns and other structures that create organic emissions, not the facility itself. Furthermore, the commenter argues, the cattle located in a CAFO may be analogized to the automobiles on a highway or in a parking lot; their emissions potentially make the CAFO an indirect source of emissions.

Response: EPA disagrees that CAFOs are indirect, as opposed to stationary, sources. The definition of ''indirect source'' cited by the commenter is located in section 110(a)(5)(C) of the Act and applies only to that paragraph, which addresses State Implementation Plans for indirect source review programs. The appropriate portion of the statute to consult for title V purposes is section 302(z) of the Act, which defines the term ''stationary source'' as ''generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle.'' Section 71.2 defines ''stationary source'' as ''any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under

section 112(b) of the Act.'' CAFOs plainly fit the definition of stationary source under section 302(z) of the CAA and the title V regulations.

EPA also disagrees with the commenter's assertion that ''a CAFO itself emits nothing.'' CAFOs directly emit a variety of air pollutants from waste storage lagoons, barns, and other buildings, structures, and facilities where animals are confined. Moreover, we note that cows are not mobile sources regulated under title II of the Act.

Comment 12: One commenter argues that the emissions from many operational practices and components of dairies *are* fugitive emissions and thus not subject to title V. Another commenter argues that emissions from certain CAFO sources (*e.g.*, waste lagoons, hog barns, and poultry houses) *are not* fugitive and should be included in determining major source status. The commenter submitted several Agency documents discussing precedents and existing guidance relevant to the definition of ''fugitive emissions'' for purposes of title V.[3]

Response: EPA agrees that any criteria pollutant emissions that are fugitive, even if emitted by a stationary source, would not count toward determination of major source status. See 40 CFR 71.2 (definition of ''major source''). Thus, fugitive dust emissions from a dairy (or other livestock or crop-producing operation) are not counted for title V applicability.

Section 71.2 defines ''fugitive emissions'' as ''those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.'' Some of the concepts regarding fugitive emissions articulated in the EPA documents cited by commenters are: (1) Emissions which are actually collected are not fugitive emissions; (2) where emissions are not actually collected at a particular site, the determination as to whether emissions are fugitive or not should be made by the permitting authority on a case-by-case basis, depending on the specific factual circumstances present; (3) in determining whether emissions could ''reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening,'' reasonableness should be construed broadly and ''the existence of collection technology in use by other sources in a source category creates a presumption that collection is reasonable;'' and (4) where a source is not actually collecting its emissions but there is a presumption that it is reasonable for them to do so (based on such collection at other, similar sources), a permitting authority could consider costs in determining the validity of the presumption.

While EPA believes that these concepts are important guideposts for determining the presumptive fugitive and non-fugitive emission sources at CAFOs, EPA is not making such policy decisions in this rulemaking. As noted above, EPA intends to provide more detailed guidance on the implementation of the title V permitting program for CAFOs and other potential major stationary agricultural sources.

Comment 13: One commenter asserts that EPA is unfairly applying title V to agricultural sources only in California. The commenter argues that if the Agency is going to focus on permitting agricultural sources, then it should adopt a comprehensive approach that applies this program nationally, not just in one state.

Response: EPA does not agree that we are unfairly applying the title V permitting program requirements to agricultural sources in California. The reason EPA is taking action to withdraw approval of the portions of the California title V programs that relate to state-exempt major stationary agricultural sources, thereby obligating the Agency to implement a part 71 federal operating permits program for these sources, is that California state law exempts these sources from permitting by state and local authorities. Since other states do not have such an exemption, title V permitting requirements already apply to any major stationary agricultural sources in other states.[4] In addition, as noted in the September 2001 letter from CARB Executive Officer Michael P. Kenny, many agricultural emission sources in California are already subject to permitting. Post-harvest, out-of-field agricultural activities such as fumigation, ginning, milling, drying, and refining are not exempt under California law and are subject to permitting requirements, including title V. EPA's final rule merely extends the title V permitting requirements to all major sources of air pollution in California, as required by the Clean Air Act.

Comment 14: One commenter suggests that, although EPA's regulations authorize the Agency to establish an accelerated schedule for submittal of part 71 permit applications, the accelerated schedule is not realistic or supportable in this instance because of the difficulty in estimating emissions from agricultural sources. The commenter believes that EPA should have granted all sources the full 12 months to apply for a part 71 permit.

Response: EPA does not agree that the application schedule established in our final rule is ''accelerated.'' As the commenter notes, 40 CFR 71.5(a)(1)(i) provides that major stationary sources which do not have an existing operating permit issued by a State (or local permitting authority) under an approved part 70 program, and which are applying for a part 71 permit for the first time, must submit an application within 12 months after becoming subject to the permit program *or on or before such earlier date as the permitting authority may establish.* Section 71.5(a)(1)(i) further provides that sources required to submit permit applications earlier than 12 months after becoming subject to part 71 must be notified of the earlier submittal date at least 6 months in advance of the date. With EPA's final rule, we are notifying state-exempt major stationary agricultural sources that they are subject to part 71 permitting requirements as of the effective date of this final rule, which provides these sources at least 6 months notice from the effective date. In fact, EPA is establishing a longer application period than the minimum required by our regulations for some agricultural sources (*i.e.*, those that are major due to emissions other than from stationary diesel engines).[5]

Moreover, 40 CFR 71.4(i) requires EPA to take action on one-third of all applications annually over a period not to exceed three years after the effective date of the part 71 program. If we did not require any applications until the end of the first year, we would not be able to take action on one-third of them

[3] *See, e.g.*, memorandum from Thomas C. Curran, Director, Information Transfer and Program Integration Division, to Judith M. Katz, Director, Air Protection Division, EPA Region III, entitled ''Interpretation of the Definition of Fugitive Emissions in Parts 70 and 71,'' dated February 10, 1999, memorandum from Lydia Wegman, Deputy Director, OAQPS, to EPA Regional Air Directors, entitled ''Consideration of Fugitive Emissions in Major Source Determinations,'' dated March 8, 1994, and memorandum from John S. Seitz, Director, OAQPS, to EPA Regional Air Directors, entitled ''Classification of Emissions from Landfills for NSR Applicability Purposes,'' dated October 21, 1994.

[4] The one exception that EPA is aware of is the State of Oregon, which has a similar permitting exemption in their state law. However, the Oregon Attorney General issued a letter confirming that none of the state-exempt agricultural operations are subject to title V (*i.e.*, none of these operations are major sources of air pollution). EPA Region X granted the Oregon title V program full approval in 1995.

[5] In addition, we note that if we had allowed the interim approval to lapse due to the state agricultural exemption, all part 71 permit applications would have been due no later than December 1, 2002, less than two months away.

annually over a three-year period and still have all permits issued within three years of the effective date of the part 71 program. Rather, we would only have taken action on two-thirds of the applications at the end of three years because we would not have been able to take any actions during the first year. Thus, it was appropriate to require some applications early enough into the first year to ensure we could take action on one-third within 12 months of the effective date of the program.

Finally, EPA is committing to provide additional guidance regarding applicability and implementation of the title V permitting program for major stationary agricultural sources well in advance of the actual permit application deadlines. This guidance will assist individual sources in determining their permitting obligations, and will help ensure that all sources that are required to obtain a part 71 permit are able to submit their applications by the appropriate deadline.

Comment 15: One commenter claims that EPA should not have created two separate categories for permit applications. In particular, the commenter finds EPA's reference to any ''remaining'' sources (other than stationary diesel-powered engines) to be unclear.

Response: The Agency does not agree that the part 71 permitting strategy for major agricultural sources is unclear or that we erred in establishing two separate categories for permit application. EPA's final rule establishes a clear obligation for sources with stationary diesel engine emissions above the major source threshold to apply for a part 71 permit by the earlier deadline (May 2003). State-exempt stationary agricultural sources which do not have such emissions above the major source threshold, but which are otherwise major sources of air pollution, would need to apply by the later application deadline (August 2003). The specific guidance that EPA will be providing in the coming months on applicability and implementation of the title V permitting program for major stationary agricultural sources will further assist individual sources in determining their permitting obligations, as well as the appropriate deadline they must meet. As noted above, EPA's staggered application deadlines are based, in part, upon the fact that more and better data are available with respect to emissions from agricultural engines than are available for other potentially major stationary agricultural sources (such as CAFOs). Given this situation, it is appropriate to provide some additional time for the submittal of applications from sources which are major due to emissions other than from stationary diesel engines.

Comment 16: One commenter cites several passages from the June 2002 Interim Report of the NAS Committee on Air Emissions from Animal Feeding Operations and suggests that given the scientific uncertainty and lack of established emission factors for certain agricultural emission sources, EPA should provide a definitive exemption, by regulation, for certain categories of agricultural sources until such time as EPA has established emission factors.

Response: As previously noted, the NAS study of air emissions from animal feeding operations, which is expected to be issued in final form by the end of 2002, will be instrumental to the Agency in making the necessary policy decisions (such as identifying appropriate emission factors or alternative approaches for estimating emissions for various animal agricultural operations) for implementing the title V permitting program in this sector. EPA does not agree that the NAS' interim report provides the basis to exempt any category of agricultural source from the requirements of title V. Also, as noted by other commenters, the Clean Air Act does not authorize any exemption from title V for major sources.

Once the final report is released, the Agency intends to carefully evaluate the NAS findings and results, as well as the results of any other relevant research, and develop specific guidance for the implementation of the title V permitting program for animal agriculture.

Comment 17: Two commenters note that title V must apply to all major sources, with one commenter specifically citing section 502(a) of the Act as explicitly prohibiting the Administrator from exempting any major source from the title V permitting requirements.

Response: We agree that the Clean Air Act does not provide for any exemption from title V permitting for major sources. This clear prohibition compelled the Agency to find the California title V programs, which exempt certain major stationary agricultural sources, deficient, and to take action to partially withdraw title V program approval in the State.

Comment 18: One commenter argues that dairy, chicken, and swine CAFOs all emit significant amounts of criteria air pollutants, including ozone precursor (VOC) emissions. The commenter further argues that the fact that many sources of agricultural emissions have not historically been quantified because of the State's exemption does not justify continued regulatory exemption of the agricultural industry. The commenter believes there should be a title V program implemented for CAFOs in California using currently available data, even while more research is conducted to develop a more rigorous model. Finally, the commenter notes that the title V permitting process itself is an important vehicle by which information on agricultural source emissions can be gathered.

Response: EPA agrees that dairy, poultry, and swine CAFOs are all sources of criteria pollutant emissions. The NAS' Interim Report on air emissions from animal feeding operations (AFOs) notes that, ''substantial emission of nitrogen, sulfur, carbon, particulate matter, and other substances from AFOs do occur.'' However, as we stated above, emissions from large animal feeding operations (*e.g.*, dairies, poultry operations, swine facilities) are not as well characterized as are those from diesel agricultural engines. While EPA expects that the state of CAFO emission data will improve in the future, the implementation of the title V permitting program for state-exempt major stationary agricultural sources must move ahead based on the best data available at this time.

Comment 19: Two commenters state that EPA should review its action in more detail for consistency with the Regulatory Flexibility Act (RFA). One commenter notes that EPA's proposed action inappropriately relied on previous analyses conducted in connection with the original rulemakings for parts 70 and 71. Commenters also challenged EPA's certification that the action would not have a significant impact on a substantial number of small entities for various reasons. For example, one commenter notes that the agricultural industry has unique needs for expediency and variability that will be affected by part 71 requirements for public notification and permit issuance. These commenters also note that the lack of certainty surrounding emissions from agricultural sources will affect numerous small operations that must determine whether they need to submit applications for part 71 permits. One commenter also states that although EPA's proposed rule stated that sources can become synthetic minors, this process is not necessarily simple.

Response: The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements

unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the following reasons, EPA believes that its certification that this action will not result in a significant impact on a substantial number of small entities (SISNOSE) is appropriate; therefore, we disagree with the commenters.

First, this action is a partial withdrawal of the part 70 program in 34 California air districts. It does not entail any substantive change to part 70. Rather, it merely revises Appendix A, which sets forth the status of state program approvals. Moreover, it involves no changes to part 71. Our action today withdraws part 70 approval for state-exempt major stationary agricultural sources; as a consequence of that partial withdrawal, the separate, existing part 71 program applies by operation of law. Because our action involves no revision to the regulations themselves, it is appropriate for EPA to rely on the RFA certifications of no SISNOSE made for those regulations.[6] To the extent the comments reflect a concern that these 1992 and 1996 RFA certifications inadequately addressed small entities in the agricultural industry, these concerns would have been more appropriately raised during the comment period for the part 70 and part 71 rulemakings, and in any challenges to those rulemakings. The part 71 program, which becomes effective in California for state-exempt major stationary agricultural sources as a result of this action, was not challenged in the courts for any reason, let alone the RFA certification.

Moreover, EPA continues to believe that any ''impact'' on the few small businesses that also are state-exempt major stationary agricultural sources potentially subject to part 71 would not be significant. Briefly, the primary, and in many cases only, impact will be the annual costs of applying for and maintaining the part 71 permit. State-exempt major stationary agricultural sources will not be required to purchase and install air pollution control equipment or purchase offsets under title V as at least one commenter alleged. It appears that this commenter was confusing the requirements of the New Source Review program with the requirements of title V.

With regard to comments discussing the burdens small entities may face in evaluating their emissions to determine whether they must submit applications, these comments do not take into account a number of important factors. According to CARB, the state's agricultural permitting exemption does not apply to post-harvest, out-of-field activities; because the scope of today's action is limited to state-exempt sources, it should have no effect on small businesses engaged in these non-exempt activities. In addition, as stated elsewhere in today's action, reliable data are available with respect to emissions from diesel engines used in agriculture. Sources with such units should be able to determine whether they must submit a part 71 application without a significant expenditure of resources. Finally, EPA and the local air districts will be working with the agricultural community to provide guidance for those state-exempt major stationary agricultural sources that may have to apply for a permit in order to minimize any burden associated with the applicability determination and permit application processes.

In addition, although EPA recognizes that the agricultural industry desires flexibility in the timing and implementation of a permit program, EPA believes that such needs are compatible with an operating permit program and, thus, implementation of the part 71 program will not have a significant impact. Many manufacturing and industrial operations also desire a regulatory system that is flexible and adaptable to changes in market supply and demand. In response to a mandate from Congress in this regard (see, *e.g.*, section 502(b)(10) of the Clean Air Act), EPA developed its title V regulations to allow for streamlined and flexible implementation of the state and federal operating permits programs. The part 71 program provisions for timely applications, application and permit shields, permit revisions, and operational flexibility are intended to allow any type of industry sector, including the agricultural industry, the ability to add or change equipment with minimal, if any, interference in daily operations. For example, part 71's application shield allows a source that submits a complete application for its initial part 71 permit to operate in compliance with that application until it receives its permit, which should address any concerns regarding the timing of actual permit issuance. *See* 40 CFR 71.5(a)(2). In addition, part 71's permit revision procedures do not require public notification for many types of changes at a facility and allow a facility to make these changes upon submittal of its application. *See,* 40 CFR 71.7(e)(1).

Moreover, any impact should occur at only a few state-exempt major stationary agricultural sources that are small businesses for several reasons. Those reasons, discussed in more detail in the Administrative Requirements section of this notice, include (1) the monetary threshold for small agricultural businesses; (2) the fact that part 71 applies only to major sources of air pollution, which tend to be larger operations; and (3) the fact that fugitive emissions from farming operations (*e.g.*, harvesting) are not counted towards major source applicability, reducing the number of agricultural sources likely to be subject to the program.

With respect to the option of becoming a synthetic minor source, there are many other mechanisms available to limit potential emissions from a farm, including prohibitory rules and general permits. We note that USDA's comments to our proposed action observed that there are ''relatively few'' small business farms that have actual emissions above the applicable major source thresholds. We intend to work with the USDA and local air districts to implement mechanisms for limiting potential emissions in time for the title V permit application deadlines and thereby appropriately limit the number of sources subject to the part 71 program.

Comment 20: One commenter takes issue with EPA's view that E.O. 13045 does not apply to the proposed rule because ''it does not involve decisions intended to mitigate environmental health or safety risks.'' This commenter states that it does not seem reasonable for EPA to include major stationary agricultural sources in part 71 if no mitigation of environmental health risks is expected.

Response: Executive Order 13045, entitled 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. Today's action involves the exercise of our authority under part 70 and the implementation of part 71, which are title V operating permit programs that basically record and assure compliance with already-existing applicable requirements; they do not require new

[6] Indeed, it is questionable whether today's action has any direct impact on state-exempt agricultural sources because it is, in essence, a withdrawal of regulatory authority—we are partially withdrawing approval of the existing state program. That a federal program is automatically put into place upon such withdrawal is a requirement of the existing part 70 and part 71 regulations and not a new requirement established by today's actions.

reductions in emissions or other emissions restrictions. Therefore, it does not involve any major new decisions directed towards the mitigation of environmental health or safety risks. Likewise we do not believe that today's decision will have a disproportional adverse effect on children. In addition, as discussed above, the regulation of state-exempt major stationary agricultural sources is required by title V of the Act. Finally, the thrust of commenter's claim that is that we should not apply part 71 to agricultural sources absent mitigation of environmental risks. By helping to assure compliance with applicable requirements, the application of part 71 to agricultural sources moves in the direction of reducing environmental risks to children (as well as adults). Thus, today's decision would be consistent with the purposes of Executive Order 13045 if it applied.

III. Description of EPA's Final Action

After thorough consideration of the comments submitted in response to our proposed rule, EPA is taking action to withdraw, in part, approval of the 34 fully approved Clean Air Act title V (part 70) Operating Permits Programs in the State of California. We are only withdrawing approval of the portions of the programs that relate to state-exempt major stationary agricultural sources; because they have the ability to adequately administer and enforce their part 70 programs for non-exempt major stationary sources, each of the 34 local air districts will continue to administer their existing title V program for all other title V sources. As described more fully in the sections above and in our proposed rule, EPA's action is necessary because the local air districts in the State cannot issue, administer or enforce operating permits for certain major stationary agricultural sources, which are required to obtain permits under title V of the Act.

IV. Effect of EPA's Rulemaking

As a result of the partial withdrawal of part 70 program approval effected by today's action, EPA will be implementing (as of the effective date of today's final rule) a federal operating permits program under 40 CFR part 71 (''part 71 program'') for state-exempt major stationary agricultural sources within the jurisdiction of the 34 California air districts listed at the beginning of this notice. EPA is not promulgating a part 71 program with today's action, since such a program has already been promulgated by the Agency. See 61 FR 34202 (July 1, 1996). Today's action to partially withdraw approval of the fully approved part 70 programs in the State merely establishes the effective date of the Agency's implementation of this existing part 71 program for state-exempt major stationary agricultural sources.

Pursuant to 40 CFR 71.5(a)(1)(i), major stationary sources which do not have an existing operating permit issued by a State (or local permitting authority) under an approved part 70 program, and which are applying for a part 71 permit for the first time, must submit an application within 12 months after becoming subject to the permit program or on or before such earlier date as the permitting authority may establish. Section 71.5(a)(1)(i) further provides that sources required to submit permit applications earlier than 12 months after becoming subject to part 71 shall be notified of the earlier submittal date at least 6 months in advance of the deadline. We are today notifying state-exempt major stationary agricultural sources within the jurisdiction of the 34 California air districts that they are subject to part 71 permitting requirements as of the effective date of this final rule. We are also notifying these sources of the following permit application deadlines: (1) State-exempt stationary agricultural sources that are major sources, as defined in 40 CFR 71.2, due to emissions from diesel-powered engines must submit part 71 permit applications to the EPA Region IX Permits Office no later than May 14, 2003; and (2) any remaining state-exempt major stationary agricultural sources must submit part 71 permit applications to the EPA Region IX Permits Office no later than August 1, 2003.

As we noted above in our response to comments, EPA is committing to provide additional guidance on the implementation of the part 71 program for state-exempt major stationary agricultural sources. The additional guidance, which EPA will make widely available through direct outreach to potentially subject sources and through other means, will provide clearer direction as to the types and sizes of operations that are presumptively major under the title V program. It is also EPA's intention to develop, as part of this guidance, streamlined application forms, user-friendly instructions, and general permit templates and to disseminate these documents for use by subject sources.[7] However, it is ultimately the responsibility of the source to submit a permit application if it is subject to the part 71 program, regardless of whether contact is initiated by EPA or any other regulatory authority. An owner or operator of a source may choose to submit a written request to EPA for a part 71 applicability determination. Pursuant to 40 CFR 71.3(e), the written request shall be made by the source's responsible official to the EPA Region IX Regional Administrator, shall include identification of the source and relevant facts about the source, and shall meet the certification requirements of 40 CFR 71.5(d).

V. Notification of Part 71 Program Effectiveness

Section 71.4(g) requires that, in taking action to implement and enforce a part 71 program, EPA shall publish a notice in the **Federal Register** informing the public of such action and the effective date of any part 71 program. By this notice, EPA is informing the public of the Agency's implementation of a part 71 federal operating permits program for state-exempt major stationary agricultural sources located within the jurisdiction of the 34 California air districts listed at the beginning of this notice. The effective date of this program is November 14, 2002.

In addition to the requirement to publish notice of the effectiveness of a part 71 program in the **Federal Register**, 40 CFR 71.4(g) also requires that the Agency, ''to the extent practicable, publish notice in a newspaper of general circulation within the area subject to the part 71 program effectiveness.'' EPA will, to the extent practicable, publish notice in one or more newspapers of general circulation within the areas subject to the part 71 program effectiveness. Finally, in accordance with 40 CFR 71.4(g), EPA will be providing a letter to Winston H. Hickox, Secretary, California Environmental Protection Agency, as California Governor Gray Davis' designee, to provide notice of the effectiveness of EPA's part 71 program for state-exempt major stationary agricultural sources.

VI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

[7] If an owner or operator of a subject source prefers to use the standard part 71 permit application, those forms, as well as instructions for completing the forms, are available electronically at *www.epa.gov/air/oaqps/permits/p71forms.html*. Part 71 permit applicants may also contact the EPA Region IX Air Permits Office as described in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

B. 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.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the 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 rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. 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.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. Moreover, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicited comment on the proposed rule from tribal officials.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities. In developing the original part 70 regulations and the proposed revisions to part 70, the Agency determined that they would not have a significant economic impact on a substantial number of small entities. *See* 57 FR 32250, 32294 (July 21, 1992), and 60 FR 45530, 45563 (August 31, 1995). Similarly, the same conclusion was reached in an initial regulatory flexibility analysis performed in support of the 1996 part 71 rulemaking. *See* 61 FR 34202, 34227 (July 1, 1996); see also 64 FR 8262 (Feb. 19, 1999). Only a small subset of sources subject to the part 71 rule would be affected by today's action. The prior screening analyses for the part 70 and part 71 rules were done on a nationwide basis without regard to whether sources were located within California and are, therefore, applicable to sources in California. Accordingly, EPA believes that the screening analyses are valid for purposes of today's action. And since the screening analyses for the prior rules found that the part 70 and 71 rules as a whole would not have a significant impact on a substantial number of small entities, today's action, which would affect a much smaller number of entities than affected by the earlier rules, also will not have a significant impact on a substantial number of small entities.

EPA believes that few if any small businesses involved in the production of crops or animals in California would be subject to part 71 as a result of this rule. First, EPA notes that the Small Business Administration, pursuant to its authority under 15 U.S.C. 632(a) and 634(b)(6), has established thresholds for various business sectors to be used in the determination of whether a business is ''small.'' *See,* 13 CFR part 121. For most businesses involved in the production of crops or animals (those that would most likely be subject to part 71 because of this rule), the SBA has set the ''small business'' threshold as $750,000 in annual receipts. (The threshold for cattle feedlots is $1.5 million; the threshold for chicken egg production is $10.5 million.) *See* 13 CFR 121.201; *see* also, 13 CFR 121.104. Businesses that have annual receipts in excess of that threshold are not ''small businesses.'' Second, EPA's rule would require only major sources of air pollution to obtain a part 71 operating permit. For instance, in the San Joaquin Valley, the threshold for major sources of oxides of nitrogen or volatile organic compounds is 25 tons per year; the threshold for major sources of particulate matter is 70 tons per year.

Most other air districts in California have higher thresholds and consequently fewer sources in those districts would be subject to part 71. Furthermore, EPA does not include a source's fugitive emissions of criteria pollutants in determining whether part 71 applies to it. In addition, for sources that might have the potential to emit above the major source threshold, but have actual emissions below the threshold, the Agency has issued several policy memoranda explaining mechanisms for these sources to become ''synthetic minors.'' These sources are recognized as not emitting pollutants in major quantities and may avoid the requirement to apply for a part 71 permit. Moreover, to the extent there is any impact, it will not be significant because part 71 imposes few if any additional substantive requirements. EPA intends to provide assistance to all sources that would become subject to part 71 as a result of this rulemaking.

Consequently, I hereby certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this action under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0336. The information is planned to be collected to enable EPA to carry out its obligations under the Act to determine which sources are subject to the Federal Operating Permits Program and what requirements should be included in permits for sources subject to the program. Responses to the collection of information will be mandatory under 40 CFR 71.5(a) which requires owners or operators of sources subject to the program to submit a timely and complete permit application and under 40 CFR 71.6 (a) and (c) which require that permits include requirements related to recordkeeping and reporting. As provided in 42 U.S.C. 7661b(e), sources may assert a business confidentiality claim for the information collected under section 114(c) of the Act.

In the Information Collection Request (ICR) document for the July 1996 final part 71 rule (ICR Number 1713.02), EPA estimated that 1,980 sources in 8 states would potentially be subject to part 71. EPA also estimated that the annual burden per source would be 329 hours, and the annual burden to the Federal government is 243 hours per source. EPA believes that these burden estimates are significantly higher than the burdens associated with today's rule. First, EPA estimates that the number of agricultural sources in California will be significantly less than the number on which the July 1996 estimates were based. In addition, State and local laws have traditionally exempted agricultural sources from many air pollution regulations. Therefore, agricultural sources will have fewer applicable requirements than the average part 71 source; accordingly, the burdens associated with permit applications and recordkeeping and reporting requirements should be minimal and far less than those for the typical part 71 source. Today's action would impose no burden on State or local governments and no burden on Tribal agencies. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

J. Submission to Congress and the Comptroller General

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

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 16, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 2, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by revising paragraphs (a) through (hh) under California to read as follows:

Appendix A To Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

The following district programs were submitted by the California Air Resources Board on behalf of:

(a) *Amador County Air Pollution Control District (APCD):*

(1) Complete submittal received on September 30, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 10, 2001. Amador County Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(b) *Bay Area Air Quality Management District (AQMD):*

(1) Submitted on November 16, 1993, amended on October 27, 1994, and effective as an interim program on July 24, 1995. Revisions to interim program submitted on March 23, 1995, and effective on August 22, 1995, unless adverse or critical comments are received by July 24, 1995. Approval of interim program, including March 23, 1995, revisions, expires December 1, 2001.

(2) Revisions were submitted on May 30, 2001. Bay Area Air Quality Management District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(c) *Butte County APCD:*

(1) Complete submittal received on December 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 17, 2001. Butte County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(d) *Calaveras County APCD:*

(1) Complete submittal received on October 31, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 27, 2001. Calaveras County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(e) *Colusa County APCD:*

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 22, 2001 and October 10, 2001. Colusa County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(f) *El Dorado County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 16, 2001. El Dorado County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(g) *Feather River AQMD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 22, 2001. Feather River AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(h) *Glenn County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 13, 2001. Glenn County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(i) *Great Basin Unified APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. Great Basin Unified APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(j) *Imperial County APCD:*

(1) Complete submittal received on March 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. Imperial County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(k) *Kern County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. Kern County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(l) *Lake County AQMD:*

(1) Complete submittal received on March 15, 1994; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. Lake County AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(m) *Lassen County APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on August 2, 2001. Lassen County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(n) *Mariposa County APCD:*

(1) Submitted on March 8, 1995; approval effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on September 20, 2001. Mariposa County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(o) *Mendocino County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on April 13, 2001. Mendocino County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(p) *Modoc County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 12, 2001. Modoc County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(q) *Mojave Desert AQMD:*

(1) Complete submittal received on March 10, 1995; interim approval effective on March 6, 1996; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001 and July 11, 2001. Mojave Desert AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(r) *Monterey Bay Unified Air Pollution Control District:*

(1) Submitted on December 6, 1993, supplemented on February 2, 1994 and April 7, 1994, and revised by the submittal made on October 13, 1994; interim approval effective on November 6, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 9, 2001. Monterey Bay Unified Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(s) *North Coast Unified AQMD:*

(1) Complete submittal received on February 24, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. North Coast Unified AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(t) *Northern Sierra AQMD:*

(1) Complete submittal received on June 6, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 24, 2001. Northern Sierra AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(u) *Northern Sonoma County APCD:*

(1) Complete submittal received on January 12, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. Northern Sonoma APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(v) *Placer County APCD:*

(1) Complete submittal received on December 27, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 4, 2001. Placer County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(w) *The Sacramento Metropolitan Air Quality Management District:*

(1) Complete submittal received on August 1, 1994; interim approval effective on September 5, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 1, 2001. The Sacramento Metropolitan Air Quality Management District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(x) *San Diego County Air Pollution Control District:*

(1) Submitted on April 22, 1994 and amended on April 4, 1995 and October 10, 1995; approval effective on February 5, 1996, unless adverse or critical comments are received by January 8, 1996. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 4, 2001. The San Diego County Air Pollution Control District was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(y) *San Joaquin Valley Unified APCD:*

(1) Complete submittal received on July 5 and August 18, 1995; interim approval effective on May 24, 1996; interim approval expires May 25, 1998. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on June 29, 2001. San Joaquin Valley Unified APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(z) *San Luis Obispo County APCD:*

(1) Complete submittal received on November 16, 1995; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. San Luis Obispo County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(aa) *Santa Barbara County APCD:*

(1) Submitted on November 15, 1993, as amended March 2, 1994, August 8, 1994, December 8, 1994, June 15, 1995, and September 18, 1997; interim approval effective on December 1, 1995; interim approval expires on December 1, 2001.

(2) Revisions were submitted on April 5, 2001. Santa Barbara County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(bb) *Shasta County AQMD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 18, 2001. Shasta County AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(cc) *Siskiyou County APCD:*

(1) Complete submittal received on December 6, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on September 28, 2001. Siskiyou County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(dd) *South Coast Air Quality Management District:*

(1) Submitted on December 27, 1993 and amended on March 6, 1995, April 11, 1995, September 26, 1995, April 24, 1996, May 6, 1996, May 23, 1996, June 5, 1996 and July 29, 1996; approval effective on March 31, 1997. Interim approval expires on December 1, 2001.

(2) Revisions were submitted on August 2, 2001 and October 2, 2001. South Coast AQMD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(ee) *Tehama County APCD:*

(1) Complete submittal received on December 6, 1993; interim approval effective on August 14, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on June 4, 2001. Tehama County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(ff) *Tuolumne County APCD:*

(1) Complete submittal received on November 16, 1993; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on July 18, 2001. Tuolumne County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(gg) *Ventura County APCD:*

(1) Submitted on November 16, 1993, as amended December 6, 1993; interim approval effective on December 1, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 21, 2001. Ventura County APCD was granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

(hh) *Yolo-Solano AQMD:*

(1) Complete submittal received on October 14, 1994; interim approval effective on June 2, 1995; interim approval expires December 1, 2001.

(2) Revisions were submitted on May 9, 2001. Yolo-Solano AQMD is hereby granted final full approval effective on November 30, 2001.

(3) Approval is withdrawn for state-exempt major stationary agricultural sources, effective on November 14, 2002.

* * * * *

[FR Doc. 02–26174 Filed 10–11–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3430 and 3470

[WO–320–1430–PB–24 1A]

RIN 1004–AD43

Coal Management: Noncompetitive Leases; Coal Management Provisions and Limitations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule corrects a technical error relating to coal lease modifications made in a 1999 final rule. It also amends the regulations to reflect the statutory increase in the maximum acreage of Federal leases for coal that an individual or entity may hold in any one state and nationally.

EFFECTIVE DATE: November 14, 2002.

ADDRESSES: You may send inquiries or suggestions to Director (320), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, VA 22153. We will maintain the administrative record for this rule at the Bureau of Land Management, Regulatory Affairs Group (630), Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli at (202) 452–0350.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments
III. Discussion of the Rule
IV. Procedural Matters

I. Background

A. Lease Modifications

This rule amends the regulations of the Bureau of Land Management (BLM) to reflect correction of a technical error regarding the requirement of a public hearing and publication in the **Federal Register** and a general circulation newspaper of a notice of availability of environmental analysis documents for coal lease modifications. This error was made in conjunction with the BLM's September 1999 regulatory revisions incorporating public participation procedures into the competitive coal leasing regulations. For a detailed discussion of how the error occurred and its effects, see the proposed rule published January 18, 2002 (67 FR 2618).

B. Acreage Limitation

This final rule also changes the regulations on coal lease acreage limitations to conform them to a recent statutory change. On October 23, 2000, the United States Senate passed S. 2300, which became Public Law 106–463 on November 7, 2000. This law, known as the Coal Competition Act of 2000, amended Section 27(a) of the Mineral Leasing Act (30 U.S.C. 184(a)) to increase the amount of acreage of Federal coal leases, or permits that an individual or entity may hold in a single state from 46,080 acres to 75,000 acres and raised the national acreage limit from 100,000 acres to 150,000 acres. This final rule changes the acreage limitations in the regulations to conform to those in the statute. For a complete discussion of the reasons for the statutory changes and their effects, see the preamble of the proposed rule (67 FR 2618).

II. Discussion of Comments

Three letters, one from a law firm and two from state government agencies, addressed the proposed rule. All of the comment writers either supported the proposed rule generally or stated that they had no comment on it.

III. Discussion of the Rule

In light of the lack of substantive comments suggesting changes in the regulations, we are publishing the rule as it was proposed in the correction and extension document published April 12, 2002 (67 FR 17962), without change. That document corrected a drafting error in the original proposed rule published on January 18, 2002 (67 FR 2618).

IV. Procedural Matters

National Environmental Policy Act

BLM prepared an environmental assessment (EA) and found that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). As discussed fully in the proposed rule, this rule implements a technical correction to the public participation rule completed on September 28, 1999 (64 FR 52239) and a change to the Mineral Leasing Act which was made by Congress. The Mineral Leasing Act amendment changed the acreage limitations for coal leases. As stated in the EA, the final rule should lead to more efficient production and economic recovery of the coal resource. However, it should not in and of itself lead to new mining. While more efficient mining may have environmental consequences, BLM will consider these consequences on a case-by-case basis in preparing environmental analyses before issuing a new coal lease or modifying an existing one. Therefore, a detailed statement under NEPA is not required. We have placed the EA and the Finding of No Significant Impact (FONSI) on file in our Administrative Record at the address specified in the **ADDRESSES** section.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action and was not subject to review by the Office of Management and Budget under Executive Order 12866. This rule will not have an annual effect of $100 million or more on the economy. The rule affects coal leasing in only two ways: shortening the lease modification procedure, and increasing lease acreage limitations.

Further, historically, lease modifications have not had significant economic effects on the economy. In Fiscal Year 2001, there were 317 coal leases of various kinds, generating royalties of $337,750,444 on production of 393,509,351 tons of Federal coal, with an average market value of $7.85 per ton, from 473,303 acres of public lands. Of these leases, in FY 2001, only 2 leases were subjects of lease modification. Since a lessee can only add maximum of 160 acres by lease modification over the entire term of the lease, it is clear that the economic effect of lease modifications is tiny compared with the coal program as a whole. The largest number of lease modifications that BLM has processed in the past few years has been 6, in FY 1998, affecting a total of 733 acres. Analyzing this strictly from averages, and using the value from FY 2001, the market value of coal affected by these modifications should have been about $4,784,701 in FY 1998, assuming, of course, that it all would have been immediately available for mining in that year. Total value for other recent years, based on the lower numbers and acreages of lease modifications shown in the accompanying chart, should have been only a fraction of this value. The following table summarizes lease modifications over the past few years.

BLM COAL LEASE MODIFICATIONS, FY1997–FY2001

State	FY1997		FY1998		FY1999		FY2000		FY2001	
	Lease Mods	Acres	Lease Mods	Acres	Lease Mods	Acres	Lease Mods	Acres	Lease Mods	Acres
Colorado	1	100	1	160			2	288		
Kentucky									1	160
Montana			3	303	1	10				
Utah	1	133	2	240	2	200			1	122
*Total	2	233	6	703	3	210	2	288	2	282

Of course, since we do not know precisely how much coal was produced from the lease modifications shown, we state the 1998 dollar figures only to provide a sense of how small the effect of lease modifications is, compared with the threshold in the executive order. Further, the effects of the mistake that we are correcting in this rule were—

- Somewhat longer time for processing a lease modification,
- Somewhat higher cost for processing a lease modification.

(Neither of these effects was required by law or policy; rather, they were solely a consequence of the drafting error.) Therefore, the effects of this final rule amount to a financial benefit to the coal industry and BLM due to reducing the time required for lease modifications and the administrative cost of processing them.

The reduced costs to BLM and the lease modification applicant from avoiding a 2 to 3 month delay to allow the public participation inadvertently required by the 1999 rule are difficult to segregate and quantify. As a minimum, we estimate the savings in processing costs (for **Federal Register** processing and document preparation) will approach $10,000 per lease modification application. Assuming an average number of lease modification applications per year of 3, the total savings may be nearly $30,000.

The other element of savings created by this final rule is the reduction in opportunity costs. The unintended consequence of the 1999 rule was that some operators may not have been able to develop the resources contained in the lease modifications in a timely manner, or at all. Those costs would have been imposed if, due to the additional processing time, BLM could not approve the lease modification in time to allow recovery of the resources. If the lease modification is not processed in time for the coal it contains to be mined with the rest of the coal in the lease, the public will lose revenues from bonus payments and royalties. We estimate that this final rule will enable the public to avoid bonus and royalty revenue losses of about $2,200 per acre on average, and with an expected 3 modifications at a maximum of 160 acres each, the total revenue impact is about $1,056,000 per year, which, though substantial, is less than 1 percent of the total coal royalty revenues for FY 2001, and far less than the $100 million annual threshold in the Executive Order.

The second change amends our regulations to reflect acreage limitations changed by Public Law 106–463. We cannot quantify the economic impact of increasing the acreage limitations, because it would involve what would amount to speculation about future coal leases or mergers of current coal lessees. We do, however, see this as positive for industry in that it will allow greater flexibility for coal operators to maintain coal reserves that are readily available for production and consumption. Currently, to allow for proof of successful reclamation, lessees must wait as long as 10 years before they can relinquish a lease after production has ended. The acreage in a lease that has been mined out but not reclaimed counts the same to the state and national acreage limitations as a new lease that has never been mined.

The rule 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. It will enhance economic recovery of coal, minimize bypasses, and improve mining efficiency.
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.
- Alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients.
- Raise novel legal or policy issues.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule, as described above, merely implements a statutory change to the regulations that apply to leasing Federal coal resources, and the rule change itself will not have a significant impact on any small entities. Rather, it is the legislation which affects these entities. The regulations make no substantive change beyond what Congress has already enacted. Further, the rule corrects a technical error in the final rule published on September 28, 1999 (64 FR 52239), which was fully analyzed for RFA compliance when published. Therefore, BLM has determined under the RFA that this final rule does not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This final rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). This rule merely makes a technical correction in the final rule published on September 28, 1999 (64 FR 52239), and implements a change to the state acreage limits that has been made by Congress. This rule is limited to making BLM's regulations consistent with the law.

Unfunded Mandates Reform Act

This final rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year; nor will the rule have a significant or unique effect on state, local, or tribal governments or the private sector. As discussed above, this rule merely changes BLM's coal leasing regulations regarding acreage limitations to comply with Public Law 106–463 and makes a technical correction to the coal leasing regulations regarding lease modifications. Therefore, BLM is not required to prepare a statement

containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This rule does not represent a government action capable of interfering with constitutionally protected property rights. The rule is limited to changes reflecting Congress's amendment raising the state and nationwide acreage limits for coal leases, and correcting a technical error relating to regulations governing coal lease modifications. Therefore, the Department of the Interior has determined that the rule will not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

This rule 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. The rule is limited to changes to reflect Congress's amendment raising the acreage limits for coal leases and to correct a technical error pertaining to coal lease modifications. Therefore, in accordance with Executive Order 13132, BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. The rule should have a favorable effect on energy production. It should improve efficiency in production by increasing acreage limitations and by removing procedural requirements inadvertently and erroneously applied to lease modifications in an earlier rule.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, we have found that this final rule does not include policies that have tribal implications. Since this rule does not make significant changes to BLM policy and does not specifically involve Indian reservation lands, we have determined that the government-to-government relationships should remain unaffected.

Principal Author

The principal author of this rule is Mary Linda Ponticelli of the Solid Minerals Group, assisted by Ted Hudson of the Regulatory Affairs Group, Bureau of Land Management, Washington, DC.

List of Subjects

43 CFR Part 3430

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 3470

Coal, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Dated: September 26, 2002.

Rebecca W. Watson,

Assistant Secretary of the Interior.

Under the authorities cited below, and for the reasons stated in the Supplementary Information, BLM amends Subchapter C, Chapter II, Subtitle B of Title 43 of the Code of Federal Regulations, as follows:

PART 3430—NONCOMPETITIVE LEASES

1. The authority citation for part 3430 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351—359; 30 U.S.C. 521—531; 30 U.S.C. 1201 *et seq.*; and 43 U.S.C. 1701 *et seq.*

Subpart 3432—Lease Modifications

2. Amend § 3432.3 by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 3432.3 Terms and conditions.

* * * * *

(c) Before modifying a lease, BLM will prepare an environmental assessment or environmental impact statement covering the proposed lease area in accordance with 40 CFR parts 1500 through 1508.

(d) For coal lease modification applications involving lands in the National Forest System, BLM will submit the lease modification application to the Secretary of Agriculture for consent, for completion or consideration of an environmental assessment, for the attachment of appropriate lease stipulations, and for making any other findings prerequisite to lease issuance.

PART 3470—COAL MANAGEMENT PROVISIONS AND LIMITATIONS

3. The authority citation for part 3470 continues to read as follows:

Authority: 30 U.S.C. 189 and 359 and 43 U.S.C. 1733 and 1740.

Subpart 3472—Lease Qualification Requirements

§ 3472.1–3 [Amended]

4. Amend § 3472.1–3 by—

a. removing from paragraph (a)(1) the terms ''46,080 acres'' and ''100,000 acres'', and adding in their place the terms ''75,000 acres'' and ''150,000 acres'', respectively; and

b. removing from the first sentence of paragraph (a)(2) the date ''August 4, 1976,'' and adding in its place the date ''November 7, 2000,'' and removing from each place it appears in paragraph (a)(2) the term ''100,000 acres'' and adding in its place the term ''150,000 acres''.

[FR Doc. 02–26064 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–84–P

Proposed Rules

Federal Register
Vol. 67, No. 199
Tuesday, October 15, 2002

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV02–993–2 PR]

Dried Prunes Produced in California; Revising the Regulations Concerning Compensation Rates for Handlers' Services Performed Regarding Reserve Prunes Covered Under the California Dried Prune Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on revising the regulations concerning compensation rates for handlers' services performed in connection with reserve prunes covered under Marketing Order No. 993 (order). The order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule would establish a procedure in the administrative rules and regulations which the Committee would follow to compute the level of handler payments for holding reserve prunes during and beyond the crop year of acquisition. These payment rates would reflect current industry costs. The rule also would establish time frames for changing the payment rates, and procedures for informing interested persons of the payment rates and payment procedures. The Committee also recommended that no payment for handler services be made for reserve prunes released through the handler acceptance of diversion certificates if the released prunes have not been stored by the handler.

DATES: Comments received by December 16, 2002 will be considered prior to the issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by December 16, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on revising the regulations concerning compensation to handlers for services they perform pertaining to reserve prunes covered under the order. Under the order, handlers are compensated for such costs as inspection, receiving, storing, grading, and fumigation of reserve prunes held for the account of the Committee. In the administrative rules and regulations, the compensation rate has been $25 per ton since the early 1970's. This rule would establish a procedure in the administrative rules and regulations which the Committee would follow to compute the level of handler payments that reflect current industry costs instead of having the compensation rate stated in the rule. The Committee would obtain current industry costs through surveys of dried prune handlers and compute average costs based on the number of handlers participating in the survey. Abnormally high or low results would not be considered in the average. The average may be rounded to the nearest $0.25. The compensation rate computed by the Committee would require approval by USDA. The Committee would announce the compensation rate for handling reserve prunes at the time when the Committee reviews the industry statistics during the latter part of June and notify all handlers accordingly. Additional payment for handler services

for reserve prunes held beyond the crop year of acquisition would be updated through a stated percentage of the handler compensation rate during the crop year of acquisition. The Committee unanimously recommended this action on November 29, 2001.

The order provides authority for volume regulation designed to promote orderly marketing conditions, to stabilize prices and supplies, and to improve producer returns. When volume regulation is in effect, a certain percentage of the California prune crop may be sold by handlers to any market (salable tonnage) while the remaining percentage must be held by handlers in a reserve pool (or reserve) for the account of the Committee. Reserve prunes are disposed of through various programs authorized under the order, including government purchases. Net proceeds generated from sales of reserve prunes are distributed to the reserve pool's equity holders, primarily producers.

Definitions

Section 993.21c of the prune marketing order defines salable prunes as prunes which are free to be handled pursuant to any salable percentage established by the USDA pursuant to § 993.54.

Section 993.21d of the order defines reserve prunes as prunes which must be withheld in satisfaction of a reserve obligation arising from the application of a reserve percentage established by the USDA pursuant to § 993.54.

Section 993.54 of the order provides authority for the USDA, based on recommendations by the Committee and supporting information supplied by the Committee, or from other available information, to establish salable and reserve percentages for dried prunes received by handlers during a crop year. The crop year begins August 1 and runs through July 31. When salable and reserve percentages are in effect, § 993.57 requires handlers to hold in their possession or under their control, for the account of the Committee, the quantity of prunes necessary to meet their reserve obligation.

Authority To Pay Handlers for Reserve Pool Services

Section 993.59 of the order specifies that handlers be compensated for necessary services performed in connection with reserve prunes including, but not limited to inspection, receiving, storing, grading, and fumigation. The payment is made on the tonnage of reserve prunes held by the handler for the account of the Committee, in accordance with a schedule of payments.

Handler Service Payments and Conditions for Reserve Prunes

Pursuant to § 993.59 of the order, details of the criteria and procedures for compensating prune handlers in connection with reserve prunes are established by regulation after recommendation by the Committee. They may be found in § 993.159 of the administrative rules and regulations. Since the early 1970's, the compensation rate has been $25 per ton. The prune industry has not implemented salable and reserve percentages since 1971; therefore, the compensation rate does not reflect current costs. In recent years, the Committee has considered implementing a reserve.

The Committee normally meets during the end of June or early July to discuss marketing policy issues and decides whether to recommend implementing a reserve. The Committee met on November 29, 2001, and unanimously recommended revising the rules and regulations pertaining to the compensation rate for handler services in connection with reserve prunes. One change recommended would establish a procedure in the administrative rules and regulations for computing the compensation rates instead of having the rates stated in the rule. To aid in formulating the compensation rates, the Committee would obtain current costs through surveys of dried prune handlers and compute average costs based on the number of handlers participating in the survey. Abnormally high or low results would not be considered in the average. The average may be rounded to the nearest $0.25.

An updated compensation rate for handling reserve prunes would be computed when the Committee considers its annual marketing policy, but no later than July 20. This date could be extended up to 10 days, if warranted by a late crop. During marketing policy discussions, the Committee reviews, among other things, industry production and marketing statistics for dried prunes here and abroad, pricing information for domestic and foreign produced dried prunes, and handler costs for holding reserve prunes, including, but not limited to inspection, receiving, storing, grading, and fumigating prunes. Any recommended change in compensation rate would be reviewed, and would have to be approved by USDA. Upon approval, the Committee would inform all handlers of the changed compensation rate for the upcoming crop year. The crop year begins August 1 and the process would be completed by that time.

On November 29, 2001, the Committee also recommended that no payment for handler services be made for reserve prunes released by handler acceptance of diversion certificates under §§ 993.62 and 993.162, if the handler has not stored the prunes. For example, a handler may have a reserve obligation of 1,000 tons and received 900 tons worth of diversion certificates. The handler submits the 900 tons of diversion certificates to the Committee and requests that he be relieved of 900 tons of reserve prune obligation, leaving a reserve obligation of 100 tons. In this situation, the Committee would only reimburse the handler for reserve pool costs on the 100 tons.

The Committee intends to pay up to one-half the compensation rate (first payment) as soon as practicable after the majority of the deliveries have been made and funds are available. During normal years, the first payment would occur after the second quarter of the crop year (usually during February) and quarterly payments would be made thereafter, as funds are available. The crop year runs from August 1 through July 31.

The Committee also recommended a number of administrative changes to the rules and regulations. They include: (1) Correcting a reference in § 993.159(a) from § 993.57 to § 993.59; (2) adding a provision in § 993.159(a)(1) stating that in crop years when the Committee recommends a reserve pool, it shall meet by July 20 to review costs for handler services in connection with reserve prunes pursuant to § 993.59, except that the Committee may extend this date by not more than 10 business days if warranted by a late crop; (3) adding weighing and stacking prunes as part of the direct labor costs in § 993.159(a)(2); (4) adding clean-up, health insurance, pension plan contributions, vacation pay, holiday and other paid days off as part of the plant overhead costs in § 993.159(a)(2); and (5) eliminating reference to personal pronouns and replacing them with a descriptive noun so the regulatory text is not gender specific. Paragraphs (a)(1), (2), and (3) of § 993.159 are proposed to be modified accordingly.

In addition, the Committee recommended that the provisions in § 993.159(c)(2) regarding payments to handlers for services rendered in connection with reserve prunes held beyond the end of the crop year of acquisition also be updated. The regulations currently establish the reimbursement rate for storage and

fumigation at $2 per ton for the first quarter of the year beyond the crop year of acquisition. This approximates 10 percent of the current handler compensation rate for the crop year of acquisition. The Committee recommended that handlers be compensated at 10 percent of the yearly rate computed by the Committee and approved by USDA for the crop year of acquisition for the first quarter after the crop year of acquisition, rather than establishing a specific rate. That paragraph also specifies specific amounts per ton for storage and fumigation for the second, third, and fourth quarters after the crop year of acquisition at $1.00, $0.25, and $0.25 per ton, respectively. This equates to 50 percent of the first quarter's amount for the second quarter and 25 percent each for the third and fourth quarters. Rather than maintaining specific rates for the second, third, and fourth quarters, the Committee recommended that the rates be expressed as these percentages in the administrative rules and regulations. Expressing these rates paid to handlers for services rendered beyond the crop year of acquisition as percentages would add flexibility to the regulatory scheme and eliminate the need to revise that part of the regulations when the rates for handler services during the crop year are changed.

The Committee also recommended that it be allowed to determine the rate per ton for bin rental within the industry for the succeeding crop year and inform handlers in accordance with paragraph (e) of § 993.159. Handlers would be compensated at that rate for use of their bins in storing reserve prunes for the account of the Committee. Paragraphs (c)(1) and (2) of § 993.159 are proposed to be modified accordingly.

New paragraph (e) of § 993.159 would specify that the Committee shall give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity shall be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment rate modification submitted to USDA for review and approval. The Committee shall notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communications.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,205 producers of dried prunes in the production area and approximately 24 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated industry profile shows that 9 out of 24 handlers (37.5 percent) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Fifteen of the 24 handlers (62.5 percent) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,205 total producers, would be considered large growers with annual incomes over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

Pursuant to § 993.59 of the order, this proposed rule would allow the Committee to compute and announce the level of payments paid to handlers for services performed in connection with holding reserve prunes for the account of the Committee. Each handler holding reserve prunes for the account of the Committee would complete such services so that the Committee is assured that the prunes are maintained in good condition. The Committee would use the procedure specified in the administrative rules and regulations for computing the payment levels. This flexibility would allow for cost updates in a timely and efficient manner and at less cost to implement. This rule would allow the Committee to survey each of the prune handlers to obtain their costs for each category of expenses for handling reserve prunes listed in § 993.159 of the administrative rules and regulations. These costs would be averaged according to the formula in the rules and regulations. After reviewing and computing these costs, the Committee would submit the compensation rates to USDA for approval. After USDA approves the compensation rates, the payment rates would be publicized as required in paragraph (e) of this section. No payments for handler services would be made for reserve prunes released by handler acceptance of diversion certificates if the handler has not stored the released dried prunes for the account of the Committee.

The Committee also recommended a number of administrative changes to the rules and regulations. They include: (1) Correcting a section reference in § 993.159(a) from § 993.57 to § 993.59; (2) Adding a provision to § 993.159(a)(1) stating that in crop years when the Committee recommends a reserve pool, it shall meet by July 20 to review the costs incurred by handlers in connection with holding reserve prunes for the account of the Committee, except that the Committee may extend this date up to 10 business days if warranted by a late crop; (3) Adding weighing and stacking prunes as part of the direct labor costs in § 993.159(a)(2); (4) Adding clean-up, health insurance, pension plan contributions, vacation pay, holiday and other paid days off as part of the plant overhead costs in § 993.159(a)(2); and (5) Eliminating references to personal pronouns and replacing them with descriptive nouns so the regulatory text is not gender specific. Paragraphs (a)(1), (2), and (3) of § 993.159 are proposed to be modified accordingly.

In addition, the Committee recommended that the provisions in § 993.159(c)(2) also be updated and be formula based. These provisions regard payments to handlers for services (storage and fumigation) rendered in connection with reserve prunes held beyond the crop year of acquisition. The regulations currently establish the reimbursement rate at $2 per ton for the first quarter of the crop year after acquisition. This approximates 10 percent of the current handler compensation rate for the crop year of acquisition. The Committee recommended that the handler payment rate for the first quarter of the crop year after acquisition be 10 percent of the

yearly rate for the crop year of acquisition, rather than establishing a specific payment rate. That paragraph also specifies specific amounts per ton for storage and fumigation for the second, third, and fourth quarters of the crop year following acquisition at $1.00, $0.25, and $0.25 per ton, respectively. This equates to 50 percent of the first quarter's amount for the second quarter and 25 percent each for the third and fourth quarters. Rather than maintaining specific rates for the second, third, and fourth quarters, the Committee recommended that the rates be expressed as these percentages in the administrative rules and regulations. Expressing these rates paid to handlers for services rendered beyond the crop year of acquisition as percentages would add flexibility to the regulatory scheme and eliminate the need to revise that part of the regulations when the rates for handler services during the crop year are changed.

The Committee also recommended that it be allowed to determine the rate per ton for bin rental within the industry for the succeeding crop year and inform handlers in accordance with paragraph (e) of § 993.159. Handlers would be compensated at that rate for the use of their bins in storing reserve prunes for the account of the Committee. Paragraphs (c)(1) and (2) of § 993.159 are proposed to be modified accordingly.

New paragraph (e) of § 993.159 would specify that the Committee give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity would be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment report submitted to USDA for review and approval. The Committee would notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communication.

Regarding the impact of this rule on affected entities, the order provides that handlers shall store reserve prunes for the account of the Committee. Net proceeds from sales of such reserve prunes are distributed back to the reserve pool's equity holders, primarily producers. Handlers are compensated from reserve pool funds for their costs in inspecting, receiving, storing, grading, fumigation, and handling reserve prunes. Currently, handlers are compensated at a rate of $25 per ton for reserve prunes acquired during a particular crop year. The $25 per ton rate has been the compensation rate since the early 1970's. Costs have increased dramatically in the past 30 years. The Committee recommended that a procedure be added to the administrative rules and regulations that allows the Committee to adjust the compensation rate for handling reserve prunes in a timely manner instead of specifying them in the rules and regulations. The industry meets during the end of June or early July to discuss marketing policy issues, including reserve pooling, for the next crop year, which begins August 1. A procedure in the administrative rules and regulations would allow the Committee to update the compensation rate during a particular crop year in a timely, efficient, and less expensive manner. The computed payment rates would be recommended by the Committee and approved by USDA. After USDA approval the payment rates would be publicized as required in § 993.159(e).

This rule would allow the Committee to reimburse handlers their actual costs incurred in holding reserve prunes for the account of the Committee. While this may reduce net proceeds to the equity holders, it shifts the costs to the appropriate entities. There should be no disproportionate impact of this proposed action on small entities. Costs of the reserve pool are taken out of the proceeds of the pool and each equity holder shares in the expenses based on their proportionate share of prunes in the reserve pool.

The Committee discussed other alternatives to this change on November 29, 2001, including doing nothing. However, that would leave reserve pooling as a less viable supply management option due to the outdated schedule of handler payments. Another option discussed was to update the data for a given crop year; however, the survey and formula procedure was considered more viable.

This action would allow the Committee to survey prune handlers to obtain their costs applicable to holding reserve prunes for the account of the Committee. Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data to administer the program. This rule would impose some additional reporting and recordkeeping requirements on both small and large California dried prune handlers. The information collection requirements are discussed in the following section. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee=s Supply Management Subcommittee meeting on November 28, 2001, and the Committee meeting on November 29, 2001, where this action was deliberated were both public meetings widely publicized throughout the prune industry. All interested persons, both large and small, were invited to attend the subcommittee and Committee meetings and participate in the industry=s deliberations. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS is seeking approval for a new information collection request.

Title: Dried Prunes Produced in California, Marketing Order No. 993; Revision of Compensation Rates for Handler Services.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information requirements in this request are essential to carryout the intent of the Act, to provide the respondents the type of service they request, and to administer the dried prune marketing order program, which has been operating since 1949.

On November 29, 2001, the Committee unanimously recommended revising the order's administrative rules and regulations pertaining to the compensation rate for handler services in connection with reserve prunes. To help the Committee formulate the rates, current costs would be obtained through a survey voluntarily submitted by dried prune handlers, and average costs would be computed based on the

number of handlers participating in the survey. The Committee will send the survey to all prune handlers. The survey will request that they submit their costs for services performed with respect to reserve tonnage prunes, such as inspection, receiving, storing, grading, and fumigation.

The survey is needed so the Committee can compute the average industry cost for holding reserve pool prunes. It would also allow the Committee to evaluate this information, update the compensation rate, and reimburse handlers their actual costs incurred in holding reserve prunes.

The information collection is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs' regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user.

The request for approval for the new information collection under the order is as follows:

Handler Compensation Survey

Estimate of Burden: Public reporting and recordkeeping burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Dried prune handlers who handle reserve prunes.

Estimated Number of Respondents: 24.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6 hours.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the dried prune marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

As mentioned before, AMS is seeking approval from OMB for the additional burden imposed by the *Handler Compensation Survey.* Upon OMB approval, the additional burden will be merged into the information collection currently approved under OMB No. 0581–0178, Vegetable and Specialty Crop Marketing Orders.

In addition to the information collection burden, this rule also invites comments on revising the regulations concerning compensation to handlers for services they perform pertaining to reserve prunes covered under the order. A 60-day comment period is invited to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—B DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 993.159 is revised to read as follows:

§ 993.159 Payments for services performed with respect to reserve tonnage prunes.

(a) *Payment for crop year of acquisition.* Each handler shall, with respect to reserve prunes held by the handler for the account of the Committee pursuant to § 993.59, be paid at a rate computed by the Committee (natural condition rate) for necessary services rendered by the handler in connection with such prunes so held during all or any part of the crop year in which the prunes were physically received from producers or dehydrators. Each handler holding reserve prunes shall perform such services to assure that the prunes are maintained in good condition. No payment will be made for prunes released by handler acceptance of diversion certificates if the handler has not stored the released prunes. The rate of payment shall be established by the Committee and must be approved by the Secretary. Following such approval, it shall be publicized as required in paragraph (e) of this section.

(1) On or before July 20 of each crop year when the Committee recommends a reserve pool (except the Committee may extend this date by not more than ten business days if warranted by a late crop), the Committee shall hold a meeting to review the costs for necessary services rendered by handlers in connection with reserve prunes.

(2) Such amount shall, together with the additional payments, as provided in this section, be in full payment for the costs incurred in connection with but not be limited to the following services: Inspection, receiving, storing, grading, fumigation, and handling. The costs include, but are not limited to:

(i) Acquisition costs, which include those for salaries, commission, or brokerage fees, transportation and handling between plants and receiving stations, inspection, and other costs, including container expenses, incidental to acquisition or storage;

(ii) Direct labor costs, which include those for weighing, receiving and stacking, grading, preliminary sorting and storing (including that performed by the handler at the receiving station), and loading for shipment or other delivery to the Committee or its designee;

(iii) Plant overhead costs, which include those for supervision, indirect labor, fuel, power and water, taxes and insurance on facilities, depreciation and rent, repairs and maintenance (clean-up, etc.), factory supplies and expense, and employee benefits (payroll taxes, compensation insurance, health insurance, pension plan contributions, vacation pay, holiday and other paid days off, and other such costs).

(3) The Committee shall survey all handlers to obtain their costs for services performed with respect to reserve tonnage prunes. The Committee will compute the average industry cost for holding reserve pool prunes by adding each handlers' cost data, and dividing the composite figure by the number of handlers participating in the survey. In the event that any handler's cost data is too low or too high, the Committee may choose to exclude the high and low data in computing an industry average. The industry average costs may be rounded to the nearest $0.25. The industry average costs computed by the Committee shall be publicized by the Committee pursuant to paragraph (e) of this section.

(b) *Reimbursement for required insurance costs.* Each handler holding reserve prunes for the account of the Committee shall maintain proper insurance thereon, including fire and

extended coverage, in valuations (according to grade and/or size) established by, or acceptable to, the Committee for the particular crop year. The Committee shall reimburse the handler for the actual costs of such insurance. Prior to the receipt of reserve prunes at the beginning of each crop year, the handler shall certify to the Committee and the Secretary of Agriculture, on Form PMC 4.5, that such handler has a fire and extended coverage policy fully insuring all reserve prunes received by the handler during such crop year. Such certification shall contain the following information:

(1) The name and address of the handler;

(2) The location(s) where reserve prunes will be held for the account of the Committee and the premium rate per $100 value per annum at each location;

(3) The value per ton at which the reserve prunes are insured; and

(4) The name and address of the insurance underwriter.

(c) *Certain additional payments in connection with the holding of reserve prunes for the account of the Committee.*

(1) Whenever a handler is directed by the Committee to move and dump containers or reserve prunes held by the handler for the account of the Committee for the purpose of causing an inspection to be made of the prunes as provided in § 993.75, but without taking delivery of the prunes at that time, the handler shall be paid for such services at a rate per ton (natural condition weight) determined by the Committee and approved administratively by the Secretary of Agriculture. Such reimbursement rate shall be computed as described in paragraph (a)(3) of this section and publicized as required in paragraph (e) of this section.

(2) Additional payment for reserve tonnage prunes held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding reserve prunes shall complete such services so that the Committee is assured that the prunes are maintained in good condition.

(i) For storage and necessary fumigation, each handler shall be compensated at a per ton rate announced by the Committee in accordance with paragraph (a)(3) of this section:

(A) For all or any part of the first 3 months of the succeeding crop year, the rate per ton shall be 10 percent of the yearly rate established for the crop year of acquisition;

(B) For all or any part of the second 3 months of the succeeding crop year, the rate per ton shall be 50 percent of the rate established for the first 3 months of the succeeding crop year;

(C) For all or any part of the third 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(D) For all or any part of the fourth 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(ii) For all or part of the succeeding crop year, the Committee shall determine the per ton rate for bin rental within the industry and announce bin rental rate to the industry pursuant to paragraph (e) of this section.

(iii) For insurance as prescribed in paragraph (b) of this section.

(d) *Certain additional payments in connection with the delivery of reserve prunes to the Committee or its designee.*

(1) Whenever a handler is directed by the Committee to deliver to it or its designee reserve prunes in natural condition, the Committee shall furnish the handler with the containers in which to deliver the prunes, or reimburse the handler, at cost, for any containers which the handler furnishes pursuant to an agreement with the Committee.

(2) Whenever the Committee arranges with a handler for the reserve prunes delivered to it or its designee to be in processed and packaged condition, the Committee shall reimburse the handler at the agreed rate, determined by the Committee to be reasonable, for the processing, container, and packaging costs.

(e) The Committee shall give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity shall be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment rate modification submitted to USDA for review and approval. The Committee shall notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communications.

Dated: October 8, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–26054 Filed 10–11–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes. This proposed AD would require you to inspect the fuel boost pump wiring for any chafing, cracked insulation material, or evidence of bare wire(s) (referred to herein as damage), and replace any damaged wiring. This proposed AD would also require you to install a protective tubing around the fuel boost pump wiring harness. This proposed AD is the result of reports of chafed fuel boost pump wiring to either the inboard or outboard boost pump wiring. The actions specified by this proposed AD are intended to prevent the fuel boost pump wiring from chafing, which could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before December 16, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–45–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov.* Comments sent electronically must contain

''Docket No. 2000–CE–45–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment On This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

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

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

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–45–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The FAA has received reports indicating problems with 6 Fairchild Aircraft SA227–AC airplanes. Evidence of chafing to either the inboard or outboard fuel boost pump wiring has been found on all 6 airplanes. In one case, evidence of arcing between the chafed wiring and the fuel check valve was found.

All airplane models within the Fairchild Aircraft SA226 and SA227 series incorporate this fuel boost pump wiring design.

What Are the Consequences If the Condition Is Not Corrected?

Damage to the fuel boost pump wiring, if not detected and corrected, could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

Is There Service Information That Applies to This Subject?

Fairchild Aircraft has issued the following service letters:

—Service Letter 226–SL–023, dated September 6, 2000, which applies to model SA226–T, SA226–AT, SA226–T(B), and SA226–TC airplanes;
—Service Letter 227–SL–039, dated September 6, 2000, which applies to model SA227–AT, SA227–TT, SA227–AC (C–26A), SA227–PC, and SA227–BC (C–26A) airplanes; and
—Service Letter CC7–SL–031, dated September 6, 2000, which applies to model SA227–CC and SA227–DC (C–26B) airplanes.

What Are the Provisions of This Service Information?

These service letters:

—Include procedures for inspecting the fuel boost pump wiring;
—Specify replacing any damaged wire(s) in accordance with the appropriate wiring manual; and
—Include procedures for installing a protective tubing around the fuel boost pump wiring harness.

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

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design;
—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service information.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 490 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection of the fuel boost pump wiring:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	$96	$120 + $96 = $216	$216 × 490 = $105,840

We estimate the following costs to accomplish the proposed installation of the convoluted tubing:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. Operators
1 workhour × $60 per hour = $60	$48	$60 + $48 =$108	$108 × 490 = $52,920

The FAA has no method of determining the number of repairs or replacements each owner/operator would incur based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Compliance Time of this Proposed AD

What Would Be the Compliance Time of this Proposed AD?

The compliance time of this proposed AD is whichever of the following that occurs first:

—Within the next 3 months after the effective date of this AD; or

—Within the next 600 hours time-in-service (TIS) after the effective date of this AD.

Why Is the Compliance Time of This Proposed AD Presented in Both Hours TIS and Calendar Time?

Chafing damage is a direct result of airplane usage. However, chafing damage is not necessarily a result of repetitive airplane operation. For example, damage could occur on an affected airplane within a short period of airplane operation while you could operate another affected airplane for a considerable amount of time without experiencing wiring damage. Therefore, to assure that any damaged wiring is detected and corrected in a timely manner without inadvertently grounding any of the affected airplanes, we are utilizing a compliance based upon both hours TIS and calendar time.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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 proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed 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) 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Fairchild Aircraft, Inc.: Docket No. 2000–CE–45–AD

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models, all serial numbers, that are certificated in any category:

Models

SA226–T, SA226–AT, SA226–T(B), SA226–TC, SA227–AT, SA227–TT, SA227–AC (C–26A), SA227–PC, SA227–BC (C–26A), SA227–CC, and SA227–DC(C–26B)

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the fuel boost pump wiring from chafing, which could result in electrical arcing. This could serve as an ignition source inside the fuel tank and result in fire or explosion.

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

Actions	Compliance	Procedures
(1) Visually inspect the left-hand and right-hand main/auxiliary fuel boost pump wiring for evidence of chafing, damage, or exposed bare wire(s).	Within the next 3 calendar months after the effective date of this AD or within the next 600 hours time-in-service (TIS) after the effective date of this AD, whichever occurs first.	Accomplish the inspection in accordnace with the Accomplishment Instructions in Fairchild Service Letter 226–SL–023; Fairchild Service Letter 227–SL–039, or Fairchild Service Letter CC7–SL–031, all dated September 6, 2000, as applicable.
(2) Replace any chafed, damaged or exposed bare wire(s).	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Accomplish replacement(s) in accordance with the applicable wiring manual as specified in the applicable Fairchild Service Letter.
(3) Install HEYCO–FLEX V, Slit Convoluted Tubing, part-number (P/N) 1634, around each fuel boost pump wiring harness.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Accomplish the installation in accordance with the Accomplishment Instructions in Fairchild Service Letter 226–SL–023; Fairchild Service Letter 227–SL–039; or Fairchild Service Letter CC7–SL–031, all dated September 6, 2000, as applicable.

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

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

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

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e)

of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

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

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 7, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–26053 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

RIN 1515–AD14

Performance of Customs Business by Parent and Subsidiary Corporations

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed amendments to Part 111 of the Customs Regulations to specify that corporate compliance activity engaged in for the purpose of exercising ''reasonable care'' under 19 U.S.C. 1484 is not customs business and, therefore, such activity is not subject to the customs broker licensing requirements of 19 U.S.C. 1641. The proposed amendments make clear that this corporate compliance activity concept does not extend to document preparation and filing, which is customs business subject to licensing requirements. It is anticipated that the proposed amendments will improve the operational efficiency of the affected corporate entities and, thereby, enhance their ability to ensure compliance with applicable customs laws and regulations.

DATES: Comments must be submitted on or before December 16, 2002.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gina Grier, Office of Regulations and Rulings (202–572–8730).

SUPPLEMENTARY INFORMATION:

Background

Statutory and Regulatory Framework

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, provides for disciplinary action against brokers in the form of suspension or revocation of such licenses and permits or assessment of monetary penalties, and provides for the assessment of monetary penalties against other persons for conducting customs business without the required broker's license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the provisions of section 641.

The regulations issued under the authority of section 641 are set forth in part 111 of the Customs Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants and the procedures for applying for licenses and permits. Part 111 also prescribes recordkeeping and other duties and responsibilities of brokers, sets forth in detail the grounds and procedures for the revocation or suspension of broker licenses and permits and for the assessment of monetary penalties, and sets forth fee payment requirements applicable to brokers under section 641 and 19 U.S.C. 58c(a)(7).

Section 111.1 of the Customs Regulations (19 CFR 111.1) defines ''customs business'' as follows for purposes of part 111:

''Customs business'' means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Customs on merchandise by reason of its importation, and the refund, rebate, or drawback of those duties, taxes, or other charges. ''Customs business'' also includes the preparation, and activities relating to the preparation, of documents in any format and the electronic transmission of documents and parts of documents intended to be filed with Customs in furtherance of any other customs business activity, whether or not signed or filed by the preparer. However, ''customs business'' does not include the mere electronic transmission of data received for transmission to Customs.

Section 111.1 also defines ''person'' for purposes of part 111 as including ''individuals, partnerships, associations, and corporations.''

Section 111.2 of the Customs Regulations (19 CFR 111.2) sets forth the basic rules regarding when a person must obtain a customs broker license and permit. Paragraph (a)(2) of § 111.2 specifies several exceptions to the license requirement including, in subparagraph (i), an exception for an importer or exporter (and his authorized regular employees or officers acting only for him) transacting customs business solely on his own account and in no sense on behalf of another. Section 111.4 of the Customs Regulations (19 CFR 111.4) provides that any person who intentionally transacts customs business, other than as provided in § 111.2(a)(2), without holding a valid broker's license, will be liable for a monetary penalty for each such transaction as well as for each violation of any other provision of section 641.

Reasons for Proposed Change

The amendments made in 1993 by the Customs Modernization Act provisions of the North American Free Trade Agreement Implementation Act (Public Law 103–182, 107 Stat. 2057) included the requirement to exercise ''reasonable care'' in connection with the entry requirements set forth in 19 U.S.C. 1484. To foster compliance with the customs laws and regulations under this added statutory responsibility, many importer groups consisting of a parent corporation and one or more subsidiary corporations have chosen to centralize their in-house customs experts into one corporate entity and to make the services of those experts available to the group as a whole. However, when requested to issue an administrative ruling on the issue, Customs has consistently taken the position that many of the activities performed under this type of arrangement would involve

the transaction of ''customs business,'' which would require a broker license under § 111.2(a)(1). *See* HQ 115248 dated August 26, 2001, and HQ 115278 dated November 13, 2001. In this regard, Customs has considered the fact that (1) the parent corporation and each subsidiary corporation is a separate legal ''person'' both under longstanding legal precedent and under the definition of ''person'' in § 111.1, and (2) therefore, the parent or subsidiary corporation in which the customs expertise resides would be transacting customs business not solely on its own account as provided under § 111.2(a)(2)(i) but rather on behalf of another ''person.''

Members of the trade community have indicated to Customs that the present situation is unsatisfactory because it does not afford importers sufficient opportunity to address multiple related aspects of an individual customs transaction or groups of transactions and thus is an impediment to their ensuring that reasonable care is exercised by all corporate affiliates for purposes of 19 U.S.C. 1484.

An example will illustrate the basis for the trade community concerns: Under the current regulations as interpreted by Customs, if an unlicensed corporation in a parent and subsidiary relationship wished to engage a licensed individual broker as an employee of the corporation to give customs business advice to its related company regarding specific transactions, there would be certain legal limitations. The rendering of advice under the described circumstances would be permissible only if the licensed broker employee were to become a bona fide employee of each of the two involved companies, or if the employing corporation were to obtain a corporate broker license, or if the licensed broker employee were to set up business to operate as a broker during non-work hours.

Accordingly, Customs is proposing for public comment amendments to the Customs Regulations that would expand the permissible use of in-house experts by corporations and their affiliates to include activity that is intended to meet the corporation's ''reasonable care'' obligations under 19 U.S.C. 1484 and that, as such, does not fall within the definition of ''customs business'' in 19 U.S.C. 1641. The proposed amendments are discussed below.

Discussion of Proposed Amendments

Customs believes that the definition concepts in § 111.1 should be amended to recognize corporate compliance activity as falling under the term reasonable care and, as such, as not falling within the term ''customs business.'' This would allow parent, subsidiary, and sister subsidiary corporations to structure their corporate compliance activities to ensure an effective and efficient exercise of ''reasonable care'' under 19 U.S.C. 1484. Accordingly, this document proposes to add a definition of the term ''corporate compliance activity'' to § 111.1 and to amend the existing definition of ''customs business'' by adding conforming exception language at the end of the last sentence. Under these proposed amendments, the limitations on the activities described in the previously discussed example would no longer apply because those activities would not be considered ''customs business.'' Rather, they would be allowed as a corporate compliance activity under the ''reasonable care'' standard in 19 U.S.C. 1484.

The new definition limits the corporate compliance activity that the in-house experts may perform to those activities that do not involve the preparation of documents or their electronic equivalents to be filed with Customs and the filing of documents or their electronic equivalents with Customs, because Customs believes that these specialized activities clearly fall within the term ''customs business.''

Finally, this document proposes to amend § 111.2 by adding a new paragraph (a)(2)(vii) which states that a company performing a corporate compliance activity is not required to be licensed as a broker.

Comments

Before adopting the proposed amendments as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Customs believes that the proposed amendments will have only a minimal impact on overall customs broker operations because they do not authorize the preparation of documents and the filing of documents with Customs, which constitute the bulk of customs business services provided by brokers, and the proposed amendments will provide positive economic and related benefits to other members of the import community. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to revise Part 111 of the Customs Regulations (19 CFR Part 111) as set forth below.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 1641;

* * * * *

2. In § 111.1, the definition of ''customs business'' is amended by adding at the end of the last sentence before the period the words ''and does not include a corporate compliance activity'', and a new definition of ''corporate compliance activity'' is added in appropriate alphabetical order to read as follows:

§ 111.1 Definitions.

* * * * *

Corporate compliance activity. ''Corporate compliance activity'' means activity performed by a parent company or subsidiary company or sister subsidiary company to ensure that

documents for a parent company or subsidiary company or sister subsidiary company are prepared and filed with Customs using ''reasonable care'', but such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a parent company is a corporation that owns more than 50 percent of the voting shares of another corporation, a subsidiary company is a corporation in which a parent company owns more than 50 percent of the voting shares, and a sister subsidiary company is one of two or more corporations in which the same parent company owns more than 50 percent of the voting shares.

* * * * *

3. In § 111.2, a new paragraph (a)(2)(vii) is added to read as follows:

§ 111.2 License and district permit required.

(a) * * *

(2) * * *

(vii) *Corporate compliance activity.* A company performing a corporate compliance activity is not required to be licensed as a broker.

* * * * *

Douglas M. Browning,

Acting Commissioner of Customs.

Approved: October 8, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–26039 Filed 10–11–02; 8:45 am]

BILLING CODE 4820–02–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2002–4]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office of the Library of Congress is preparing to conduct proceedings mandated by the Digital Millennium Copyright Act, which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumvention of technological measures that control access to copyrighted works. The purpose of this rulemaking proceeding is to determine whether there are particular classes of works as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses due to the prohibition on circumvention. This notice requests written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers and members of the public, in order to elicit evidence on whether noninfringing uses of certain classes of works are, or are likely to be, adversely affected by this prohibition on the circumvention of measures that control access to copyrighted works.

DATES: Written comments are due by December 18, 2002. Reply comments are due by February 19, 2003.

ADDRESSES: Electronic Internet submissions must be made through the Copyright Office Web site: *http://www.copyright.gov/1201/comment_forms; See* section 3 of the **SUPPLEMENTARY INFORMATION** section for file formats and other information about electronic and non-electronic filing requirements. If delivered by hand, comments should be delivered to the Office of the General Counsel, Copyright Office, LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If delivered by means of the United States Postal Service (*see* section 3 of the **SUPPLEMENTARY INFORMATION** about continuing mail delays), comments should be addressed to David O. Carson, General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400. See **SUPPLEMENTARY INFORMATION** section for information about requirements and formats of submissions.

FOR FURTHER INFORMATION CONTACT: Rob Kasunic, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400. Telephone (202) 707–8380; telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

1. Mandate for Rulemaking Proceeding

On October 28, 1998, President Clinton signed into law the Digital Millennium Copyright Act, Pub. L. 105–304 (1998). Section 103 (subtitled ''Copyright Protection Systems and Copyright Management Information'') of Title I of the Act added a new Chapter 12 to title 17 United States Code, which among other things prohibits circumvention of access control technologies employed by or on behalf of copyright owners to protect their works. Specifically, subsection 1201(a)(1)(A) provides, inter alia, that ''No person shall circumvent a technological measure that effectively controls access to a work protected under this title.'' Subparagraph (B) limits this prohibition. It provides that prohibition against circumvention ''shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title'' as determined in this rulemaking. This prohibition on circumvention became effective two years after the date of enactment, on October 28, 2000.

At the end of the 2-year period between the enactment and effective date of the provision, the Librarian of Congress made an initial determination as to classes of works to be exempted from the prohibition for the first triennial period. Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 65 FR 64556, 64574 (2000) (hereinafter Final Reg.). This determination was made upon the recommendation of the Register of Copyrights following an extensive rulemaking proceeding. The exemptions promulgated by the Librarian in the first rulemaking will remain in effect until October 28, 2003. At that point, the exemptions created in the first anticircumvention rulemaking will expire and any exemptions promulgated in this second anticircumvention rulemaking will take effect for a new 3-year period.

2. Background

Title I of the Digital Millennium Copyright Act was, inter alia, the congressional fulfillment of obligations of the United States under the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. For additional information on the historical background and the legislative history of Title I, See Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, 64 FR 66139, 66140 (1999) (*http://www.loc.gov/copyright/fedreg/1999/64fr66139.html*).

Section 1201 of title 17 of the United States Code prohibits two general types of activity: (1) The conduct of ''circumvention'' of technological protection measures that control access and (2) trafficking in any technology, product, service, device, component, or part thereof that protects either access to a copyrighted work or that protects the ''rights of the copyright owner,'' if that

device or service meets one of three conditions. The first type of activity, the conduct of circumvention, is prohibited in section 1201(a)(1). The latter activities, trafficking in devices or services that circumvent (1) access or (2) the rights of the copyright owner are contained in sections 1201(a)(2) and 1201(b) respectively. In addition to these prohibitions, section 1201 also includes a series of section-specific limitations and exemptions to the prohibitions of section 1201.

The Anticircumvention Provision at Issue

Subsection 1201(a)(1) applies when a person who is not authorized by the copyright owner to gain access to a work does so by circumventing a technological measure put in place by the copyright owner to control access to the work. See the Report of the House Committee on Commerce on the Digital Millennium Copyright Act of 1998, H.R. Rep. No. 105–551, pt. 2, at 36 (1998) (hereinafter Commerce Comm. Report).

That section provides that ''No person shall circumvent a technological measure that effectively controls access to a work protected under this title.'' 17 U.S.C. 1201(a)(1)(A) (1998). The relevant terms are defined:

(3) As used in this subsection—

(A) To ''circumvent a technological measure'' means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

(B) A technological measure ''effectively controls access to a work'' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

17 U.S.C. 1201(a)(3).

Scope of the Rulemaking

The statutory focus of this rulemaking is limited to one subsection of section 1201: The prohibition on the conduct of circumvention of technological measures that control access to copyrighted works. 17 U.S.C. 1201(a)(1)(C). The Librarian has no authority to limit either of the anti-trafficking provisions contained in subsections 1201(a)(2) or 1201(b). This narrow focus was the subject of a great deal of confusion during the first rulemaking and, therefore, demands some clarification.

This rulemaking addresses only the prohibition on the conduct of circumventing measures that control ''access'' to copyrighted works, *e.g.,* decryption or hacking of access controls such as passwords or serial numbers. The structure of section 1201 is such that there exists no comparable prohibition on the conduct of circumventing technological measures that protect the ''rights of the copyright owner,'' *e.g.,* the section 106 rights to reproduce, adapt, distribute, publicly perform, or publicly display a work. Circumventing a technological measure that protects these section 106 rights of the copyright owner is governed not by section 1201, but rather by the traditional copyright rights and the applicable limitations in the Copyright Act. For example, if a person circumvents a measure that prohibits printing or saving an electronic copy of an article, there is no provision in section 1201 that precludes this activity. Instead, it would be actionable as copyright infringement of the section 106 right of reproduction unless an applicable limitation applied, *e.g.,* fair use. The trafficking in, inter alia, any device or service that allowed others to circumvent such a technological protection measure may, however, be actionable under section 1201(b).

Since section 1201 contains no prohibition on the circumvention of technological measures that protect the ''rights of the copyright owner,'' sometimes referred to as ''use'' or ''copy'' control measures, any effect these measures may have on noninfringing uses would not be attributable to a section 1201 prohibition. Since there is a prohibition on the act of circumventing a technological measure that controls access to a work, and since traditional Copyright Act limitations are not defenses to the act of circumventing a technological measure that controls access, Congress chose to create the current rulemaking proceeding as a ''fail-safe mechanism'' to monitor the effect of the anticircumvention provision in 1201(a)(1)(A). Commerce Comm. Report, at 36. This anticircumvention rulemaking is authorized to monitor the effect of the prohibition on ''access'' circumvention on noninfringing uses of copyrighted works. In this triennial rulemaking proceeding, effects on noninfringing uses that are unrelated to section 1201(a)(1)(A) may not be considered. *See* 1201(a)(1)(C).

Burden of Proof

In the last rulemaking, the Register concluded from the language of the statute and the legislative history that a determination to exempt a class of works from the prohibition on circumvention must be based on a showing that the prohibition has a substantial adverse effect on noninfringing uses of a particular class of works. It was determined that proponents of an exemption bear the burden of proof that an exemption is warranted for a particular class of works and that the prohibition is presumed to apply to all classes of works unless an adverse impact has been shown. *See* Commerce Comm. Report, at 37; *see also* Final Reg., 65 FR 64556, 64558.

In order to meet the burden of proof, proponents of an exemption must provide evidence either that actual harm exists or that it is ''likely'' to occur in the ensuing 3-year period. Actual instances of verifiable problems occurring in the marketplace are necessary to satisfy the burden with respect to actual harm and a compelling case will be based on first-hand knowledge of such problems. While ''likely'' adverse effects will also be examined in this rulemaking, this standard requires proof that adverse effects are more likely than not to occur and cannot be based on speculation alone. The House Manager's Report stated that an exemption based on ''likely'' future adverse impacts during the applicable period should only be made ''in extraordinary circumstances in which the evidence of likelihood is highly specific, strong and persuasive.'' Staff of the House Committee on the Judiciary, 105th Cong., Section-By-Section Analysis of H.R. 2281 as passed by the United States House of Representatives on August 4, 1998 (hereinafter House Manager's Report) at 6. While such a statement could be interpreted as raising the burden beyond a standard of a preponderance of the evidence, the statutory language enacted—''whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition''—does not specify a standard beyond more likely than not. Nevertheless, as the Register's final recommendation explained, the expectation of ''distinct, verifiable and measurable impacts'' in the legislative history as to actual harm suggests that conjecture alone would be insufficient to support a finding of ''likely'' adverse effect. Final Reg., 65 FR 64556, 64559. A showing of ''likely'' adverse impact will necessarily involve prediction, but the burden of proving that the expected adverse effect is more likely than other possible outcomes is on the proponent of the exemption.

The identification of a specific problem and the meeting of a burden of proof as to a problem is not, however, the end of the analysis. For an

exemption to be warranted in a particular class of works, a proponent must show that such problems are or are likely to become of such significance that they would constitute a substantial adverse effect. De minimis or isolated problems would be insufficient to warrant an exemption for a class of works. Similarly, mere inconveniences to noninfringing uses or theoretical critiques of Section 1201 would not satisfy the requisite showing. House Manager's Report, at 6. There is a presumption that the prohibition will apply to any and all classes of works, including those as to which an exemption of applicability was previously in effect, unless a new showing is made that an exemption is warranted. Final Reg., 65 FR 64556, 64558. Exemptions are reviewed de novo and prior exemptions will expire unless the case is made in the rulemaking proceeding that the prohibition has or will more likely than not have an adverse effect on noninfringing uses. A prior argument that resulted in an exemption may be less persuasive within the context of the marketplace in the next 3-year period. Similarly, proposals that were not found to warrant an exemption in the last rulemaking could find factual support in the present rulemaking.

Availability of Works in Unprotected Formats

Other factors must also be balanced with any adverse effects attributable to the prohibition on circumvention of technological protection measures that protect access to copyrighted works. In making her recommendation to the Librarian, the Register is instructed to consider the availability for use of copyrighted works. 17 U.S.C. 1201(a)(1)(C)(i). The Register must also consider whether works protected by technological measures that control access are also available in the marketplace in formats that are unprotected. The fact that a work is available in a format without technological protection measures would allow the public to make noninfringing uses of the work even if that is not the preferred or optimal format for use. For example, in the last rulemaking, although many users claimed that the technological measures on motion pictures contained on Digital Versatile Disks (DVDs) restricted noninfringing uses of works, a balancing consideration was that the vast majority of these works were also available in analog format on VHS tapes. Final Reg., 65 FR 64554, 64568. Such availability is a factor to consider in assessing the need for an exemption to the prohibition on circumvention.

Another consideration relating to the availability for use of copyrighted works is whether the measure supports a model that is likely to benefit the public. For example, while a measure may limit the length of time of access to a work or may limit access to only a portion of work, those limitations may benefit the public by providing ''use-facilitating'' models that will allow users to obtain access to works at a lower cost than they would otherwise be able to obtain were such restrictions not in place. Similarly, if there is compelling evidence that particular classes of works would not be offered at all without the protection afforded by technological protection measures that control access, this use-facilitating factor must be considered. House Manager's Report, at 6. Accord: Final Reg., 65 FR 64556, 64559.

The Scope of the Term ''Class of Works''

Section 1201 does not define a critical term for the rulemaking process: ''class of works.'' In the first rulemaking, the Register elicited views on the scope and meaning of this term. After review of the statutory language, the legislative history and the extensive record in the proceeding,[1] the Register reached certain conclusions on the scope of this term. For a more detailed discussion, *see* Final Reg., 65 FR 64556, 64559.

The Register found that the statutory language required that the Librarian identify a ''class of works'' primarily based upon attributes of the works themselves, and not by reference to some external criteria such as the intended use or the users of the works. The phrase ''class of works'' connotes that the shared, common attributes of the ''class'' relate to the nature of authorship in the ''works.'' Thus a ''class of works'' was intended to be a ''narrow and focused subset of the the broad categories of works of authorship * * * identified in section 102.'' Commerce Comm. Report, at 38. The starting point for a proposed exemption of a particular class of works must be the section 102 categories of authorship: literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works.

This determination is supported by the House Manager's Report which discussed the importance of appropriately defining the proper scope of the exemption. House Manager's Report, at 7. The legislative history stated that it would be highly unlikely for all literary works to be adversely affected by the prohibition and therefore, determining an appropriate subcategory of the works in this category would be the goal of the rulemaking. *Id.*

Therefore, the Register concluded that the starting point for identifying a particular ''class of works'' to be exempted must be one of the section 102 categories. Final Reg., 65 FR 64559–64561. From that starting point, it is likely that the scope or boundaries of a particular class would need to be further limited to remedy the particular harm to noninfringing uses identified in the rulemaking.

In the first anticircumvention rulemaking, the Register recommended and the Librarian agreed that two classes of works should be exempted:

(1) Compilations consisting of lists of websites blocked by filtering software applications; and

(2) Literary works, including computer programs and databases, protected by access control mechanisms that fail to permit access because of malfunction, damage or obsoleteness.

While the first class exempted fits comfortably within the approach to classification discussed above, the second class includes the entire category of literary works, but narrows the exemption by reference to attributes of the technological measures that controls access to the works. The Register found that this second class probably reached the outer limits of a permissible definition of ''class'' under the approach adopted in the first rulemaking.

Commenters should familiarize themselves with the Register's recommendation in the first rulemaking, since many of these issues which were unsettled at the start of that rulemaking have been addressed in the final decision. Since the bases of those determinations were the statute and the legislative history relevant to these issues, and since Congress has not provided any additional guidance to the Register or the Librarian since that rulemaking's conclusion, interested parties should presume that these determinations will be applied to the evidence submitted during this second anticircumvention rulemaking as well. Of course, commenters may argue for adoption of alternative approaches, but a persuasive case will have to be made to warrant reconsideration of decisions regarding interpretation of section 1201.

[1] See Final Reg., 65 FR 64556, 64557 for a description of the record in the last rulemaking proceeding.

The exemptions that were published for the first 3-year period of the effective date of section 1201(a)(1)(A) are temporary and will expire on the last day of such 3-year period, October 27, 2003. This rulemaking will examine adverse effects in the current marketplace and in the next 3-year period to determine whether any exemptions to the prohibition on circumvention of technological protection measures that effectively control access to copyrighted works are warranted by the evidence raised during this rulemaking.

This notice requests written comments from all interested parties. In addition to the necessary showing discussed above, in order to make a *prima facie* case for a proposed exemption, certain critical points must be established. First, a proponent must identify the technological measure that is the ultimate source of the alleged problem, and the technological measure must effectively control access to a copyrighted work. Second, a proponent must specifically explain what noninfringing activity the prohibition on circumvention is preventing. Third, a proponent must establish that the prevented activity is, in fact, a noninfringing use under current law. The nature of the Librarian's inquiry is further delineated by the statutory areas to be examined:

(i) The availability for use of copyrighted works;

(ii) The availability for use of works for nonprofit archival, preservation, and educational purposes;

(iii) The impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;

(iv) The effect of circumvention of technological measures on the market for or value of copyrighted works; and

(v) Such other factors as the Librarian considers appropriate.

17 U.S.C. 1201(a)(1)(C).

These statutory considerations require examination and careful balancing. The harm identified by a proponent of an exemption must be balanced with the harm that would result from an exemption. In some circumstances, an exemption could have a greater adverse effect on the public than would the adverse effects identified. The ultimate determination of the Librarian must take all of these factors into consideration.

Proponents and opponents of exemptions should address each of these statutory factors. Because the statute invites the Librarian to take into account ''such other factors as the Librarian considers appropriate,'' commenters are invited to identify any such factors, explain why any factors identified should be considered, and discuss how such factors would affect the analysis relating to any proposed class of works that the commenters are addressing.

For the entire record of the first anticircumvention rulemaking, including all comments, testimony and notices published, See the Copyright Office's Web site at: *http://www.loc.gov/copyright/1201/anticirc.html.*

3. Written Comments

In the last rulemaking the Register determined that the burden of proof is on the proponent of an exemption to come forward with evidence supporting an exemption for a particular class of works. Therefore, the initial comment period in this rulemaking specifically seeks the identification of this information from proponents of exemptions. First, the commenter should identify the particular class of works that is being proposed as an exemption, followed by a summary of the argument for the exemption. The commenter should then specify the facts and evidence providing a basis for this exemption and any legal arguments in support of the exemption. Finally, the commenter may include in the comment any additional information or documentation which supports the commenter's position.

If a commenter proposes that more than one class of works be exempted, each individual class proposed should be numbered and followed by a summary of the argument for that proposed class and the factual support and legal arguments in support of that class. This format of class/summary/facts/argument should be sequentially followed for each class of work proposed as necessary.

As discussed above, the best evidence in support of an exemption would consist of concrete examples or cases of specific instances in which the prohibition on circumvention of technological measures controlling access has had or is likely to have an adverse effect on noninfringing uses. It would also be useful for the commenter to quantify the adverse effects in order to explain the scope of the problem, e.g., evidence of widespread or substantial impact through data or supplementary material.

In the reply comments, persons who oppose or support any exemptions proposed in the initial comments will have the opportunity to respond to the proposals made in the initial comments and to provide factual information and legal argument addressing whether a proposed exemption should be adopted. Since the reply comments are intended to be responsive to the initial comments, reply commenters must identify what proposed class they are responding to, whether in opposition, support, amplification or correction. As with initial comments, reply comments should first identify the proposed class, provide a summary of the argument, and then provide the factual and/or legal support for their argument. This format of class/summary/facts and/or legal argument should be repeated for each reply to a particular class of work proposed.

The Copyright Office intends to place the comments and reply comments that are submitted in this proceeding on its Web site (*http://www.copyright.gov/1201*). Regardless of the mode of submission, all comments must, at a minimum, contain the legal name of the submitter and the entity on whose behalf the comment was submitted, if any. If persons do not wish to have their address, telephone number, or email address publicly displayed on the Office's website, the comment itself should not include such information, but should only include the name of the commenter. The Office prefers that comments and reply comments be submitted in electronic form and strongly encourages commenters to submit their comments electronically. However, the Office recognizes that it must provide a means of delivery for persons who are unable to submit their comments through the Office's website or to deliver their comments in person. Therefore, comments may also be delivered through the United States Postal Service, addressed to the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400. Because private carriers such as Airborne Express, DHL Worldwide Express, Federal Express, and United Parcel Service cannot deliver to post office boxes or directly to the office of the General Counsel, commenters are cautioned not to use such services to deliver their comments. Moreover, due to continuing mail delays at the Library of Congress, submission by means of the United States Postal Service is strongly discouraged and the submitter assumes the risk that the comment will not be received at the Copyright Office by the due date. Comments submitted by means of the United States Postal Service must be physically received by an employee of the General Counsel's Office of the Copyright Office by the applicable

deadline to be considered. Commenters who use the postal service should consider using Express Mail. Electronic filing or hand-delivery will help insure timely receipt of comments by the Office. Electronic comments successfully submitted through the Office's website will generate a confirmation receipt to the submitter and submitters hand-delivering comments may request a date stamp on an extra copy provided by the submitter.

If submitted through the Copyright Office's website: The Copyright Office's website will contain a submission page at: *http://www.copyright.gov/1201/comment_forms.* Approximately thirty days prior to each applicable deadline (*see* **DATES**), a form will be activated on the Copyright Office website allowing information to be entered into the required fields, including the name of the person making the submission, his or her title, organization, mailing address, telephone number, and email address. For initial comments, there will be two additional fields required: (1) The proposed class or classes of copyrighted work(s) to be exempted, and (2) a brief summary of the argument(s). The comment or reply comment itself must be sent as an attachment, and must be in a single file in either Adobe Portable Document File (PDF) format (preferred), in Microsoft Word Version 2000 or earlier, or in WordPerfect 9 or earlier, or in ASCII text. There will be a browse button on the form that will allow submitters to attach the comment file to the form and then to submit the completed form to the Office. The personal information entered in the required fields will not be publicly posted on the website, but the Office intends to post on its website the proposed class and the summary of the argument, as well as the entire comment. Only the commenter's name (and, if applicable, the entity on whose behalf the comment is submitted) is required on the comment document itself and a commenter who does not want other personal information posted on the Office's website should avoid including other private information on the comment itself. Except in exceptional circumstances, changes to the submitted comment will not be allowed and it will become a part of the public record of this rulemaking.

If by means of the United States Postal Service or hand delivery: Send, to the appropriate address listed above, two copies, each on a 3.5-inch write-protected diskette or CD–ROM, labeled with the name of the person making the submission and the entity on whose behalf the comment was submitted, if any. The document itself must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 2000 or earlier, in WordPerfect Version 9 or earlier, or in ASCII text. If the comment is hand delivered or mailed to the Office and the submitter does not wish to have the address, telephone number, or email address publicly displayed on the Office's website, the comment should not include such information on the document itself, but only the name and affiliation, if any, of the commenter. In that case, a cover letter should be included that contains the commenter's address, telephone number, email address, and for initial comments, the proposed class of copyrighted work to be exempted and another field for a brief summary of the argument.

Anyone who is unable to submit a comment in electronic form (on the website as an attachment or by means of hand delivery or the United States Postal Service on disk or CD–ROM) should submit an original and fifteen paper copies by hand or by means of the United States Postal Service to the appropriate address listed above. It may not be feasible for the Office to place these comments on its website.

General Requirements for all submissions: All submissions (in either electronic or non-electronic form delivered through the website, by means of hand delivery or the United States Postal Service) must contain on the comment itself, the name of the person making the submission and, if applicable, the entity on whose behalf the comment is submitted. The mailing address, telephone number, telefax number, if any, and email address need not be included on the comment itself, but must be included in some form, *e.g.*, on the website form or in a cover letter, with the submission. All submissions must also include the class/summary/factual and/or legal argument format in the comment itself for each class of work proposed or for each reply to a proposal. Initial comments and reply comments will be accepted for a 30-day period in each round, and a form will be placed on the Copyright Office website at least 30 days prior to the deadline for submission. Initial comments will be accepted from November 19, 2002, until December 18, 2002, at 5 P.M. Eastern Standard Time, at which time the submission form will be removed from the website. Reply comments will be accepted from January 21, 2003, until February 19, 2003, at 5 P.M. Eastern Standard Time.

4. Hearings and Further Comments

The Register intends to hold hearings in this rulemaking in the spring of 2003. Following these hearings, the Register will make a determination as to whether there is a need for additional written comments in the form of post-hearing comments specifically addressing matters raised in the record of this proceeding. Details on hearings and any post-hearing comments will be announced at a future date.

In order to provide flexibility in this proceeding to take into account unforeseen developments that may occur and that would significantly affect the Register's recommendation, an opportunity to petition the Register for consideration of new information will be made available after the deadlines specified. A petition, including proposed new classes of works to be exempted, must be in writing and must set forth the reasons why the information could not have been made available earlier and why it should be considered by the Register after the deadline. A petition must also set forth the proposed class of works to be exempted, a summary of the argument, the factual basis for such an exemption and the legal argument supporting such an exemption. Fifteen copies of the petition must be hand-delivered to the Office of the General Counsel of the Copyright Office at the address listed above. The Register will make a determination whether to accept such a petition based on the stage of the rulemaking process at which the request is made and the merits of the petition. If a petition is accepted, the Register will announce deadlines for comments in response to the petition.

Dated: October 4, 2002.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 02–26183 Filed 10–11–02; 8:45 am]

BILLING CODE 1410–30–P

POSTAL SERVICE

39 CFR Part 111

Change in Administrative Charges for Refunds of Unused Meter Stamps and Returned Business Reply Mail Mailpieces With Postage Affixed

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to revise the *Domestic Mail Manual* (DMM) to increase the administrative charges for processing refunds for unused meter stamps and business reply mail (BRM) pieces returned with

postage affixed. These charges have not been increased for the past 20 years, and are updated to reflect the current hourly cost for processing the refunds. This proposed rule also splits the discussion of refunds for unused metered postage and refunds for PC Postage indicia into separate sections.

DATES: Comments must be received on or before November 14, 2002.

ADDRESSES: Written comments should be mailed or delivered to Manager, Mail Preparation and Standards, Postal Service, 1735 N. Lynn St., Arlington, VA 22209–6038. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Library, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260–1540.

FOR FURTHER INFORMATION CONTACT: Patricia Bennett (703) 292–3639 or Sam Koroma (703) 292–3990.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service has provisions in place to process refunds for unused metered postage, as well as for postage affixed to returned business reply mail (BRM) pieces. To cover the costs of the Postal Service labor used to process such requests for refunds, the Postal Service reduces the amount of the refund by an administrative charge. The current charges reflect old labor costs, which have not been updated for more than 20 years. The proposed amendments would update the charges to better reflect current hourly labor costs (including benefits).

For metered postage refunds, the current charge is calculated as 10 percent of the face value of the indicia, if that value is $250 or less. If the face value of the indicia is more than $250, the current charge is $10 per hour, with a minimum charge of $25. The proposed amendment would charge 10 percent for values up to $350. For values above $350, the charge is $35 per hour, with a minimum of $35. Thus, there would be no change in the charge for indicia values up to $250, an increase from $25 to 10 percent of the face value for values between $250 and $350, and an increase in the minimum charge from $25 to $35 for greater indicia values. When more than one hour of processing time is needed, the increase will vary depending on the time required.

For BRM pieces with affixed postage, the current administrative charge is $15 per hour. The proposed amendment would increase that charge to $35 per hour, reflecting current labor costs for processing the refund request.

While the amended charges would increase customer costs for obtaining a refund, the increases are needed so that the Postal Service can cover the costs of providing the refund.

The separate treatment of unused metered indicia printed by PC Postage products reflects the different refund procedures for this type of postage.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 533 (b), (c) regarding proposed rulemaking by 39 U.S.C. 410(a)), the Postal Service invites public comment of the following proposed revisions to the *Domestic Mail Manual*, incorporated by reference in the *Code of Federal Regulations.* See 39 CR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201 3219, 3403–3406, 3621, 3626, 5001.

2. Amend the *Domestic Mail Manual* (DMM) as set forth below:

Domestic Mail Manual (DMM)

* * * * *

P Postage and Payment Methods

* * * * *

P000 Basic Information

P010 General Standards

* * * * *

P014 Refunds and Exchanges

* * * * *

2.0 POSTAGE AND FEES REFUNDS

* * * * *

[Revise title and text to read as follows:]

2.5 Refunds for Metered Postage, Except for PC Postage Indicia

A refund for complete, legible, and valid unused indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2. The request is submitted as follows:

a. Only the meter licensee may request the refund.

b. The licensee must submit the refund request within 60 days from the dates shown in the indicia.

c. The licensee must submit the request, along with the items bearing the unused postage, to the licensing post office. The request is processed by the Postal Service.

d. Charges for processing a refund request are as follows:

(1) If the total face value of the indicia is $350 or less, the Postal Service charges 10% of the face value.

(2) If the total face value is more than $350, the Postal Service charges $35 per hour, or fraction thereof, for the actual hours to process the refund, with a minimum charge of $35.

[Renumber current 2.6 through 2.11 as new 2.7 through 2.12, respectively.]

[Add new 2.6 to read as follows:]

2.6 Refunds for PC Postage

A refund for complete, legible, and valid unused PC Postage indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2. The request is submitted as follows:

a. Only the PC Postage licensee may request the refund.

b. The licensee must submit the refund request within 30 days from the dates shown in the indicia.

c. The licensee must submit the request, along with the items bearing the unused postage, to the system provider. The request is processed by the provider, not the Postal Service. The provider may charge for processing refund requests.

d. The provider may charge for processing refund requests.

* * * * *

2.12 Business Reply Mail

[Revise new 2.12 by replacing "$15" with "$35" to read as follows:]

* * * A charge of $35 per hour, or fraction thereof, is assessed for the workhours used to process the refund.* * *

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–26161 Filed 10–11–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA087–7215; A–1–FRL–7393–9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the Commonwealth of Massachusetts on August 9, 2002 and August 26, 2002 which amends the Massachusetts Low Emission Vehicle (LEV) Program that is currently contained in the federally approved SIP. The regulations adopted by Massachusetts now include the California LEV II light-duty motor vehicle emission standards effective in model year 2004, the California LEV I medium-duty standards effective in model year 2003, and the smog index label specification effective model year 2002. In addition, revisions have been made to the zero emission vehicle (ZEV) requirements of the Massachusetts program in an attempt to keep these requirements consistent with California's. Massachusetts has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_X) in accordance with the requirements of the Clean Air Act (CAA). In addition, they have worked to ensure that their program is identical to California's, as required by section 177 of the CAA. EPA is proposing to approve the necessary emission reductions associated with Massachusetts' LEV requirements into the Massachusetts SIP because EPA has found that the requirements and the associated emission reductions are necessary for Massachusetts to achieve the national ambient air quality standard (NAAQS) for ozone. The intended effect of this action is to propose approval of Massachusetts LEV program's emission reductions. This action is being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before November 14, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the Massachusetts' submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 918–1045.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Description of the SIP Revision and EPA's Action
A. What is the Background for this Action?
B. What is the California LEV Program?
C. What are the relevant EPA and CAA requirements?
D. What is the History of the Massachusetts Low Emission Vehicle Program?
E. What about the zero emission vehicle requirements?
II. Proposed Action
III. What Are the Administrative Requirements?

I. Description of the SIP Revision and EPA's Action

A. What Is the Background for This Action?

Under the Clean Air Act Amendments of 1990, all of Massachusetts was divided into two separate serious ozone nonattainment areas: the Eastern Massachusetts area and the Western Massachusetts area. The ozone attainment deadline for these areas was initially November 15, 1999.

To bring these areas into attainment, the Commonwealth has adopted and implemented a broad range of ozone control measures including stage II vapor recovery, numerous stationary and area source VOC and NO_X controls, a vehicle inspection and maintenance (I/M) program, and the federal reformulated gasoline program. In addition, the Commonwealth has required that all model year 1995 and newer light duty vehicles newly sold in the Commonwealth meet California LEV emission standards. Massachusetts air pollution control regulations apply statewide.

EPA issued a direct final rule to approve the Massachusetts LEV program effective as of January 31, 1992 in the **Federal Register** on February 1, 1995 (60 FR 6027). Since that time, California has modified its LEV program. As California modified its program, Massachusetts was obligated to make similar changes to its program. Section 177 of the CAA provides that states may adopt California vehicle standards provided that the standards are identical to California's. As such, as California makes modifications to its program, states that have adopted California standards are compelled to make similar changes. The current version of the Massachusetts program is intended to be identical to the current California program.

B. What Is the California LEV Program?

The California Air Resources Board (ARB or Board) adopted California's second generation low emission vehicle regulations (LEV II) following a November 1998 hearing. These regulations are a continuation of the low emission vehicle (LEV I) regulations originally adopted in 1990 which were effective through the 2003 model year. The LEV II regulations increase the scope of the LEV I regulations by lowering the emission standards for all light- and medium-duty vehicles (including sport utility vehicles) beginning with the 2004 model year. There are several tiers of increasingly stringent LEV II emission standards to which a manufacturer may certify: low-emission vehicle (LEV); ultra-low-emission vehicle (ULEV); super-ultra low-emission vehicle (SULEV); partial zero-emission vehicle (PZEV); and zero-emission vehicle (ZEV). In addition to very stringent emission standards, the LEV II regulations provide flexibility to manufacturers by allowing them to choose the standards to which each vehicle is certified provided the overall fleet meets the specified phase-in requirements according to a fleet average hydrocarbon requirement that is progressively lower with each model year. The LEV II fleet average requirements commence in 2004 and apply through 2010 and beyond. In addition to the LEV II requirements, minimum percentages of passenger cars and the lightest light-duty trucks marketed in California by a large or intermediate volume manufacturer must be ZEVs. The program includes a ''smog index'' label for each vehicle sold, the intent of which is to inform consumers about the amount of pollution coming from that vehicle relative to other vehicles.

Subsequent to the adoption of the LEV II program, the U.S. EPA adopted its own substantially more stringent emission standards known as the Tier 2 regulations. In December 2000, the Board modified the LEV II program to take advantage of some elements of the recently adopted federal Tier 2 program to ensure that only the cleanest vehicle models will continue to be sold in California.

C. What Are the Relevant EPA and CAA Requirements?

Section 209(a) of the CAA prohibits states from adopting or enforcing standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. However, section 209(b) of the CAA allows the State of California to adopt its own motor vehicle emissions standards if a waiver is granted by the U.S. Environmental Protection Agency (EPA.) EPA must approve a waiver

unless it finds that California's determination that its standards will be ''* * *in the aggregate, at least as protective of public health and welfare as such Federal standards* * *'' to be arbitrary and capricious, California ''does not need such State standards to meet compelling and extraordinary conditions,'' or California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

Section 177 of the Clean Air Act authorizes other states to adopt and enforce California motor vehicle emission standards relating to the control of emissions if the standards are identical to California's for which a waiver has been granted and California and the state adopt such standards at least two years prior to the commencement of the model year to which the standards will apply.

D. What Is the History of the Massachusetts Low Emission Vehicle Program?

In 1990, the Massachusetts Legislature enacted Chapter 410 of the Acts of 1990, which is codified at M.G.L. c. 111, Section 142K. This law mandates that the Massachusetts Department of Environmental Protection (DEP) adopt and implement California motor vehicle emission standards unless, after a public hearing, the DEP establishes, based on substantial evidence, that said emission standards and a compliance program similar to the State of California's will not achieve, in the aggregate, greater motor vehicle pollution reductions than the federal standards and compliance program for any such model year.

In 1992, the DEP adopted the California LEV program by promulgating 310 CMR 7.40, the Low Emission Vehicle Program regulation. The DEP submitted the Massachusetts LEV Program to the EPA as part of the Massachusetts SIP as one of a number of air pollution strategies and programs designed to meet the milestones of the Clean Air Act Amendments of 1990 and to attain and maintain the NAAQS for ozone. The implementation of the LEV Program has resulted in emission reductions from Massachusetts vehicles.

In 1995, the Massachusetts regulation was amended to adopt the non-methane organic gas (NMOG) fleetwide emission average and clarify certain sections of the regulation. In 1999, the regulation was further amended to adopt the next generation of California emission standards know as ''LEV II'' effective in model year 2004, the LEV I medium-duty standards effective in model year 2003, and also the smog index effective beginning with model year 2002.

The 1992 version of the LEV program previously approved by EPA included ZEV requirements consistent with the requirements in the California program at that time. Since that time, California has made a number of changes to the ZEV requirements, and, subsequently, Massachusetts had made a number of revisions to the ZEV requirements in attempts to keep its program identical to California's. In light of the numerous changes regarding the ZEV requirement in Massachusetts, in its August 26, 2002 submittal to EPA, Massachusetts requested that we not take action on 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12). 310 CMR 7.40(2)(a)5, which establishes ZEV requirements for model year 2003 and beyond is the only portion of the Massachusetts ZEV program for which they have requested EPA approval. For the reasons articulated below, EPA is not taking action on section 310 CMR 7.40(2)(a)5 at this time. However, EPA is proposing to approve all other sections of the rule except for those specifically noted in the Commonwealth's August 26, 2002 submittal letter and section 310 CMR 7.40(2)(a)5.

E. What About the Zero Emission Vehicle Requirements?

As discussed earlier in this document, States adopting the California LEV program must adopt a program which is identical to California's. The zero emission vehicle program has undergone several modifications through the years in California. And Massachusetts has made several changes to their ZEV program in attempts to ensure their program is consistent with California. In fact, the Commonwealth has made changes regarding ZEV requirements since the time they adopted the rule that is currently before EPA. Nevertheless, the Massachusetts LEV II program is designed to be a comprehensive program which will secure necessary emission reductions. Those emission reductions are a necessary part of the Massachusetts' attainment demonstration for the one-hour ozone NAAQS. For that reason, and since the emission reductions from the California program are controlled by the fleet average hydrocarbon curve and can be achieved without any specific ZEV sales mandates, we are proposing to approve all of the emissions reductions associated with the LEV II program and the Massachusetts rules adopted on December 24, 1999 without taking action on the ZEV portions of the program at this time. In the case of sections 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12), EPA was not requested to take action. For section 310 CMR 7.40(2)(a)5, which establishes ZEV requirements beginning in model year 2003, EPA is not taking any action at this time but intends to do so in the future as the manufacturers' requirements for ZEVs in California, and Massachusetts, become clarified. EPA does believe that the ZEV mandate, which remains part of the Commonwealth's program, may result in advanced technology vehicles being introduced.

II. Proposed Action

EPA is proposing to approve a SIP revision at the request of the Massachusetts DEP. This version of the rule was adopted on December 24, 1999. It was submitted to EPA for approval on August 9, 2002. That submittal was later clarified to exclude certain sections of the rule from consideration on August 26, 2002. In addition, for the reasons articulated above, at this time we are not taking action on section 310 CMR 7.40(2)(a)5 which includes ZEV requirements beginning in model year 2003. As such we are proposing to approve all of the December 24, 1999 version of 310 CMR 7.40, the ''Low Emission Vehicle Program'' except for 310 CMR 7.40(2)(a)5, 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12). This proposed approval would justify all of the emission reductions of the current California LEV standards for light and medium duty vehicles. The regulations adopted by Massachusetts now include the California LEV II light-duty motor vehicle emission standards effective in model year 2004, the California LEV I medium-duty standards effective in model year 2003, and the smog index label specification effective model year 2002. EPA is proposing to approve Massachusetts' low emission vehicle program requirements into the SIP because EPA has found that the requirements are necessary for Massachusetts to achieve the NAAQS for ozone and to reduce emissions of VOC and NO_X from new vehicles in accordance with the requirements of the CAA.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this document.

III. What Are the Administrative Requirements?

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 02–26173 Filed 10–11–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA069–7205b:FRL–7394–1]

Approval and Promulgation of Implementation Plans; MA; One-hour Ozone Attainment Demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to fully approve the one-hour ozone attainment demonstration State Implementation Plan (SIP) for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area, submitted by the Massachusetts Department of Environmental Protection on July 27, 1998, and supplemented on September 6, 2002. This action is based on the requirements of the Clean Air Act (CAA) as amended in 1990, related to one-hour ozone attainment demonstrations.

DATES: Comments must be received on or before November 14, 2002.

ADDRESSES: Written comments (two copies if possible) should be sent to: David B. Conroy at the EPA Region I (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the state submittal and EPA's technical support document are available for public inspection during normal business hours (9 a.m. to 4 p.m.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts, telephone (617) 918–1664, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, Massachusetts 02108. Please telephone in advance before visiting.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, (617) 918–1664.

SUPPLEMENTARY INFORMATION: This notice provides an analysis of the one-hour ozone attainment demonstration SIP submitted by the Massachusetts Department of Environmental Protection (Massachusetts DEP) for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious nonattainment area.

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I. Clean Air Act Requirements for Serious Ozone Nonattainment Areas

The Clean Air Act requires EPA to establish national ambient air quality standards (NAAQS or standards) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. CAA sections 108 and 109. In 1979, EPA promulgated the one-hour 0.12 parts per million (ppm) ground-level ozone standard. 44 FR 8202 (February 8, 1979). Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone.

An area exceeds the one-hour ozone standard each time an ambient air quality monitor records a one-hour average ozone concentration of 0.125 ppm or higher.[1] An area is violating the standard if, over a consecutive three-year period, more than three exceedances are expected to occur at any one monitor. The area's 4th highest ozone reading at a single monitor is its design value. The CAA, as amended in 1990, required EPA to designate as nonattainment any area that was violating the one-hour ozone standard, generally based on air quality monitoring data from the three-year period from 1987–1989. CAA section 107(d)(4); 56 FR 56694 (November 6, 1991). The CAA further classified these areas, based on the area's design value, as marginal, moderate, serious, severe or extreme. CAA section 181(a). Marginal areas were suffering the least significant air pollution problems while the areas classified as severe and extreme had the most significant air pollution problems.

The control requirements and dates by which attainment needs to be achieved vary with the area's classification. Marginal areas are subject to the fewest mandated control requirements and have the earliest attainment date. Severe and extreme areas are subject to more stringent planning requirements but are provided more time to attain the standard. Serious areas were required to attain the one-hour ozone standard by November 15, 1999 and severe areas are required to attain by November 15, 2005 or November 15, 2007. The Boston-Lawrence-Worcester, MA–NH ozone nonattainment area is classified as serious and its attainment date is November 15, 1999.

Under section 182(c)(2) of the CAA, serious areas were required to submit by November 15, 1994 demonstrations of how they would attain the one-hour ozone standard and how they would achieve reductions in VOC emissions of 9 percent for each three-year period until the attainment year. In some cases, NO_X emission reductions can be substituted for the required VOC emission reductions.

In general, an attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the standard by its attainment date and the control measures necessary to achieve those reductions. Another component of the attainment demonstration SIP is a motor vehicle emissions budget for transportation conformity purposes. Transportation conformity is a process for ensuring that states consider the effects of emissions associated with new or improved federally-funded roadways and transit on attainment of the standard. As described in section 176(c)(2)(A) of the CAA, attainment demonstrations necessarily include the estimates of motor vehicle emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether federally-supported transportation plans and projects conform to the attainment demonstration SIP.

II. Background and Current Air Quality Status of the Boston-Lawrence-Worcester, MA–NH Ozone Nonattainment Area

The Boston-Lawrence-Worcester, MA–NH ozone nonattainment area is a multi-state nonattainment area consisting of a small portion of southern New Hampshire and the entire eastern half of Massachusetts. In New Hampshire, the nonattainment area consists of 28 individual cities and towns in portions of Hillsborough and Rockingham counties. In Hillsborough County, the individual cities and towns included in the nonattainment area are: Amherst Town, Brookline Town, Hollis Town, Hudson Town, Litchfield Town, Merrimack Town, Milford Town, Mont Vernon Town, Nashua City, Pelham Town, and Wilton Town. In Rockingham, the individual towns included in the nonattainment area are: Atkinson Town, Brentwood Town, Danville Town, Derry Town, E. Kingston Town, Hampstead Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, Newton Town, Plaistow Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town, and Windham Town. In Massachusetts, the nonattainment area includes a much larger area, consisting of 10 counties in their entirety (*i.e.*, Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties).

Historically and throughout most of the 1990's, ozone monitors throughout the Boston-Lawrence-Worcester, MA–NH nonattainment area violated the one-hour ozone standard. Directly downwind of the Boston-Lawrence-Worcester, MA–NH nonattainment area, there were also a number of other nonattainment areas violating the one-hour ozone standard during the 1990's in other parts of New Hampshire and in portions of southern Maine. On June 9, 1999, however, EPA determined that the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area had attained the 1-hour ozone standard (64 FR 30911).[2] This determination was based on data collected from 1996–1998. On June 9, 1999, EPA also determined that the Portsmouth-Dover-Rochester, New Hampshire ozone nonattainment area and the Portland, Maine ozone nonattainment area had also attained the 1-hour ozone standard based on data collected from 1996–1998. See 64 FR 30911. At the time of these determinations of attainment, there were no areas in any portion of New Hampshire or Maine that violated the one-hour ozone standard.

The Boston-Lawrence-Worcester, MA–NH nonattainment area continued to have air quality meeting the one-hour ozone standard in 1999 (based on data from 1997–1999) and in 2000 (based on data from 1998–2000). Based on data collected in 1999–2001, however, the Boston-Lawrence-Worcester, MA–NH area now has air quality violating the one-hour ozone standard. The violating monitors are in the southern portion of the multi-state nonattainment area in Fairhaven and Truro, Massachusetts. The other nine ozone air quality monitors in the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area (*i.e.*, in the Massachusetts cities and towns of Easton, Stow, Boston (two sites), Lynn, Lawrence, Worcester, and Newbury, and in Nashua, New Hampshire) show attainment of the one-hour ozone NAAQS, based on 1999–2001 data. Preliminary (not quality assured) ozone data readings from the monitors for the area from the summer of 2002 show only the Truro monitor registering a violation of the one-hour ozone NAAQS for the three-year period 2000–2002.

III. History and Time Frame for the State's Attainment Demonstration SIP

A. Ozone Transport Assessment Group and the NO_X SIP Call

Notwithstanding significant efforts by the states, in 1995 EPA recognized that many states in the eastern half of the United States could not meet the November 1994 time frame for submitting an attainment demonstration SIP because emissions of NO_X and

[1] The one-hour ozone standard is 0.12 ppm. EPA's long-standing practice is that monitored values of 0.125 ppm or higher are rounded up, and thus considered an exceedance of the NAAQS and values less than 0.125 ppm are rounded down and are not an exceedance.

[2] In that notice, EPA also determined the one-hour ozone standard no longer applied to the Boston-Lawrence-Worcester, MA–NH area. Subsequently, due to continued litigation regarding the 8-hour ozone standard, EPA reinstated the applicability of the one-hour ozone standard in all areas. See 65 FR 45182 (July 20, 2000). EPA, however, did not modify its determination that the Boston-Lawrence-Worcester, MA–NH area had attained the one-hour ozone standard.

VOCs in upwind states (and the ozone formed by these emissions) affected these nonattainment areas and the full impact of this effect had not yet been determined. This phenomenon is called ozone transport.

On March 2, 1995, Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, issued a memorandum to EPA's Regional Administrators acknowledging the efforts made by states but noting the remaining difficulties in making attainment demonstration SIP submittals.[3] Recognizing the problems created by ozone transport, the March 2, 1995 memorandum called for a collaborative process among the states in the eastern half of the country to evaluate and address transport of ozone and its precursors. This memorandum led to the formation of the Ozone Transport Assessment Group (OTAG)[4] and provided for the states to submit the attainment demonstration SIPs based on the expected time frames for OTAG to complete its evaluation of ozone transport.

In June 1997, OTAG concluded and provided EPA with recommendations regarding ozone transport. The OTAG generally concluded that transport of ozone and the precursor NO_X is significant and should be reduced regionally to enable states in the eastern half of the country to attain the ozone NAAQS.

In recognition of the length of the OTAG process, in a December 29, 1997 memorandum, Richard Wilson, EPA's then Acting Assistant Administrator for Air and Radiation, provided until April 1998 for states to submit the following elements of their attainment demonstration SIPs for serious and severe nonattainment areas: (1) Evidence that the applicable control measures in subpart 2 of part D of title I of the CAA were adopted and implemented or were on an expeditious course to being adopted and implemented; (2) a list of measures needed to meet the remaining rate-of-progress (ROP) emissions reduction requirement and to reach attainment; (3) for severe areas only, a commitment to adopt and submit target calculations for post-1999 ROP and the control measures necessary for attainment and ROP plans through the attainment year by the end of 2000; (4) a commitment to implement the SIP control programs in a timely manner and to meet ROP emissions reductions and attainment; and (5) evidence of a public hearing on the state submittal.[5] This submission is sometimes referred to as the Phase 2 submission. Motor vehicle emissions budgets can be established based on a commitment to adopt the measures needed for attainment and identification of the measures needed. Thus, state submissions due in April 1998 under the Wilson policy should have included motor vehicle emissions budgets.

Building upon the OTAG recommendations and technical analyses, in November 1997, EPA proposed action addressing the ozone transport problem. In its proposal, EPA found that current SIPs in 22 states and the District of Columbia (23 jurisdictions) were insufficient to provide for attainment and maintenance of the one-hour ozone standard because they did not regulate NO_X emissions that significantly contribute to ozone transport. 62 FR 60318 (November 7, 1997). The EPA finalized that rule in September 1998, calling on the 23 jurisdictions to revise their SIPs to require NO_X emissions reductions within the state to a level consistent with a NO_X emissions budget identified in the final rule. 63 FR 57356 (October 27, 1998). This final rule is commonly referred to as the NO_X SIP Call.

B. Massachusetts Ozone Attainment Demonstration Submittals

On July 27, 1998, Massachusetts DEP submitted an ozone attainment demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area as a revision to its SIP. On June 9, 1999, however, EPA determined that the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area had attained the 1-hour ozone standard (64 FR 30911). This determination was based on data collected from 1996–1998. Consistent with EPA policy,[6] since the Boston-Lawrence-Worcester, MA–NH area had attained the standard by November 15, 1999, its statutory attainment date, EPA took no action on the Massachusetts attainment demonstration SIP submittal for the Boston-Lawrence-Worcester, MA–NH area. The Boston-Lawrence-Worcester, MA–NH nonattainment area continued to have air quality meeting the one-hour ozone standard through the summer of 2000.

As mentioned above, based on data collected in 1999–2001, the Boston-Lawrence-Worcester, MA–NH area now has air quality violating the one-hour ozone standard. Thus, this nonattainment area is once again required to have an approved attainment demonstration and 9% ROP plan with respect to section 182(c)(2) of the CAA. Today, in this proposed rule, EPA is proposing action on the attainment demonstration SIP submitted by the Massachusetts DEP on July 27, 1998 and supplemented on September 6, 2002 for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area. EPA approved the state's 15% and 9% ROP plans for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area via a direct final rulemaking on August 28, 2002 (67 FR 55121). In a subsequent action, EPA will propose action on the attainment demonstration for the New Hampshire portion of this same nonattainment area. EPA will also take action separately on contingency measures for both the New Hampshire and Massachusetts portions of the Boston-Lawrence-Worcester, MA–NH nonattainment area.

The supplement that Massachusetts submitted on September 6, 2002 to its 1998 Attainment Demonstration contained the following elements: (1) A revised and updated ''weight of evidence'' analysis showing how attainment would be achieved in the nonattainment area by 2007; (2) an analysis showing that Massachusetts is implementing all reasonably available control measures (RACM) and that no other RACM could be adopted in Massachusetts that would advance the attainment year; and (3) new mobile source conformity budgets for the 2007 attainment year. Massachusetts also requested that a new attainment date of November 15, 2007 be established for the area. Massachusetts Department of Environmental Protection held a public hearing on this supplement to its 1998 Attainment Demonstration on July 25, 2002.

The statutory attainment date for the Boston Area was November 15, 1999. The area attained the standard as of its attainment date, but then subsequently

[3] Memorandum, ''Ozone Attainment Demonstrations,'' issued March 2, 1995. A copy of the memorandum may be found on EPA's Web site at http://www.epa.gov/ttn/oarpg/t1pgm.html.

[4] Letter from Mary A. Gade, Director, State of Illinois Environmental Protection Agency to Environmental Council of States (ECOS) Members, dated April 13, 1995.

[5] Memorandum, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM 10 NAAQS,'' issued December 29, 1997. A copy of this memorandum may be found on EPA's Web site at http://www.epa.gov/ttn/oarpg/t1pgm.html.

[6] Policy guidance contained in a May 10, 1995 memorandum from John Seitz, Director of EPA's Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'' recommends that ROP and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Clean Air Act are no longer applicable to an area once it has air quality data indicating that the one hour ozone standard has been attained.

experienced a violation. The CAA does not expressly address the appropriate attainment date for an area that attains the standard by its attainment date but then subsequently violates the standard nor does it address the planning requirements that apply to such an area. (CAA sections 179(c) and (d) and 181(b)(2) establish requirements only for those areas that EPA determines do not attain the standard by their attainment date.) With respect to the attainment date, both subparts 1 and 2 specify outside dates for attainment and provide that attainment must be ''as expeditiously as practicable.'' CAA sections 172(a)(2) and 181(a)(1). With respect to control obligations, EPA generally attempts first to work with the State to submit a revised SIP and, where necessary, would issue a SIP Call pursuant to section 110(k)(5). See *e.g.*, 65 FR 64352 (Oct. 27, 2000). Here, Massachusetts has already submitted an attainment demonstration and has indicated that the demonstration provides for attainment as expeditiously as practicable. We review Massachusetts' submission in the following sections.

IV. What Are the Components of a Modeled Attainment Demonstration?

The EPA provides that states may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment.[7] In order to have a complete modeling demonstration submission, states should have submitted the required modeling analysis and identified any additional evidence that EPA should consider in evaluating whether the area will attain the standard.

A. Modeling Requirements

For purposes of demonstrating attainment, section 182(c) of the CAA requires serious areas to use photochemical grid modeling or an analytical method EPA determines to be as effective.[8] The photochemical grid model is set up using meteorological conditions conducive to the formation of ozone. Emissions for a base year are used to evaluate the model's ability to reproduce actual monitored air quality values and to predict air quality changes in the attainment year due to the emission changes which include growth up to and controls implemented by the attainment year. A modeling domain is chosen that encompasses the nonattainment area. Attainment is demonstrated when all predicted concentrations inside the modeling domain are at or below the NAAQS or at an acceptable upper limit above the NAAQS consistent with conditions specified by EPA's guidance. When the predicted concentrations are above the NAAQS, an optional Weight of Evidence (WOE) determination which incorporates, but is not limited to, other analyses, such as air quality and emissions trends, may be used to address uncertainty inherent in the application of photochemical grid models.

The EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the state must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures to be used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA Regional offices, the regulated community, and public interest groups). Second, for purposes of developing the information to put into the model, the state must select air pollution days, *i.e.*, days in the past with poor air quality, that are representative of the ozone pollution problem for the nonattainment area. Third, the state needs to identify the appropriate dimensions of the area to be modeled, *i.e.*, the domain size. The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment. Fourth, the state needs to determine the grid resolution. The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces. Fifth, the state needs to generate meteorological data that describe atmospheric conditions and emissions inputs. Finally, the state needs to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model-predicted one-hour daily maximum concentrations in all grid cells for the attainment year to the level of the NAAQS. A predicted concentration above 0.124 ppm ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to attain the standard. This type of test is often referred to as an exceedance test. The EPA's guidance recommends that states use either of two modeled attainment or exceedance tests for the one-hour ozone NAAQS: a deterministic test or a statistical test.

The deterministic test requires the state to compare predicted one-hour daily maximum ozone concentrations for each modeled day[9] to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed.

The statistical test takes into account the fact that the form of the one-hour ozone standard allows exceedances. If, over a three-year period, the area has an average of one or fewer exceedances per year, the area is not violating the standard. Thus, if the state models a very extreme day, the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the standard. (The form of the one-hour ozone standard allows for up to three readings above the standard over a three-year period before an area is considered to be in violation.)

The acceptable upper limit above 0.124 ppm is determined by examining the size of exceedances at monitoring sites which meet the one-hour NAAQS. For example, a monitoring site for which the four highest one-hour average concentrations over a three-year period are 0.136 ppm, 0.130 ppm, 0.128 ppm and 0.122 ppm is attaining the standard. To identify an acceptable upper limit, the statistical likelihood of observing ozone air quality exceedances of the standard of various concentrations is equated to the severity of the modeled day. The upper limit generally represents the maximum ozone concentration observed at a location on

[7] The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the one-hour ozone NAAQS. See U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). A copy may be found on EPA's Web site at *http://www.epa.gov/ttn/scram/* (file name: ''UAMREG''). See also U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). A copy may be found on EPA's Web site at *http://www.epa.gov/ttn/scram/* (file name: ''O3TEST'').

[8] *Ibid.*

[9] The initial, ''ramp-up'' days for each episode are excluded from this determination.

a single day and it would be the only reading above the standard that would be expected to occur no more than an average of once a year over a three-year period. Therefore, if the maximum ozone concentration predicted by the model is below the acceptable upper limit, in this case 0.136 ppm, then EPA might conclude that the modeled attainment test is passed. Generally, exceedances well above 0.124 ppm are very unusual at monitoring sites meeting the NAAQS. Thus, these upper limits are rarely substantially higher than the attainment level of 0.124 ppm.

B. Additional Analyses Where Modeling Fails To Show Attainment

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is called a weight of evidence (WOE) determination.

Under a WOE determination, the state can rely on and EPA will consider factors such as: other modeled attainment tests, *e.g.*, a rollback analysis; other modeled outputs, *e.g.*, changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emissions trends; analyses of air quality monitored data; the responsiveness of the model predictions to further controls; and, whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary from case to case. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the WOE needs to be.

The EPA's 1996 modeling guidance also recognizes a need to perform a mid-course review as a means for addressing uncertainty in the modeling results. Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on WOE needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. The mid-course review is discussed below.

V. What Is the Framework for Proposing Action on the Attainment Demonstration SIPs?

In addition to the modeling analysis and WOE support demonstrating attainment, the EPA has identified the following key elements which generally must be present in order for EPA to approve the one-hour attainment demonstration SIPs. These elements are: measures required by the CAA and measures relied on in the modeled attainment demonstration SIP; NO_X reductions affecting boundary conditions; motor vehicle emissions budgets; any additional measures needed for attainment;[10] and a Mid-Course Review (MCR).

A. CAA Measures and Measures Relied on in the Modeled Attainment Demonstration SIP

The states should have adopted the control measures already required under the CAA for the area classification. In addition, a state may have included control measures in its attainment strategy that are in addition to measures required in the CAA. For purposes of fully approving the state's SIP, the state needs to adopt and submit all VOC and NO_X controls within the local modeling domain that were relied on for purposes of the modeled attainment demonstration.

The information in Table 1 is a summary of the CAA requirements that should be met for a serious area for the one-hour ozone NAAQS. These requirements are specified in section 182 of the CAA. EPA must have taken final action approving all measures relied on for attainment, including the required ROP control measures and target calculations, before EPA can issue a final full approval of the attainment demonstration as meeting CAA section 182(c)(2). This was done for all the measures for Massachusetts.

TABLE 1.—CAA REQUIREMENTS FOR SERIOUS AREAS

—NSR for VOC and NO_X[a], including an offset ratio of 1.2:1 and a major VOC and NO_X source cutoff of 50 tons per year.
—Reasonable Available Control Technology (RACT) for VOC and NO_X[a].
—Enhanced Inspection and Maintenance (I/M) program.
—15% volatile organic compound plans.
—Emissions inventory.
—Emission statements.
—Periodic inventories.
—Attainment demonstration.
—9 percent ROP plan through 1999.
—Clean fuels program or substitute.
—Enhanced monitoring Photochemical Assessment Monitoring Stations.
—Stage II vapor recovery.
—Contingency measures.
—Reasonably Available Control Measures Analysis.

[a] Unless the area has in effect a NO_X waiver under section 182(f). The Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH is not such an area.

[10] As discussed in detail below, the Massachusetts attainment demonstration shows attainment without the need for additional measures beyond what has been adopted into the SIP or will be required by federal regulations. Therefore additional measures are not required for Massachusetts.

1. Control Measures Adopted by Massachusetts

Adopted and submitted rules for all previously required CAA mandated measures for the specific area classification that are being relied on in the attainment demonstration are required. This also includes measures that may not be required for the area classification but that the state relied on in the SIP submission for attainment. As explained in Table 2, Massachusetts has submitted SIPs for all of the measures they are relying on for attainment.

TABLE 2.—CONTROL MEASURES IN THE ONE-HOUR OZONE ATTAINMENT PLAN FOR THE MASSACHUSETTS PORTION OF THE BOSTON-LAWRENCE-WORCESTER, MA–NH SERIOUS OZONE NONATTAINMENT AREA

Name of control measure	Type of measure	Approval status
On-board Refueling Vapor Recovery	Federal rule	Promulgated at 40 CFR part 86.
Federal Motor Vehicle Control program (Tier 0)	Federal rule	Promulgated at 40 CFR part 86 (pre-1990).
CA Low Emission Vehicle (CA LEV)	State initiative	SIP approved (60 FR 6027; 2/1/95).
CA LEV II	State initiative	SIP approval pending. EPA will publish final rules for the CA LEV II SIP before or at the same time as we publish final rules on the attainment demonstration.
Heavy Duty Diesel Engines (On-road)	Federal rule	Promulgated at 40 CFR part 86.
Federal Non-road Heavy Duty diesel engines	Federal rule	Promulgated at 40 CFR part 89.
Federal Non-road Gasoline Engines	Federal rule	Promulgated at 40 CFR part 90.
Federal Marine Engines	Federal rule	Promulgated at 40 CFR part 91.
Rail Road Locomotive Controls	Federal rule	Promulgated at 40 CFR part 92.
AIM Surface Coatings	State initiative	SIP approved (60 FR 65242; 12/19/95).
Consumer & commercial products	State initiative	SIP approved (60 FR 65242; 12/19/95).
Automotive Refinishing	State initiative	SIP approved (61 FR 5696; 2/14/96).
Enhanced Inspection & Maintenance	CAA SIP Requirement	SIP approved (65 FR 69254; 11/16/00).
NO_X RACT	CAA SIP Requirement	SIP approved (64 FR 48095; 9/2/99).
VOC RACT pursuant to sections 182(a)(2)(A) and 182(b)(2)(B) of CAA.	CAA SIP Requirement	SIP approved (58 FR 34908; 6/30/93 and 64 FR 48297; 9/3/99).
VOC RACT pursuant to section 182(b)(2)(A) and (C) of CAA.	CAA SIP Requirement	SIP approved (Portions approved 64 FR 48297; 9/3/99) Final approval (67 FR 62179; 10/04/02).
Stage II Vapor Recovery	CAA SIP Requirement	SIP Approved (65 FR 78974; 12/18/2000).
Reformulated Gasoline	State opt-in	SIP approved (67 FR 55121; 8/28/02).
Clean Fuel Fleets	CAA SIP Requirement	SIP approved (60 FR 6027; 2/1/95). Massachusetts used CAL LEV reductions to meet the Clean Fuel Fleet requirement.
Base Year Emissions Inventory	CAA SIP Requirement	SIP approved (62 FR 37510; 7/14/97).
15% VOC Reduction Plan	CAA SIP Requirement	SIP approved (67 FR 55121; 8/28/02).
9% rate of progress plan	CAA SIP Requirement	SIP approved (67 FR 55121; 8/28/02).
Emissions Statements	CAA SIP Requirement	SIP approved (61 FR 11556; 3/21/96).
Enhanced Monitoring (PAMS)	CAA SIP Requirement	SIP approved (62 FR 37510; 7/14/97).
OTC NO_X MOU Phase II	State initiative	SIP approved (64 FR 29567; 6/2/99).
NO_X SIP Call	EPA requirement	SIP approved (65 FR 81743; 12/27/00).

B. NO_X Reductions Consistent With the Modeling Demonstration

On October 27, 1998, EPA completed rulemaking on the NO_X SIP call which required states to address transport of NO_X and ozone to other states. To address transport, the NO_X SIP call established emissions budgets for NO_X that 23 jurisdictions were required to show they would meet by 2007 through enforceable SIP measures adopted and submitted by September 30, 1999. The NO_X SIP call is intended to reduce emissions in upwind states that significantly contribute to nonattainment problems. The EPA did not identify specific sources that the states must regulate nor did EPA limit the states' choices regarding where to achieve the emission reductions. The courts have largely upheld EPA's NO_X SIP Call, *Michigan* v. *United States Env. Prot. Agency,* 213 F.3d 663 (D.C. Cir. 2000), cert. denied, U.S., 121 S.Ct. 1225, 149 L.Ed. 135 (2001); *Appalachian Power* v. *EPA,* 251 F.3d 1026 (D.C. Cir. 2001). Although a few issues were vacated or remanded to EPA for further consideration, states subject to the NO_X SIP call have largely adopted the controls necessary to meet the budgets set for them under the NO_X SIP call rule. The controls to achieve these reductions should be in place by May 2004.

Massachusetts used the best available NO_X SIP Call information in its modeling analysis. The modeling analysis is discussed in more detail below. Furthermore, Massachusetts adopted control measures to meet the requirements of the NO_X SIP call. EPA approved the regulation Massachusetts adopted pursuant to the NO_X SIP call on December 27, 2000 (65 FR 81743).

C. Motor Vehicle Emissions Budgets (MVEBs)

The estimates of motor vehicle emissions from SIPs that EPA finds adequate or approves are used to determine the conformity of transportation plans and programs, as described by CAA section 176(c)(2)(A). The budgets serve as a ceiling on emissions from the on-road mobile source sector in conformity determinations. Control strategy SIPs, such as attainment demonstrations, 15 percent plans, and post-1996 rate-of-progress plans all contain budgets. Attainment demonstration SIPs must estimate the motor vehicle emissions that will be produced in the attainment year and demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with attainment. Similarly, SIPs submitted for other Clean Air Act requirements, such as 15% plans and post-1996 rate-of-progress plans, also contain motor vehicle emissions budgets. In these SIPs, the budgets are the amount of emissions from motor vehicles that are consistent with the SIP's purpose of progress in achieving the standard. Once EPA finds a SIP

adequate or approves it, the budgets from that SIP must be used for conformity. In a conformity determination, the budget that applies for a particular analysis year is the adequate or approved budget for the most recent prior year.

Massachusetts submitted an ozone attainment demonstration plan to EPA in 1998 with budgets for eastern Massachusetts for the year 2003. EPA found these budgets adequate on February 19, 1999. These 2003 budgets are more restrictive than those in the post-1996 rate-of-progress plan. The specific 2003 budgets for eastern Massachusetts are 117.118 tons per summer day for VOC, and 243.328 tons per summer day for NO_X.

On September 6, 2002, Massachusetts submitted its supplement to its 1998 Attainment Demonstration which contains motor vehicle emissions budgets for both VOC and NO_X for the year 2007. With this supplement to the attainment demonstration, it is clear that the area will not attain in the year 2003. Therefore, the budgets for the year 2003 are not consistent with attainment, and therefore EPA believes they are no longer adequate. Therefore, EPA proposes to find the 2003 budgets inadequate, and proposes to approve the 2007 motor vehicle emissions budgets into the SIP. On the date of publication of EPA's final rulemaking action approving Massachusetts's ozone attainment demonstration, the 2007 budgets would apply in a conformity determination for an analysis year of 2007 and later. Note that the post-1996 rate-of-progress budgets would apply, as of the effective date of the direct final notice described above, if there was an analysis year between the present and 2006. However, at this time there is no analysis year required prior to 2007. The 2007 motor vehicle emissions budgets are shown in Table 3 below.

TABLE 3.—2007 EMISSIONS BUDGETS FOR ON-ROAD MOBILE SOURCES IN TONS PER SUMMER DAY (TPSD)

Area	2007 VOC budget	2007 NO_X budget
Massachusetts portion of the Boston-Lawrence Worcester, MA–H area	86.700	226.363

D. Mid-Course Review

A mid-course review (MCR), which generally is performed midway between approval of the attainment demonstration and the attainment date, is a reassessment of modeling analyses and more recent monitored data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable. The states have worked with EPA in a public consultative process to develop a methodology for performing the MCR and developing the criteria by which adequate progress would be judged.[11] Massachusetts has submitted a commitment with its September 6, 2002 attainment demonstration supplement committing to complete a mid-course review pursuant to EPA requirements and guidance. Massachusetts committed to perform this mid-course review by December 31, 2004.

E. Reasonably Available Control Measures Analysis

Section 172(c)(1) of the CAA requires SIPs to contain all RACM and provide for attainment as expeditiously as practicable. EPA has previously provided guidance interpreting the requirements of 172(c)(1). *See* 57 FR 13498, 13560. In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in that guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in their SIP submittals whether measures considered were reasonably available or not, and if measures are reasonably available they must be adopted as RACM. Finally, EPA indicated that states could reject measures as not being RACM because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or would be economically or technologically infeasible. The EPA also issued a memorandum re-confirming the principles in the earlier guidance, entitled, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

When EPA presented this statutory argument in support of its RACM policy to the U.S. Court of Appeals for the DC Circuit in defense of its approval of the Washington DC ozone SIP, the DC Circuit found reasonable EPA's interpretation that measures must advance attainment to be RACM. *Sierra Club* v. *EPA,* 294 F.3d 155, 162 (DC Cir. 2002). Specifically, the Court found that:

EPA reasonably concluded that because the Act ''use[s] the same terminology in conjunction with the RACM requirement'' as it does in requiring timely attainment, *compare* 42 U.S.C. § 7502(c)(1) (requiring implementation of RACM ''as expeditiously as practicable but no later than'' the applicable attainment deadline), *with id.* § 7511(a)(1) (requiring attainment under same constraints), the RACM requirement is to be understood as a means of meeting the deadline for attainment.

Id. Morever, the D.C. Circuit rejected, as a ''misreading of both text and context,'' Sierra Club's arguments that EPA's interpretation of RACM conflicts with the Act's text and purpose and lacks any rational basis. The D.C. Circuit also found reasonable EPA's interpretation that it could consider costs in a RACM analysis and that measures may be rejected if they would require an intensive and costly effort for regulation of many small sources. *Sierra Club* v. *EPA,* 294 F.3d at 162,163.

VI. What Are the Relevant Policy and Guidance Documents?

This proposal has cited several policy and guidance memoranda. The documents and their location on EPA's web site are listed below; these documents will also be placed in the docket for this proposal action.

Relevant Documents

1. ''Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled.'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: *http://www.epa.gov/ttn/scram* (file name: ''ADDWOE1H'').

2. ''Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures.'' November 24, 1999. OAQPS. U.S. EPA, RTP, NC.

[11] The EPA issued guidance on the MCR. A copy dated March 28, 2002 may be found on EPA's Web site at *http://www.epa.gov/scram001/tt25.htm* (file name: ''MCRGUIDE'').

3. Memorandum, ''Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations,'' from Merrylin Zaw-Mon, Office of Mobile Sources, to the Air Division Directors, Regions I–VI. November 3, 1999. Web site: *http://www.epa.gov/oms/transp/trafconf.html.*

4. Memorandum from Lydia Wegman and Merrylin Zaw-Mon to the Air Division Directors, Regions I–VI, ''1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking.'' November 8, 1999. Web site: *http://www.epa.gov/oms/transp/trafconf.html.*

5. Memorandum from John Seitz, Director, Office of Air Quality Planning and Standards, ''Mid-Course Review Guidance for the 1-Hour Ozone Nonattainment Areas that Rely on Weight-of-Evidence for Attainment Demonstration.'' Web site: *http://www.epa.gov/scram001/tt25.htm* (file name: ''MCRGUIDE'').

6. Memorandum, ''Guidance to Clarify EPA's Policy on What Constitutes 'As Expeditiously as Practicable' for Purposes of Attaining the One-Hour Ozone Standard for Serious and Severe Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

7. U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). Web site: *http://www.epa.gov/ttn/scram/* (file name: ''UAMREG'').

8. U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). Web site: *http://www.epa.gov/ttn/scram/* (file name: ''O3TEST'').

9. Memorandum, ''Ozone Attainment Demonstrations,'' from Mary D. Nichols, issued March 2, 1995. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

10. December 29, 1997 Memorandum from Richard Wilson, Acting Assistant Administrator for Air and Radiation ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM_{10} NAAQS.'' Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

VII. How Do the Massachusetts Submittals Satisfy the Framework?

This section provides a review of Massachusetts' submittal and an analysis of how this submittal satisfies the framework discussed in section V. of this notice.

A. What Did the State Submit?

The attainment demonstration SIP submitted by the Massachusetts Department of Environmental Protection for the Boston-Lawrence-Worcester, MA-NH area includes a modeling analysis using the CALGRID model. The SIP was submitted on July 27, 1998. The SIP was subject to public notice and comment and a hearing was held in June 1998. Supplementary information on the 1998 attainment demonstration, including a RACM analysis and motor vehicle emissions budgets was submitted on September 6, 2002. The supplemental SIP was also subject to public notice and comment, and a hearing was held on July 25, 2002. Information on how the photochemical grid modeling and RACM analysis is consistent with the CAA and EPA guidance is summarized below.

B. How Was the Photochemical Grid Modeling Conducted?

The one-hour attainment demonstration submitted by Massachusetts is for both the Boston-Lawrence-Worcester, MA–NH serious area as well as the Springfield (Western Massachusetts) serious area. EPA approved the attainment demonstration for the Springfield (Western Massachusetts) serious area in a previous action (66 FR 665; January 3, 2001).

The key element of the attainment demonstration is the photochemical grid modeling required by the CAA. The Massachusetts SIP used the CALGRID model which was approved for use by EPA since it was found to be at least as effective as the guideline model which is UAM–IV. The modeling domain for CALGRID extends from southwest Connecticut, northward 340 km to northern Vermont, and eastward to east of Nantucket, Massachusetts. For the Boston-Lawrence-Worcester, MA–NH nonattainment area, the domain meets EPA guidance since it contains adequate areas both upwind and downwind of the nonattainment area. The domain also includes the monitors with the highest measured peak ozone concentrations in Massachusetts and coastal Maine and New Hampshire. Since the original modeling was done for a much larger domain that includes not only all of Massachusetts but also includes all of Rhode Island, most of Connecticut, southern New Hampshire, southern Vermont, and most of southern Maine, the CALGRID model has several ''source'' areas and several receptor areas. The only receptor area of import to this notice and the Massachusetts SIP submittal is the Boston-Lawrence-Worcester, MA–NH nonattainment area. For the purposes of this notice, only model results in this geographic area will be used, unless otherwise noted. As shown below, EPA believes the modeling portion of the attainment demonstration meets EPA guidance.

The model was run for 10 days during four distinct episodes (August 14–17, 1987, June 21–22, 1988, July 7–8, 1988 and July 10–11, 1988). These episodes represent a variety of ozone conducive weather conditions, and also include the three worst ranked ozone episodes (1987 to 1998) for the Boston-Lawrence-Worcester, MA–NH area. The episodes selected also reflect days with high measured ozone in a variety of areas within the entire domain. This is because, as stated above, the domain covers several nonattainment areas, and in order to model the meteorology that causes high ozone, several different episodes were needed. The model results for the first day of each episode are not used for attainment demonstration purposes, because they are considered ''ramp-up days.'' Ramp-up days help reduce impacts of initial conditions; after ramp-up days, model results are more reflective of actual emissions being emitted into the atmosphere. Since the first day of each episode was not considered, this leaves six days for strategy assessment.

The CALGRID model was run using the CALMET meteorological processor. This processor took actual meteorological data collected by the National Weather Service and the State Air Pollution Agencies and using extrapolation and other analysis techniques provided winds, temperatures and other meteorological parameters at approximately 400 specific grid points for each hour of the episode up to 14 levels (*i.e.*, from the surface to top of the model which is about 5000 feet). CALMET is described in detail in the Massachusetts attainment demonstration, and was approved by EPA for use in the CALGRID modeling system.

The CALGRID model was run with emissions data prepared by EPA Region I and/or a contractor working with EPA Region I. The data were taken from the EPA Aerometric Informational Retrieval System (AIRS) data base in late 1993 and reflect the emission data supplied from the six New England States. The emission data for the small portion of New York state that forms the western edge of the domain was supplied by New York. EPA Region I quality assured all the New England AIRS data, the New York supplied data and all necessary modifications to the data. The data was further processed through the Emissions

Preprocessor System (EPS Version 2.0). To more accurately model ozone in New England, day specific emissions were simulated for on-road mobile sources (cars, trucks, busses, etc.), and for large fossil-fueled fired power plants in New England. The base case CALGRID model is consistent with EPA guidance on model performance.

Future emissions were projected to 1999 and 2007 accounting for both emission increases due to industrial growth, population growth and growth in the number of miles traveled by cars, as well as emission reductions due to cleaner gasoline, cleaner cars and controls on industrial pollution. Growth factors were derived using the EPA-approved Bureau of Economic Analysis (BEA) factors and all the emissions were processed using the EPS 2.0 system.

Model runs were also performed for the year 2007. The runs employed 2007 emission estimates inside the New England Domain, along with boundary condition files reflecting EPA's NO_X SIP Call emission estimates in upwind areas. Year 2007 emissions estimates for the states inside the modeling domain reflected EPA's NO_X SIP call as well as other federal and state control strategies being implemented by the beginning of the 2007 ozone season. This was accomplished using a two-step process. The first step was to project emissions using growth factors to account for increases or decreases in economic activity by industrial sector. In general, the states projected their emissions using the same growth factors that were used in the OTAG modeling effort. The second step involved applying control factors to source categories that would be regulated by the year 2007. States used a combination of information for control levels: those used for the OTAG modeling effort, and state-specific information relating to the effectiveness of control programs planned or in place. These 2007 emission estimates did not, however, include the Tier 2/Gasoline Sulfur program that was subsequently adopted by EPA on February 10, 2000 (65 FR 6698). The ozone reductions in 2007 from the Tier 2/Gasoline Sulfur program are discussed in Section VII.C.4.

C. What Are the Conclusions From the Modeling?

The EPA guidance for approval of the modeling aspect of a one-hour ozone attainment demonstration is to use the one-hour ozone grid modeling to apply one of two modeled attainment tests (deterministic or statistical) with optional weight of evidence analyses to supplement the modeled attainment test results when the modeled attainment test is failed. The modeling performed for the Boston-Lawrence-Worcester, MA–NH area does not show attainment of the one-hour ozone standard (0.124 ppm) at every grid cell for every hour of every episode day modeled. The maximum predicted 2007 concentration in the Boston-Lawrence-Worcester, MA–NH nonattainment area for the relevant episodes is 0.177 ppm. The 2007 modeling was performed for two episode days: July 8 and July 11. Only these two days could be run for 2007, because 2007 boundary conditions were not available for the other four days. This concentration is north of Boston. This does not pass the deterministic test. Since the CALGRID model, as run for this analysis, does not show attainment, additional weight-of-evidence analyses were performed. When these additional weight-of-evidence analyses are considered, attainment is demonstrated.

Massachusetts performed a separate weight of evidence analysis using the model predicted change in ozone to estimate a future air quality design value. Massachusetts uses the air quality modeling in a relative sense. An analysis of the modeled ozone data, from the EPA-approved CALGRID model used in the Massachusetts attainment demonstration, in conjunction with monitored air quality data shows that, with the planned emission reductions in the two precursor emissions (VOC and NO_X), ground-level ozone concentrations will be below the ambient standard by the 2007 attainment date. More specifically, Massachusetts conducted a four-step analysis which shows how the photochemical modeling results, when applied to ozone design values at the Truro and Fairhaven monitors (the only two monitors in the Boston-Lawrence-Worcester, MA–NH monitoring 1-hour ozone violations based on 1999–2001 ozone data), predict attainment at these two monitors by 2007 after taking into account anticipated emission reductions from the NO_X SIP call and the Tier 2/Low Sulfur program. The four steps are discussed in the next four subsections.

1. Base Year Ozone Design Values

In the 1998 Attainment Demonstration, DEP reviewed ozone monitoring data to determine a base-year design value for each monitor in the New England Domain. Ozone data collected in 1995, 1996, and 1997 were used for calculating 1997 design values, and design values for all monitors in the New England Domain located in Massachusetts, southern New Hampshire and Maine (areas impacted by Massachusetts emissions) are provided in the September 1998 submittal. When the state submitted its Attainment Demonstration in 1998, ozone data for 1998 and 1999 was not yet available, and that is why 1997 design values were used. In their 2002 supplemental submittal, Massachusetts did not update the base year design values using this data since the Boston-Lawrence-Worcester, MA–NH area was in attainment during the 1997–1999 time period, and all design values were below the one-hour ozone standard. Thus, using 1997 design values versus 1999 design values results in a conservative analysis.

2. Ozone Reduction Between 1999 and 2007

The second step of this approach consists of comparing photochemical modeling run results in order determine the predicted ozone reduction at each ozone monitor in Massachusetts, southern New Hampshire and Maine between 1999 and 2007. Modeling runs were not performed for 1997 but were performed for 1999. The DEP's use of modeling results for 1999 is conservative since as emissions reductions that occurred between 1997 and 1999 are not accounted for and relied on. Modeling results for 1999 were then compared with modeling results for 2007 to estimate changes between 1999 and 2007.

The results of the 1999 runs and the 2007 runs were compared (only two strategy days, July 8 and July 11, are used for 2007, because these are the only two days for which 2007 boundary conditions are available), and the predicted change in ozone levels was determined at each 5 by 5 kilometer surface cell in the New England Domain. The change in ozone level (for each cell) was then divided by the 1999 modeled concentration (for each cell), in order to calculate the percent ozone reduction in each cell between 1999 and 2007. The percent ozone reduction for each cell that contained an ozone monitor was then extracted from this information. The percent ozone reductions for monitoring locations in Massachusetts, southern New Hampshire and Maine are presented in the state's submittal.

3. Predicted Ozone Design Values for 2007

The third step was to determine a 2007 ozone design value for each ozone monitoring station location. This was accomplished by reducing the 1997 ozone design value by the percent ozone reduction predicted for each monitoring location derived in step 2, above. If the resulting design value dropped below

the one-hour ozone standard, it is reasonable to assume that the monitor can attain the one-hour ozone standard by 2007. Massachusetts showed in their submittal that the predicted 2007 design values for all monitors in Massachusetts, southern New Hampshire, and Maine (areas impacted by Massachusetts emissions) are all below the one-hour ozone NAAQS.

For the Truro monitor (the monitor currently with the highest design value), there was a reduction in ozone levels of 11 percent for the July 8 episode and a reduction in ozone levels of 16 percent at the Truro monitor for the July 11 episode. For both episodes, the future adjusted design value for the Truro monitor is predicted to be well below the one-hour ozone standard (0.117 ppm for July 8 and 0.110 ppm for July 11.)

4. Predicted Ozone Design Values for 2007 With the Tier 2/Gasoline Sulfur Program

As previously noted, the CALGRID runs for 2007 included the benefits of the NO_X SIP call as well as other CAA measures, but did not account for the Tier 2/Gasoline Sulfur program. The Tier 2/Gasoline Sulfur program consists of emission reductions due to more protective tailpipe emissions standards for all passenger vehicles, including sport utility vehicles (SUVs), minivans, vans and pick-up trucks, as well as lower standards for sulfur in gasoline. These new standards require passenger vehicles to be 77 to 95 percent cleaner than those on the road today and reduce the sulfur content of gasoline by up to 90 percent. This program, which does not achieve emission reductions until 2004 and beyond, was not incorporated into the 1998 Attainment Demonstration's weight of evidence analysis.

In their 2002 supplemental submittal, Massachusetts looked at the EPA modeling performed in 1999 [12] to assess the effectiveness of the Tier 2/Gasoline Sulfur. For three episodes in the summer of 1995, EPA performed two sets of modeling runs: one run with 2007 CAA emission files including emission reductions associated with Tier 2/Gasoline Sulfur program and a second run that did not include Tier 2/Gasoline Sulfur Program emission reductions. In both cases, the CAA emission files included EPA's NO_X SIP Call emission reductions. After the modeling runs were completed, EPA used the modeling results in a relative manner to estimate the percent ozone reduction associated with the Tier 2/Gasoline Sulfur program.

In their 2002 supplemental submittal, Massachusetts included the predicted ozone design values for the 2007 CAA run and the 2007 Tier 2 run for each Massachusetts county in the Boston-Lawrence-Worcester, MA–NH nonattainment area. As shown in their submittal, the largest benefit (0.002 ppm) occurred at the Truro monitor. The Tier 2 program was predicted to reduce ozone levels from 0.119 ppm to 0.117 ppm, a 1.7 percent reduction in ozone levels, at that location. Note, these values are well below the level of the one-hour ozone standard.

Massachusetts believes it is reasonable to conclude that the design value at the Truro monitor for 2007 will be reduced by approximately 1.7 percent once the Tier 2/Gasoline Sulfur program is implemented.

5. Conclusions From the Future Air Quality Design Value Analysis

Through these additional analyses, Massachusetts has demonstrated that substantial ozone reductions can be expected to occur after implementation of a number of control strategies that are in place both within and upwind of the New England Domain. Those strategies include EPA's NO_X SIP Call as well as EPA's Tier 2/Gasoline Sulfur program. Therefore, EPA believes it is reasonable to conclude that the Boston-Lawrence-Worcester, MA–NH nonattainment area will attain the one-hour ozone standard by 2007. While the absolute modeling results do not demonstrate attainment, the modeling results are useful in demonstrating a relative reduction in ozone levels sufficient to demonstrate attainment in 2007.

In summary, the modeling submitted for the Boston-Lawrence-Worcester, MA–NH area is consistent with the CAA and EPA guidance and demonstrates attainment. Other information, which provides additional support for concluding the Boston-Lawrence-Worcester, MA–NH will attain in 2007 are the ambient ozone data trends and a trajectory analysis of exceedance days in the area.

D. What Are the Conclusions From the Ozone Data Trends?

There are 11 ozone air quality monitors in the Boston-Lawrence-Worcester, MA–NH nonattainment area that have data from 1999–2001. They are in the Massachusetts cities and towns of Boston (2 sites), Easton, Fairhaven, Lawrence, Lynn, Newbury, Stow, Truro, and Worcester, and Nashua, New Hampshire. All of the monitors show attainment with the one-hour ozone NAAQS except for the Fairhaven and Truro, MA sites.

The original serious classification of the nonattainment area was based on data from the 1987 through 1989 time period. Since then and up to and including 2001 ozone data, the latest available quality assured ozone data for the area, all 11 sites show a decrease in ozone due to emission reductions, both within Massachusetts and New Hampshire and also upwind. The monitoring sites north of the city of Boston (which are downwind of Boston during ozone conducive meteorology) are showing the greatest decline. For example, the one-hour ozone design value for the site in Newbury has dropped from 0.139 ppm in 1989 to 0.112 ppm in 2001, a drop of 19 percent. At the Nashua, NH site, the only site in the nonattainment area in New Hampshire, the design value has dropped from 0.121 ppm in 1989 to 0.103 ppm in 2001, a drop of 15 percent.

If we look at three additional monitors downwind of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area, we see similar downward trends. The three monitors are Rye, NH, Kennebunkport, ME and Cape Elizabeth, ME. At the Rye, NH site, the design value has dropped from 0.156 ppm in 1989 to 0.123 ppm in 2001, a drop of 21 percent. At the Kennebunkport, ME site, the design value has dropped from 0.152 ppm in 1989 to 0.120 ppm in 2001, also, a drop of 21 percent. At the Cape Elizabeth, ME site the design value has dropped from 0.156 ppm in 1989 to 0.111 ppm in 2001, a drop of 29 percent. These substantial decreases in ozone are the result of emission reductions both within the tri-state area of Massachusetts, New Hampshire and Maine, as well as reduction in longer-range transport emissions from upwind areas. Additional emission reductions in Massachusetts will occur in the intervening years from now until 2007.

At the two eastern Massachusetts monitors recording violations of the ozone standard in 2001 (*i.e.*, Fairhaven and Truro, Massachusetts), the ozone trend is also downward. These two sites are in the extreme southern portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area, and were monitoring attainment until the summer of 2001. At the Fairhaven, MA site, the one-hour ozone design value has dropped from 0.150 ppm in 1989 to 0.125 ppm in 2001, a drop of 17 percent. This site is not in attainment, based on 1999–2001 ozone data. At the Truro, MA site, the one-hour design value has dropped from 0.146 ppm in 1989 to 0.138 ppm in 2001, for a drop

[12] *See* "Technical Support Document for the Tier 2/Gasoline Sulfur Ozone Modeling Analyses," EPA420–R–99–031, December 1999.

of 5 percent. This site, too, is not in attainment, based on 1999–2001 ozone data. To show how close Fairhaven and Truro are to meeting the NAAQS one can look at the fifth highest value over the same 3-year period 1999–2001. The fifth highest value for Fairhaven is below the level of the standard. The fifth highest value for Truro is 0.127 ppm, and the sixth highest value for Truro is below the level of the standard. Furthermore, preliminary ozone data for the Boston-Lawrence-Worcester, MA–NH area collected during the summer of 2002, a hot summer, show that of the 11 monitors that have recorded ozone data for the past three years, only the Truro, MA monitor has an ozone design value of 0.125 ppm or above. Truro's preliminary design value for 2000–2002 is 0.130 ppm, a drop of 0.008 ppm from 2001. During 2000–2002, the fifth highest value at the Truro site is below the level of the one-hour ozone standard.

Based on the overall downward trend in one-hour ozone concentrations in this area, and because precursor emissions are projected to keep falling, both within the nonattainment area and upwind from it, there is no reason to believe that the downward trend in ozone concentrations will not continue over the near term. The future emission reductions will be a result of the following: continued benefits from tighter standards on vehicles (California Low Emission Vehicles (CA LEV) in Massachusetts and National Low Emission Vehicles or CA LEV in upwind areas) due to fleet turnover; the reductions from large point sources due to the OTC NO_X Budget Program and EPA's NO_X SIP call; other federal control measures such controls on non-road engines; and the Tier 2 vehicle and low sulfur gasoline program.

E. What Do the Ozone Exceedance Day Trajectory Analyses Show?

Trajectory analysis is a tool for assessing atmospheric transport and identifying likely source regions of locally measured air contaminants. The Massachusetts DEP used the HYSPLIT–4 (Hybrid Single-Particle Lagrangian Integrated Trajectory) model, developed by NOAA's Air Resources Lab (ARL), to compute backward trajectories.

To assess airflow patterns on days when either the Truro or Fairhaven monitor recorded exceedances of the one-hour ozone NAAQS during the period 1999–2001, 24-hour backward trajectories were computed by the Massachusetts DEP. The surface-based trajectories (start height of 10 meters) for these days, indicators of shorter range transport, follow a general track that crosses near the New York metropolitan area before turning northeastward toward the Massachusetts south coast and Cape Cod. These trajectories cross no high emission areas in Massachusetts. Upper-level trajectories (200 and 500 meters elevation), indicators of long-range transport, generally begin farther west over New York State or Pennsylvania and follow a more west-to-east track, passing north of the New York metropolitan area. Since the trajectories for the six exceedance days strongly resemble one another, the DEP concluded that there is a consistent meteorological pattern and source region for ozone and precursors when monitors in southeastern Massachusetts exceed the one-hour ozone NAAQS. Furthermore, the DEP concluded that one-hour exceedance level ozone concentrations will occur at the Truro or Fairhaven monitors only if the air reaching these monitors had previously crossed nearby high emission areas such as the greater New York metropolitan area. It should be noted, that on all days when there are exceedances at Truro and/or Fairhaven, there are also exceedances in Connecticut. Without the influence of the emissions from the greater New York metropolitan area the DEP concluded, no exceedances would have occurred at these monitors. Attainment demonstrations already approved by EPA for Connecticut and the New York city area show attainment will be achieved in 2007, and likewise this attainment demonstration for Massachusetts concludes that attainment will be achieved in 2007.

To corroborate the DEP's results, EPA performed its own trajectory analyses for those days when there were exceedances of the one-hour ozone standard on Cape Cod, in southeastern Massachusetts, and/or in Rhode Island, over the last three years (1999–2001). This area encompasses the ozone monitoring sites in Truro, MA; Fairhaven, MA; Narragansett, RI; East Providence, RI; and West Greenwich, RI. The exceedance days at these sites during 1999–2001 are as follows: June 7, 1999, July 6, 1999, July 16, 1999, June 10, 2000, June 30, 2001, July 25, 2001, August 7, 2001, and August 9, 2001.

EPA's trajectory analyses of the days with ozone exceedances at these sites (Truro, MA, Fairhaven, MA, Narragansett, RI, East Providence, RI and West Greenwich, RI) support the CALGRID modeling which shows that the most probable source region of the exceedances at these sites is southern New England and areas to the south and west of Massachusetts, including Connecticut and the New York City area. Connecticut is less than 60 miles from Fairhaven or about four hours of typical meteorological transport time. Details of this analysis are found in the TSD for this action. Both the analyses done by the DEP and EPA support the conclusion that without the influence of emissions from upwind, no exceedances would have occurred at the Truro, MA and Fairhaven, MA monitors. This further supports the conclusion that the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area will attain in 2007.

F. Are the Causes of the Recent Violation Being Addressed?

The Boston-Lawrence-Worcester, MA–NH ozone nonattainment area was in attainment for three consecutive, three-years periods from 1998–2000 (*i.e.*, 1996–1998, 1997–1999, and 1998–2000). The violations based on the three-year period from 1999–2001 occurred at two monitors in the southeastern portion of Massachusetts.

Sensitivity runs presented in the 1998 Attainment Demonstration looked at the effectiveness of NO_X reductions versus VOC reductions by reducing each pollutant individually within the domain by varying percentages (*i.e.*, 25%, 50%, 75% and 100%). These sensitivity runs concluded that reducing nitrogen oxide emission reductions is a more effective ozone control strategy for the New England Domain. Furthermore, in order to assess the role of transport into the New England domain, Massachusetts did sensitivity modeling runs where very clean boundary conditions are assumed. These runs use boundary conditions from the OTAG run IN60, which assumed the reductions similar to NO_X SIP call emissions, plus an additional 60 percent reduction in NO_X from the ozone nonattainment areas classified as serious or above. These runs show that upwind NO_X reductions would be effective at reducing ozone throughout southern New England, including in southeastern Massachusetts where the current one-hour ozone violations occur. From these sensitivity runs as well as its trajectory analyses, Massachusetts DEP concluded that elevated ozone levels at the Fairhaven and the Truro monitors are principally due to ozone and NO_X generated in southern New England and upwind areas. Massachusetts DEP further concluded based on CAMx Source Apportionment Modeling described in EPA's October 27, 1998 Final Rulemaking on the NO_X SIP Call (63 FR 57355), that reducing NO_X emissions in adjacent upwind areas—Connecticut, Rhode Island, New York City and New

Jersey—will significantly reduce ozone levels at the Fairhaven and Truro monitors. Emissions of NO_X and VOC will also be lowered in Massachusetts as well, as a result of the emission control programs listed in Table 2. These local controls, combined with upwind controls will result in the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area attaining in 2007.

As part of its 2002 supplemental submittal, DEP included the NO_X emission reductions anticipated to occur in Connecticut, Rhode Island, New York City and New Jersey between 1999 and 2007 and between 2002 and 2007. The reduction between 2002 and 2007 was intended to illustrate the reductions that can be expected to reduce current air quality levels being monitored in southeastern Massachusetts. The NO_X reduction expected to occur in Connecticut, Rhode Island, New York City and New Jersey between 1999 and 2002 is expected to be 190.0 tons per summer day. Those emission reductions have already occurred, and presumably affect the current ozone levels measured in 2002. Between 2002 and 2007, the NO_X reduction expected to occur in Connecticut, Rhode Island, New York City and New Jersey is expected to be quite a bit higher, at 320.2 tons per summer day. These reductions, which largely have not occurred yet, will benefit future ozone levels in southeastern Massachusetts and will help the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area meet attainment by 2007.

As part of its 2002 supplemental submittal, DEP also calculated the NO_X and VOC emission reductions projected to occur between 1999 and 2007 in the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area. VOC emissions in eastern Massachusetts are projected from 1999 to 2007 to go from 619 tons per summer day (tpsd) to 491 tpsd, which is a reduction of 128 tpsd or 21 percent. NO_X emissions in eastern Massachusetts are projected from 1999 to 2007 to go from 829 tpsd to 606 tpsd, which is a reduction of 223 tpsd or 27 percent. When combined with the significant reductions in NO_X emissions expected in upwind states by 2007, the eastern Massachusetts emissions inventory data provides additional reason to anticipate that the area will attain the one-hour ozone standard by 2007.

G. Is the Massachusetts RACM Analysis Consistent With the CAA and EPA Guidance?

The EPA has reviewed the SIP and the RACM submittal for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area to determine if it includes all required RACM measures and sufficient documentation concerning available RACM measures. The RACM analysis was subject to a public hearing on July 25, 2002, and submitted to EPA on September 6, 2002.

Before estimating how much emission reduction could be achieved by certain control measures implemented in Massachusetts, the DEP assessed where geographically emission reductions would help most to alleviate the violations being measured in the Boston-Lawrence-Worcester, MA–NH area to determine if any measures could advance the attainment date for the area. To do this, Massachusetts relied on various trajectory and modeling analyses.

The trajectory analyses, which are discussed in greater detail in section VII.E, indicate that elevated ozone levels at the Fairhaven and Truro monitors are largely the result of local transport from upwind high emission areas in Connecticut, New York City and New Jersey.[13] In addition to what the MA DEP submitted, EPA performed a trajectory analysis of each of the days during 1999 through 2001 when exceedances of the one-hour ozone NAAQS were monitored in the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area. That analysis shows similar results, *i.e.*, that the source region for these exceedances is areas to the south and west of Massachusetts.

In addition to the MA DEP trajectory analyses, the MA DEP used the results of the CALGRID model runs, to help demonstrate that Massachusetts' emissions contribute primarily to a ''Boston Plume,'' which flows north of Boston,[14] and much less to the five southeastern counties in Massachusetts (the only part of the Boston-Lawrence-Worcester, MA–NH area violating the ozone standard in 2001). The results of the first CALGRID run, which employed July 8, 1988 meteorological conditions and 1999 CAA controls for each state in the New England Domain, show elevated ozone levels in Connecticut and Western Massachusetts and a large ''Boston Plume'' extending up the coastline into southern Maine. In a separate CALGRID run, all anthropogenic NO_X and VOC emissions in Massachusetts were reduced to zero. The ''zero-out'' CALGRID run reflects a large reduction of 911.6 tons per day of VOC, and 712.7 tons per day of NO_X. The difference plot for these two runs indicates that reducing Massachusetts emissions will substantially reduce ozone levels in the ''Boston Plume,'' but have less effect on reducing ozone levels in southeastern Massachusetts, where the 2001 nonattainment was monitored. This was further illustrated for all episode days in modeling performed by New Hampshire where they reduced NO_X emissions in the northern half of eastern Massachusetts by an additional 60 percent beyond 1999 projected emission levels. For those sensitivity runs, there is no apparent ozone benefit in the southeastern portions of Massachusetts.

The trajectory analyses and sensitivity runs discussed above indicate that Massachusetts must rely on significant emission reductions from upwind states in order to attain the one-hour ozone standard, and that additional emission reduction measures adopted in Massachusetts alone would have a sufficiently small impact on ozone levels that they could not advance the attainment date in the Boston-Lawrence-Worcester, MA–NH area. Nonetheless, the DEP RACM analysis does review control measures that could reduce emissions of VOC and NO_X in EMA and analyzed whether adoption of such measures might lead to attainment earlier than 2007.

Because the trajectory analyses and zero-out runs discussed above demonstrate that emissions from counties in the northern portion of the Boston-Lawrence-Worcester, MA–NH area do not have an impact on the Fairhaven and Truro monitors, the DEP limited its RACM analysis to a review of potential controls in the counties where local emissions could have an impact on these two monitors. These are the southeastern MA counties of: Barnstable, Bristol, Dukes, Plymouth and Nantucket.

DEP examined emissions from all significant emission source categories in the stationary point, stationary area, and non-road mobile sectors to assess whether there are any additional RACM that could be adopted. The methodology used, is a two-step procedure. First the procedure performed an emission inventory screen to identify significant source categories; and second, the MA DEP screened potential control measures to determine if they first, could provide sufficient benefits to accelerate attainment in the Boston-Lawrence-Worcester, MA–NH area, and, if so, if they are feasible.

[13] These areas have approved attainment demonstrations and also have EPA-enforceable emission reduction strategies to bring about attainment of the 1-hour standard by 2007.

[14] The Massachusetts WOE analysis discussed in section VII.C. above shows the Boston Plume will be below the one-hour ozone NAAQS by 2007.

The methodology used by the MA DEP is based on the RACM analysis performed by EPA for the Greater Connecticut serious ozone nonattainment area. See 66 FR 634; January 3, 2001. The RACM analysis for Greater Connecticut looked at projected 2007 emissions from various source categories after taking into account CAA-mandatory controls, additionally adopted regional and national controls, and State-adopted SIP controls. The RACM analysis then assumed that stationary sources that have already been controlled nationally, regionally or locally in the SIP would not be effective candidates for additional controls that could be considered RACM, since these categories have only recently been required to reduce emissions or are about to shortly. The state concluded that additional controls on these sources would not be feasible within the time frame to advance attainment. The analysis eliminated these categories that were subject to controls from further consideration. The analysis then reviewed the uncontrolled sources and of those, eliminated from consideration the bottom 20 percent of emitters in any source category on the assumption that the individual category contribution would be too small and/or the number of source types too numerous to regulate. Control measures for the remaining source categories were then reviewed for economic and technological feasibility and their potential to result in an earlier attainment year.

Massachusetts' conclusion from this analysis was that, based on the types of measures reviewed and the costs of these programs in association with the potential emission reduction benefits for the five southeastern counties in the Boston-Lawrence-Worcester, MA–NH area, there are no RACM that could be adopted in the Boston-Lawrence-Worcester, MA–NH area that would advance attainment prior to 2007. The MA DEP analysis meets EPA requirements, which as noted above were recently upheld by the DC Circuit Court.

Massachusetts also analyzed whether there were any additional mobile source measures that could be implemented that represent RACM. The DEP's conclusion is that Massachusetts is currently implementing all of the reasonably available TCMs listed in the Clean Air Act, and noted that included in the Massachusetts SIP, are a wide range of statewide mobile source emissions-reducing programs, including California LEV, Stage 2 vapor recovery, enhanced inspection and maintenance, and reformulated gasoline. Massachusetts also noted that over $3 billion in transit improvements and transportation-related environmental actions are being implemented as an integral part of the $14 billion Central Artery/Third Harbor Tunnel project.

The DEP further did an analysis where they calculated VOC and NO_X reductions for all projects submitted to the Massachusetts Highway Department for state and/or federal funding over the last three years in the five southeastern counties in Massachusetts. Funding limitations prevented many of these projects from being implemented, however, Massachusetts believes that the entire list constitutes an accurate sample of the hypothetically reasonable and available TCMs for this area. DEP found that potential TCMs would have a minimal impact [15] on reducing 2007 on-road mobile source emissions, the year the Boston-Lawrence-Worcester, MA–NH area is expected to achieve attainment. The DEP concluded that inclusion of these TCMs in the SIP would not allow the Boston-Lawrence-Worcester, MA–NH area to attain the one-hour ozone standard sooner than 2007 and are therefore not RACM.

EPA concludes that based on the available information, there are no additional technologically and economically feasible emission control measures in Massachusetts that will advance the attainment date for the Boston-Lawrence-Worcester, MA–NH ozone nonattainment area. Thus no potential measure can be considered RACM for purposes of section 172(c)(1) for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area for its one-hour ozone attainment demonstration. The EPA therefore proposes that the Massachusetts SIP meets the requirements for RACM.

Although EPA does not believe that section 172(c)(1) requires implementation of additional measures for this area, this conclusion is not necessarily valid for other areas.

H. Is the Attainment Date as Expeditiously as Practical?

As explained earlier, the Boston-Lawrence-Worcester, MA–NH area attained the one-hour ozone standard as of 1999, its statutory deadline under the CAA. Moreover, the Boston-Lawrence-Worcester, MA-NH nonattainment area continued to have air quality meeting the one-hour ozone standard until the 1999 through 2001 time period. In its 2002 supplement to its 1998 attainment demonstration, Massachusetts provides evidence that the area will once again attain by 2007.

Massachusetts chose a 2007 attainment date because it has determined that the current violations are due to upwind emissions, some of which cannot be reduced until as late as the beginning of the 2007 ozone season. The additional reductions that will occur in upwind areas, as well as in Massachusetts, include the following programs: (1) EPA's NO_X SIP call, which will be implemented by May 31, 2004, with states expected to fully comply with their budgets by 2007; (2) EPA's Tier 2 standards, which will impose new tailpipe standards for motor vehicles and reduce the sulfur content of fuel, and will be phased in beginning in 2004; (3) EPA's NO_X requirements for highway heavy-duty engines (*i.e.*, trucks and buses), which beginning in 2004 require new diesel trucks and buses to be 50 percent cleaner than today's models; (4) new nonroad diesel NO_X standards, which started in 1996 with increasingly more stringent standards being phased in through 2006; and (5) a number of upwind states will adopt new VOC controls for architectural coatings and consumer products that will go into effect in 2004.

Massachusetts also notes that New York, New Jersey and Connecticut have CAA attainment dates of 2007, which is when these upwind states will have implemented all measures necessary for them to attain the standard. Based on this information, EPA agrees that an attainment date of November 15, 2007 is as expeditiously as practicable and EPA proposes approval of this attainment date for the Boston-Lawrence-Worcester, MA–NH area.

I. Contingency Measures

The EPA continues to believe the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9) are independent requirements from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A) and the rate-of-progress (ROP) requirements under sections 172(c)(2) and 182(c)(2)(B). The contingency measure requirements are to address the event that an area fails to meet a ROP milestone or fails to attain the ozone NAAQS by the attainment date established in the SIP. The contingency measure requirements have no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS or the required ROP reductions toward attainment. The attainment or ROP SIP provides a demonstration that attainment or ROP requirements ought to be fulfilled, but

[15] The MA DEP RACM analysis shows that potential TCMs would reduce 2007 on-road mobile emissions for the Massachusetts portion of the nonattainment area by only 0.12 percent for VOC and 0.07 percent for NO_X.

the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment or ROP SIP.[16]

VIII. Proposed Action

EPA is proposing to fully approve as meeting CAA section 182(c)(2) the ground-level one-hour ozone attainment demonstration State Implementation Plan for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH nonattainment area submitted by Massachusetts on July 27, 1998, and supplemented on September 6, 2002. EPA is proposing an attainment date of November 15, 2007 for the area, and is proposing that the RACM analysis for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH area meets the requirements of section 172(c)(1). This notice also proposes to approve 2007 motor vehicle emissions budgets for eastern Massachusetts into the SIP.

EPA is soliciting public comments on the issues discussed in this proposal. These issues will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section of this document.

IX. Administrative Requirements

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: October 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, New England Region.

[FR Doc. 02–26172 Filed 10–11–02; 8:45 am]

BILLING CODE 6560–50–P

[16] The U.S. Court of Appeals for the D.C. Circuit recently addressed this issue in the context of a challenge to the Washington D.C. ozone attainment demonstration SIP, and concluded that contingency measures were required as part of an attainment demonstration SIP. *See Sierra Club* v. *EPA,* 294 F.3d 155, 164 (D.C. Cir. 2002). However, EPA believes that the court misconstrued the statute, and declines to follow the court's reasoning outside of the D.C. Circuit. EPA believes that the statute does not compel contingency measures as part of attainment demonstration SIPs because they are required as a separate submission under a separate statutory provision. *See* sections 172(c)(9) and 182(c)(2).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 092402E]

RIN 0648–AP87

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Notice of Availability of Amendment 10; Corrections.

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

ACTION: Correction to notice of availability of an amendment to a fishery management plan.

SUMMARY: This document corrects the address and phone number for the Pacific Fishery Management Council (Council) in the notice of availability of Amendment 10, which was published October 3, 2002.

DATES: Effective October 15, 2002.

SUPPLEMENTARY INFORMATION:

Background

The notice of availability of Amendment 10 to the Coastal Pelagic Species Fishery Management Plan was published in the **Federal Register** on October 3, 2002 (67 FR 62001), and requested comments by December 2, 2002. The interested public was directed to obtain a copy of Amendment 10 from the Council, but the Council's former address and phone number was cited, not its current address and phone number.

Correction

In the **ADDRESSES** section and **FOR FURTHER INFORMATION CONTACT** section of the Notice of availability FR Doc. 02–25171, in the issue of Thursday, October 3, 2002, (67 FR 62001), make the following corrections.

1. On page 62001, in the last paragraph in the second column, delete the given address for the Pacific Fishery Management Council and replace it with the following address:

''7700 NE Ambassador Place, Suite 200, Portland, OR 97220''.

2. On page 62001, in the third column under **FOR FURTHER INFORMATION CONTACT**, delete the phone number for the Pacific Fishery Management Council and replace it with the following phone number:

''503–820–2280''.

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

Dated: October 8, 2002.

Virginia M. Fay,

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

[FR Doc. 02–26137 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 679

[Docket No. 020920220–2220–01; I.D. 090302E]

RIN 0648–AL97

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes amendments to the regulations governing the halibut fishery under the Western Alaska Community Development Quota (CDQ) Program. The proposed amendments would increase the Regulatory Area (Area) 4E trip limit from 6,000 lb. (2.72 metric tons (mt)) to 10,000 lb. (4.54 mt) and modify the Area 4 Catch Sharing Plan (CSP) to allow CDQ Program participants to harvest allocations of Area 4D halibut CDQ in Area 4E. This proposed action is intended to enhance harvesting opportunities for halibut CDQ fishermen and to further the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to the CDQ program and the Pacific halibut fishery, consistent with the regulations and resource management objectives of the International Pacific Halibut Commission (IPHC).

DATES: Comments on this proposed rule must be received by November 14, 2002.

ADDRESSES: Comments should be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel-Durall, or delivered to the Federal Building, 709 West 9th Street, Room 413–1, Juneau, AK. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this proposed regulatory action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228, e-mail *obren.davis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) is responsible for implementing the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), at 16 U.S.C. 773. Section 773c(c) of the Halibut Act authorizes the Regional Fishery Management Council having authority for the geographical area concerned to develop regulations governing the allocation and catch of Pacific halibut (*Hippoglossus stenolepis*) in U.S. Convention waters. Such regulations must be approved by the Secretary before being implemented and may be in addition to regulations developed by the IPHC.

In December 1991, the Council adopted a limited access system for managing the halibut fishery in and off Alaska under authority of the Halibut Act. This limited access system included an Individual Fishing Quota (IFQ) program for Areas 2C through 4D, and the CDQ program for Areas 4B through 4E. These programs were designed to allocate specific harvesting privileges among U.S. fishermen and eligible western Alaska communities to resolve management and conservation problems associated with ''open access'' fishery management, and to promote the development of fishery-based economic opportunities in western Alaska. The IFQ and CDQ programs initially were implemented by regulations published in the **Federal Register** on November 9, 1993 (58 FR 59375). Fishing for halibut under these two programs began March 15, 1995.

Under the regulations established for the halibut IFQ and CDQ programs, the catch limit of halibut that is annually established for each area by the IPHC is divided among qualified halibut quota share holders. Halibut catch limits in Areas 4B, 4C, and 4D are divided between the IFQ and CDQ programs. Twenty percent of the Area 4B, 50 percent of the Area 4C, and 30 percent of the Area 4D annual catch limits are allocated to the CDQ Program. One hundred percent of the Area 4E annual catch limit is allocated to the CDQ program. The halibut CDQ reserves are divided among eligible CDQ communities in accordance with Community Development Plans (CDP) submitted by CDQ managing organizations (CDQ groups) and approved by NMFS. This proposed action affects only halibut CDQ harvested in Areas 4D and 4E.

Since 1995, four different CDQ groups have received annual allocations of Area 4D halibut and two CDQ groups have received annual allocations of Area 4E halibut. Between 1995 and 2001, the annual halibut CDQ reserve ranged from 231,000 to 609,000 lb. (104.78 to 276.24 mt) in Area 4D and from 120,000 to 390,000 lb. (54.43 to 176.9 mt) in Area 4E. Amounts specified for halibut catch limits, reserves, and allocations are all in net (headed and gutted) weight. Halibut CDQ in Areas 4D and 4E must be allocated to the CDQ groups that represent eligible communities located in, or proximate to, Areas 4D and 4E, respectively.

Catch Sharing Plan (CSP) for Area 4

The CSP for Area 4 originally was developed by the Council to apportion the IPHC's halibut catch limit for Area 4 among Areas 4A, 4B, 4C, 4D, and 4E as necessary to carry out the socioeconomic objectives of the IFQ and CDQ programs. The Area 4 CSP was published in the **Federal Register** on March 20, 1996 (61 FR 11337), and implemented by the IPHC that same year.

NMFS subsequently modified the Area 4 CSP to remove Areas 4A and 4B from the CSP in 1998. This change was to allow the catch limits for these two areas and a combined Area 4C–4E to be set according to the IPHC's revised area specific biomass-based methodology. The IPHC considers that Areas 4A, 4B,

and 4C-E each have a separate halibut population. A complete description of the proposed revisions to the Area 4 CSP, catch limit apportionments, and geographical description of each subarea was published in the **Federal Register** on January 12, 1998 (63 FR 1812). These modifications were approved March 17, 1998 (63 FR 13000). Beginning in 1998, the IPHC has annually implemented the measures specified in the Area 4 CSP to apportion the combined Area 4C-E catch limit among Areas 4C, 4D, and 4E. The annual management measures for halibut fisheries in 2002 were published on March 20, 2002 (67 FR 12885).

Four out of six CDQ groups have received halibut CDQ allocations in Area 4D since 1995, including Bristol Bay Economic Development Corporation (BBEDC), Coastal Villages Region Fund (CVRF), Norton Sound Economic Development Corporation (NSEDC), and Yukon Delta Fisheries Development Association (YDFDA). Past and current allocations recommended by the State of Alaska and approved by the Secretary have allocated both Area 4D and Area 4E halibut CDQ to only two groups, BBEDC and CVRF, based on their historical participation in the Area 4E halibut fishery and the contents of their CDP applications. NSEDC and YDFDA have received only Area 4D halibut CDQ: residents of communities represented by these two groups (with the exception of two of NSEDC's communities) must travel extended distances offshore to harvest Area 4D halibut CDQ or the quota must be harvested by large, non-local vessels.

In 1999, CDQ groups that received Area 4D quota expressed a desire to increase the amount of halibut CDQ that could be harvested in their locally-based inshore halibut fishery by being allowed to harvest Area 4D halibut CDQ in Area 4E. All four of these groups represent communities along the western Alaska coast, ranging from Bristol Bay (south) to the Bering Strait (north). Almost all of the 56 communities represented by these groups are adjacent to Area 4E: only two are in Area 4D. In January 1999, these groups approached the IPHC at its annual meeting and requested a determination as to whether it would be acceptable to harvest halibut CDQ allocated to Area 4D in Area 4E. The IPHC had no objection to the request because it considers the halibut in Areas 4C, 4D,and 4E to be a single stock unit. This issue was also raised at the February 1999 Council meeting. The Council requested that NMFS prepare an analysis of the proposal to allow Area 4D halibut CDQ to be harvested in Area 4E. The Council also recommended modifying the Area 4E halibut catch limit (see Area 4E Trip Limit, below).

NMFS prepared an EA/RIR/IRFA that examined the proposal to allow Area 4D halibut CDQ to be harvested in Area 4E. In October 2001, the Council approved the release of the EA/RIR/IRFA for public review. In December 2001, the Council recommended allowing halibut CDQ that was allocated in Area 4D to be harvested in Area 4E. In January 2002, the IPHC noted that allowing Area 4D halibut CDQ to be harvested in Area 4E would constitute a change to the Area 4 CSP that would need to be addressed by NMFS in rulemaking. Hence, if approved by the Secretary, this proposed rule would modify the Area 4 CSP to incorporate the Council's specific recommendation that Area 4D halibut CDQ may be harvested either in Area 4D or in Area 4E.

The Proposed Revision of the CSP

This rule proposes to change the Area 4 CSP to allow Area 4D halibut CDQ to be harvested in Area 4E. However, no changes are proposed to the existing Area 4 CSP framework that apportions the combined Area 4C-E annual catch limit among Areas 4C, 4D, and 4E. The authority to allocate the annual Area 4 catch limit according to the Area 4 CSP is specified at 50 CFR 300.63(b) and will continue to be implemented by the IPHC in its annual management measures pursuant to 50 CFR 300.62. The following paragraph would be added to the Area 4 CSP:

A CDQ group with an allocation of Area 4D halibut CDQ may harvest all or part of that allocation in Area 4E. This provision is based on the Council's recommendation in December 2001 to allow CDQ fishermen in Area 4E additional halibut CDQ harvesting opportunities. The framework that allocates the IPHC catch limits among Areas 4C, 4D, and 4E remains unchanged.

For example: under the existing Area 4 CSP, an annual combined Area 4C-E catch limit of 4,450,000 lb. (2,018.5 mt) would be apportioned as follows: 2,030,000 lb. (920.8 mt) to Area 4C, 2,030,000 lb. (920.8 mt) to Area 4D, and 390,000 lb. (176.9 mt) to Area 4E. These amounts are further split between the IFQ and CDQ halibut fisheries. Thirty percent, or 609,000 lb. (276.3 mt), of the Area 4D catch limit is allocated to the Area 4D CDQ reserve. One hundred percent of the Area 4E catch limit is allocated to the Area 4E CDQ reserve. Under the proposed revision to the Area 4 CSP, a combined total of 999,000 lb. (453.1 mt) of halibut potentially could be harvested in Area 4E, an amount equal to 22 percent of the combined Area 4C-E catch limit.

The Council recommended allowing the harvest of Area 4D halibut in Area 4E and allowing amounts of Area 4D halibut CDQ that had been transferred to Area 4E to be transferred back to Area 4D. NMFS proposes to implement the Council's intent without requiring the CDQ groups to submit documents requesting transfers of halibut CDQ between Areas 4D and 4E. The Council intended that the maximum amount of halibut CDQ that could be caught in Area 4D would be the amount of halibut CDQ allocated to each CDQ group for Area 4D. In addition, they intended that the maximum amount of halibut CDQ that could be caught in Area 4E would be the sum of the amount of halibut CDQ allocated for Areas 4D and 4E combined.

NMFS proposes to monitor each CDQ group's halibut CDQ catch in Areas 4D and 4E. If the catch in Area 4E exceeds the group's initial allocation for Area 4E, then NMFS will automatically subtract this additional catch from the group's Area 4D allocation. Halibut CDQ catch from Area 4D also will be subtracted from each group's Area 4D allocation. Any amount of halibut CDQ catch in Area 4E that exceeds the 4E allocation and is subtracted from the Area 4D allocation will no longer be available for harvest in Area 4D. This procedure would allow each CDQ group to decide where to catch its Area 4D halibut CDQ allocation without requiring transfers. Each CDQ group would be required to monitor the harvest of Area 4D and 4E halibut CDQ to ensure that: (1) its total catch in Area 4D does not exceed its Area 4D allocation, minus any portion of its Area 4D quota harvested in Area 4E, (2) its total catch in Area 4E does not exceed the sum of its Area 4D and Area 4E allocations, minus any portion of its Area 4D allocation harvested in Area 4D, and (3) its total catch in Areas 4D and 4E does not exceed the sum of its Area 4D and Area 4E allocations.

This proposed change would provide an opportunity for CDQ groups that receive Area 4D halibut CDQ to increase the amount of halibut CDQ available to local, nearshore fishermen. If the CDQ groups chose to do this, the halibut CDQ harvesting opportunities for large vessels in the Area 4D halibut CDQ fishery would have a corresponding decrease in available halibut CDQ because Area 4D quota could shift to local nearshore fishermen. However, most of the annual Area 4D halibut CDQ harvest in recent years has been made by large catcher/processors that are targeting groundfish CDQ species such as Pacific cod. These vessels catch halibut incidentally along with cod and

other groundfish. CDQ groups may choose to account for this incidentally caught halibut by accruing it towards either their annual Area 4D halibut CDQ allocation or to their annual halibut Prohibited Species Quota (PSQ). CDQ groups receive annual allocations of halibut PSQ to account for halibut catch in directed groundfish fisheries. If a group chooses to shift part or all of its Area 4D halibut CDQ allocation to its nearshore halibut fishery, it still has an alternative allocation of halibut to use for catch accounting purposes.

Area 4E Trip Limit

In 1988, the Council developed, and the Secretary of Commerce (Secretary) approved, fishing trip limits for Area 4C of 10,000 lb. (4.54 mt) and Area 4E of 6,000 lb. (2.72 mt) (53 FR 20327, June 3, 1988). In 1994, the Council recommended and the Secretary approved a fishing trip limit for Area 4B of 10,000 lb. (4.54 mt) (59 FR 22522, May 2, 1994). These provisions were intended to enhance fishing opportunities for operators of vessels that landed their total annual catch within either Areas 4B, 4C, or 4E. Specifically, the Area 4E trip limit was devised to protect fishermen who landed their total annual catch of halibut at ports in Area 4E from competition with fishermen using vessels large enough to land their Area 4E halibut catch at ports in other regulatory areas. The Area 4E trip limit was incorporated into the Pacific halibut fishery regulations in 1988, and into 50 CFR part 676 (now promulgated as 50 CFR part 679) in 1993, as one of the rules implementing the halibut and sablefish IFQ and CDQ programs (58 FR 59375, November 9, 1993).

In December 1994, the Council recommended eliminating the trip limits in Areas 4B, 4C, and 4E, as these limits were deemed unnecessary due to the forthcoming implementation of the IFQ and CDQ programs. Subsequently, these restrictions were removed from the Pacific halibut regulations at 50 CFR part 301 (now 50 CFR part 300) (60 FR 14651, March 20, 1995). The Area 4E trip limit restriction, however, was inadvertently kept in 50 CFR part 679. In October 1998, NMFS informed the Council that this oversight would be corrected by removing the Area 4E trip limit from 50 CFR part 679. The Council declined to approve this correction, and voted instead to retain the 6,000 lb. (2.72 mt) trip limit through September 1 of each year. The Council also recommended that CDQ groups with unharvested Area 4E halibut CDQ offer such quota to other CDQ groups during the last half of August, prior to the date when the trip limit would be lifted. The Council's rationale for retaining an Area 4E trip limit was to prevent consolidation of the halibut fishery in this area, to the possible detriment of local fishermen.

In December 2001, the Council confirmed its intent to retain the trip limit in Area 4E, but recommended that it be increased to 10,000 lb. (4.54 mt) and that it be in effect annually only through September 1. The Council reasoned that retention of the trip limit would continue to foster the near-shore small-scale halibut CDQ fishery in western Alaska, which is typically conducted by small vessels under 32 feet (9.73 m) length overall. Moderately increasing the trip limit, however, could allow harvesters greater operational flexibility during the spring and summer months, particularly for local vessels capable of packing more than 6,000 lb. (2.72 mt) of halibut during a fishing trip. Eliminating the trip limit during the fall months would offer CDQ groups the ability to harvest halibut CDQ using vessels large enough to safely operate in adverse weather and sea conditions. Typically, the trip limit is an economic constraint to using larger vessels in the Area 4E halibut CDQ fishery. This proposed rule would modify the Area 4E trip limit to increase it from 6,000 to 10,000 lb. (2.72 to 4.54 mt) and would specify that the Area 4E trip limit would be effective only through September 1 of each year.

Classification

The Council recommended this action to the Secretary for adoption pursuant to its authority under the Halibut Act. NMFS prepared an EA/RIR/IRFA for the proposed revisions to the Area 4 CSP and the Area 4E trip limit regulatory amendment that describes the management background, the purpose and need for action, the management alternatives, and the socioeconomic impacts of the alternatives (see **ADDRESSES**).

The IRFA estimates the total number of small entities that would be affected by this action, and analyzes the potential economic impact of the proposed action on those small entities as required by the Regulatory Flexibility Act (RFA). A summary of the IRFA follows.

The Area 4 CSP modification and the proposed revision to 50 CFR part 679 would have no negative impacts in and of themselves, but are intended to increase the harvesting flexibility for participants in the halibut CDQ fishery in Areas 4D and 4E. These changes would allow CDQ groups with halibut CDQ in these areas to tailor their halibut CDQ fishing operations to enhance economic opportunities for the western Alaska communities that they represent.

NMFS considers most of the fishing operations that would be affected by this proposed rule to be small entities, based on criteria established by the RFA. The universe of small entities is comprised of four CDQ groups, 58 CDQ-eligible villages, 224 catcher vessels, and 31 halibut registered buyers for a total of 317 small entities.

A range of alternatives was considered for each proposed action. Three alternatives were considered in association with the action that would modify the Area 4 CSP: a no action alternative; allowing Area 4D halibut CDQ to be harvested in Area 4E (the preferred alternative); and, allowing halibut CDQ specifically allocated to Area 4D or 4E to be harvested in either of these two areas. There are four alternatives associated with the action to modify the Area 4E trip limit: a no action alternative; increasing the trip limit to 10,000 pounds through September 1 each year (the preferred alternative); suspending the Area 4E trip limit predicated on a given CDQ group first making its unharvested Area 4E halibut CDQ available to other CDQ groups each fall; and, removing the trip limit entirely.

The IRFA shows that the selection of the no action alternative for either proposed action would unnecessarily limit the further development of the local inshore halibut CDQ fishery and the complete utilization of the Area 4D or Area 4E halibut CDQ allocations.

The preferred alternatives for Actions 1 and 2 constitute the least burdensome alternatives to regulated small entities, among the suite of options available, while simultaneously achieving the objectives of the proposed actions. In other words, no other alternatives were identified which would reduce the potential adverse impacts on small entities, while achieving the Council's objectives for the Area 4 Halibut CDQ Program.

This proposed rule does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act. This proposed rule does not duplicate, overlap, or conflict with other Federal regulations.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 7, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1.The authority citation for part 679 is amended to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub. L. 106–31, Sec. 3027; and Pub. L. 106–554, Sec. 209.

2. In § 679.31, paragraph (b)(3)(iv) is revised to read as follows:

§ 679.31 CDQ reserves

* * * * *

(b) * * *

(3) * * *

(iv) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the halibut quota shall be made available to eligible communities located in, or proximate to, IPHC regulatory area 4E. A fishing trip limit of 10,000 lb. (4.54 mt) applies to halibut CDQ harvested in IPHC regulatory area 4E through September 1.

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Notices

Federal Register

Vol. 67, No. 199

Tuesday, October 15, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Blue Stewardship Project; White River National Forest, Summit County, Colorado.

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a Environmental Impact Statement in conjunction with planning the Upper Blue Stewardship Project (hereafter referred to as the Stewardship Project).

SUMMARY: The USDA Forest Service, White River National Forest, gives notice of the agency's intent to prepare an environmental impact statement (EIS) to disclose the environmental effects of timber harvest, prescribed fire, watershed rehabilitation, re-construction/closure/obliteration of roads, trail reconstruction, non-system trail obliteration, and historic site interpretation, in conjunction with designing the Stewardship Project for the Dillon Ranger District of the White River National Forest. These proposed actions are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). This notice describes the purpose and need for action, the proposed activities, environmental issues considered, information concerning public participation, estimated dates for filing the environmental impact statement, and the names and addresses of the agency officials who can provide additional information.

Project Area: The Stewardship Project is using an interdisciplinary approach to manage 14,000 acres between the towns of Frisco, CO to the north and Breckenridge, CO to the south, Highway 9 to the east, and the top of the Tenmile Range to the west. The area is located in T5S, R77W, Sec. 31. T6S, R78W, Sec. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 on the Dillon Ranger District of the White River National Forest, Summit County, CO. The elevation in the area is between 9,000–12,933 feet.

Background: The Upper Blue Stewardship Project was originally proposed in 1999. It involved extensive scoping and public involvement on a local, regional and national level. The original NOI was published on April 5, 1999. The FEIS for the Stewardship Project was completed in December 2000 and the ROD was signed in March 2001. Because the White River Forest Plan revision was nearing completion and conditions had changed, the White River Forest Supervisor decided to withdraw the Decision in May 2001. After the issuance of the Revised White River Land and Resource Management Plan in July 2002, it was deemed timely to readdress the Upper Blue Stewardship Project. The decision was made to revise the EIS. This EIS will tier to the Final EIS for the White River Land and Resource Management Plan—2002 Revision and will be consistent with the Goals, Objectives, Standards and Guidelines of the 2002 Forest Plan. It will also consider the significant issues identified during the original scoping effort and the comments received on the original DEIS.

Purpose & Need: The project area, as well as the remainder of Summit County, was heavily logged during the mining era (1870–1910). Many trees were removed, particularly Douglas-fir and ponderosa pine due to their superior lumber qualities. Other stands of trees were burned for a variety of reasons including carelessness, opening up foraging areas for livestock, or to expose mineral deposits. The result is a dense, relatively even-aged forest between 90–130 years old that is dominated by lodgepole pine, a relatively short-lived, disturbance-dependent species. In addition, the landscape lacks diversity of tree species and forest structure (mixed-size forests, young stands, old growth). This lack of diversity affects both long-term forest health (homogenous forests are more susceptible to insects, disease and uncontrolled fire spread) and habitat for wildlife (the even-age forest has limited understory forage for species such as elk).

These largely unbroken landscapes of single-species forests are nearing the stage in development where they are becoming increasingly at risk for insect, disease and fire disturbances due to their size, age and homogeneity. Add to this the continuous influx of urban growth at the forest interface, and the risk for catastrophic fire events and associated consequences will increase over time. Adding human life and property to the wildland mix requires forest management practices that take human values into consideration.

Under the revised Forest Plan, a large portion of the project area has a management prescription that emphasizes elk, particularly calving habitat. There is a management need to establish levels of motorized travel and non-motorized recreation that are compatible with elk use in the area.

The riparian area in the Miner's Creek drainage has deteriorated over time due to the close proximity of system and non-system roads and trails and the high density of dispersed campsites within the stream corridor. This has resulted in sedimentation of the creek from eroding streamsides and runoff from roads. In addition there are potential sanitation issues from camping in close proximity to the creek.

This Stewardship Project aims to:

- improve forest health and wildlife habitat effectiveness by increasing species and structural diversity;
- reduce the fire hazards to nearby private lands and improvements in the long-term by increasing species and structural diversity within the project area, and in the short-term by reducing dead fuels in old clearcuts and reducing tree crown density in the wildland/urban interface;
- protect elk calving habitat by assuring travelways open to motorized travel will not exceed an average travelway density of one-half mile per square mile during calving season;
- improve water quality and riparian areas by reducing runoff from roads and trails and promoting responsible recreation use;

The Project proposes to use a variety of techniques to improve biodiversity and consequently the health of the forest, while protecting and enhancing the heritage, recreation, visual, watershed and wildlife resources. The Forest Service seeks to develop a strong partnership with local government, private landowners and forest users to help implement the necessary

treatments on the ground and monitor the results using adaptive management techniques.

Proposed Action

Purpose—Improve forest health and wildlife habitat effectiveness by improving biodiversity

Objective—Increase species and structural diversity through vegetation treatments—Approximately 2,691 acres of vegetation management is proposed. This includes 502 acres of planting Douglas-fir, or a mix of ponderosa pine, Douglas-fire, and limber pine. These species would be planted in existing clearcuts, in new clearcuts (up to 58 acres proposed) or underplanted in lodgepole pine stands. The site preparation associated with this planting includes a combination of thinning and/or prescribed burning.

The proposed action includes 1,654 acres of group selection/patch clearcuts to promote aspen regeneration, increase spruce/fir and/or increase age class diversity of lodgepole pine. All openings to regenerate aspen would be broadcast burned or ripped to promote sprouting.

This proposed action also includes 445 acres of stand replacement prescribed burns, and 90 acres of special cuts/burns within the Nordic ski area permit boundary.

This proposal would make available for personal use and to some extent commercial use, approximately 10,500 Christmas trees for approximately 340 acres.

Purpose—Reduce the fire hazards to nearby private lands

Objective—Increase species/structural diversity and decrease stand density through vegetation treatments—The vegetation treatments described above to increase the aspen component would also help reduce the fire hazards since fire behavior typically becomes less extreme when pure aspen stands are encountered. The Christmas tree cutting would create an almost pure aspen stand adjacent to the Town of Frisco, greatly increasing fire resistance of this aspen stand. Openings created in the canopy by patch clearcuts or stand-replacement burns will also help to mitigate crown fire behavior. Due to an overall increase in tree species (especially aspen), structural diversity, canopy openings and fuel treatments, fire hazard within the project area would decrease.

Reduce tree crown density in the urban interface zone—The vegetation along 12 miles of the national forest/private land boundary on the east and north side of the project area would receive thinnings and group selection cuts to reduce fuels. The only interior private land boundary included is the Whatley Ranch. This stand density management may occur on up to 450 acres of National Forest System (NFS) land within 100–300 feet of private lands (the Interface Zone), in areas where a similar amount is occurring on private lands. In conjunction with vegetation treatments on the private lands, fire hazard within the urban interface zone would decrease.

Purpose—Protect elk calving habitat

Objective—Mitigate against disruption of calving by motorized vehicles—Provide seasonal motorized road and trail closures to assure travelways open to motorized travel will not exceed an average travelway density of one-half mile per square mile during calving season.

Purpose—Improve riparian areas and watershed conditions

Objective—Reduce impacts from camping by promoting responsible recreation use—The Miners Creek riparian area would be improved by converting the Miners Creek drainage to a ''camping in designated sites only area''. Ninetten (19) campsites would be designated in that drainage and 12 dispersed sites within 100′ of the creek would be closed and rehabilitated. To improve sanitation, campers would be required to carry and use a personal self-contained portable toilet similar to ones typically used when river rafting. In addition, material would be removed from the Iron Springs meadow. One 10 car parking area would be designated west of Rainbow Lake. The current parking area south of Rainbow Lake would remain a dispersed parking area.

Interpretive Sites—Six sites (approximately 10 signs) would be developed: Two historical signs (Masontown, Breckenridge end of the Peaks Trail), five vegetation interpretive signs (the Gold Hill Trailhead, and both ends of the Peaks Trail, Miners Creek Road and Sapphire Point), and three wildlife signs (Masontown, Peaks Trailhead in Breckenridge, and Gold Hill Trailhead).

Reduce impacts from roads and trails—Riparian areas and watershed condition would be improved through road and trail closures. Eleven miles of roads and 5.8 miles of trails would be decommissioned. Total road and non-motorized trail miles remaining in this proposal would be 10.3 and 32.5 respectively (includes all USFS, county and private roads and trails). Summer motorized and non-motorized miles available would decrease. Winter use would remain unchanged. Roads would be managed at the minimum level necessary for erosion control.

Project Design and Mitigation Measures: All proposed treatments and activities would follow the standards and guidelines found in the Revised White River Land and Resource Management Plan—2002.

Roadless: No prescribed fire, road construction or vegetation treatments are proposed in the inventoried roadless areas designated by the Revised Forest Plan; furthermore no actions are proposed within the boundaries of the old Tenmile RARE II roadless area.

Preliminary Issues: Issues identified to date include: impacts of timber harvesting and prescribed burning on visual quality in a recreation setting; changes in winter snow compaction in lynx habitat; quantity of system and non-system roads and trails and their impacts on water quality and wildlife habitat; the impacts of timber harvesting and prescribed burning on water quality, specifically sedimentation and phosphorus; potential impacts to heritage resources; potential spread of noxious weeds; air quality impacts from burning; recreation user conflicts; and effects on threatened, endangered, sensitive and management indicator species.

Project Funds: K–V Funds, project funds or value would be generated under this alternative. Therefore, post-sale projects may be completed using K–V Funds, project funds or exchanging goods for services.

Involving the Public: Pursuant to Part 36 Code of Federal Regulations (CFR) 219.10(g), the Forest Supervisor for the White River National Forest gives notice of the agency's intent to prepare an environmental impact statement for the Stewardship Project described above. The Forest Service is seeking information, comments, and assistance from individuals, organizations and federal, state, and local agencies who may be interested in or affected by the proposed action (36 CFR 219.6).

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics. A legal notice and news releases will be used to give the public general notice. Public participation activities will include requests for written comments. The public is invited to help identify issues and define the range of alternatives to be considered in the environmental impact statement.

A reasonable range of alternatives will be evaluated and reasons will be given for eliminating some alternatives from detailed study. A ''no-action

alternative'' is required, meaning that management will not change the present condition. Alternatives will provide different ways to address and respond to public issues, management concerns, and resource opportunities identified during the scoping process. Scoping comments and existing condition reports will be used to develop alternatives.

DATES: Comments concerning the proposed action should be received in writing by November 9, 2002.

ADDRESSES: Send written comments to: Upper Blue Stewardship Project, Dillon Ranger District P.O. Box 620, Silverthorne, CO 80498.

FOR FURTHER INFORMATION CONTACT: Peech Keller or Sarah Pearson, at (970) 468–5400. For road and trail questions and concerns, contact Angela Glenn (970) 262–3446.

Release and Review of the EIS

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment in March 2003. At that time, the EPA will publish a notice of availability for the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date the EPA publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposed so that it is meaningful and alerts an agency to the reviewer's position and contentions; *Vermont Yankee Nuclear Power Corp.* v. *NRDC.* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts; *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritage, Inc.,* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final EIS. The FEIS is scheduled to be completed in June 2003. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revisions. The responsible official will document the decisions and reasons for the decisions in a Record of Decision for the revised Plan. The decision will be subject to appeal in accordance with 36 CFR part 217.

Responsible Official

Martha J. Ketelle, Forest Supervisor, White River National Forest. PO. Box 948, Glenwood Springs, CO 81602–0948 ''As the Responsible Official, I will decide which, if any, of the proposed projects will be implemented. I will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations.''

Dated: October 7, 2002.

Stephen C. Sherwood,

Deputy Forest Supervisor, White River National Forest.

[FR Doc. 02–25950 Filed 10–11–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 8–2002]

Foreign-Trade Zone No. 181: Application for Expansion and, Amendment of Application

Notice is hereby given that the application of the Northeast Ohio Trade & Economic Consortium (NEOTEC), grantee of FTZ 181, for authority to expand FTZ 181 in the Akron/Canton, Ohio area (Doc. 8–2002, 67 FR 6679, 2/13/02), has been amended to delete Proposed New Site 6 (43 acres), located within the 143-acre Colorado Industrial Park, Lorain County. The application otherwise remains unchanged.

Comments on the change may be submitted to the Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230, by October 30, 2002.

Dated: October 4, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–26180 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 021001228–2228–01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of Proposed Stockpile Disposals in FY 2003 and FY 2004

AGENCY: U.S. Department of Commerce.

ACTION: Notice of inquiry.

SUMMARY: This notice is to advise the public that the National Defense Stockpile Market Impact Committee (co-chaired by the Departments of Commerce and State) is seeking public comments on the potential market impact of proposed increases in the disposal levels of excess materials from the National Defense Stockpile under the Fiscal Year 2003 Annual Materials Plan and proposed commodity disposal levels under the Fiscal Year 2004 Annual Materials Plan.

DATES: Comments must be received by November 14, 2002.

ADDRESSES: Written comments should be sent to Richard V. Meyers, Co-Chair, Stockpile Market Impact Committee, Office of Strategic Industries and Economic Security, Room 3876, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; FAX (202) 482–5650; e-mail: *rmeyers@bis.doc.gov.*

FOR FURTHER INFORMATION CONTACT: The co-chairs of the National Defense Stockpile Market Impact Committee. Contact either Richard V. Meyers, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–3634 or Terri L. Robl, Office of International Energy and Commodity Policy, U.S. Department of State, (202) 647–3423.

SUPPLEMENTARY INFORMATION: Under the authority of the Strategic and Critical Materials Stock Piling Act of 1979, as

amended, (50 U.S.C. 98 *et seq.*), the Department of Defense (''DOD''), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 3314 of the Fiscal Year (''FY'') 1993 National Defense Authorization Act (''NDAA'') (50 U.S.C. 98h–1) formally established a Market Impact Committee (''the Committee'') to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile * * *'' The Committee must also balance market impact concerns with the statutory requirement to protect the Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, Treasury, and the Federal Emergency Management Agency, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to ''consult from time to time with representatives of producers, processors and consumers of the types of materials stored in the stockpile.''

The National Defense Stockpile Administrator is proposing (1) revision of the previously approved FY 2003 Annual Materials Plan (''AMP'') quantities for three materials, and (2) the new FY 2004 AMP, as set forth in Attachment 1. The Committee is seeking public comments on the potential market impact of the sale of these materials as proposed in revision of the FY 2003 AMP and the FY 2004 AMP.

The AMP quantities are not targets for either sale or disposal. They are only a statement of the proposed maximum disposal quantity of each listed material that may be sold in a particular fiscal year. The quantity of each material that will actually be offered for sale will depend on the market for the material at the time of the offering as well as on the quantity of each material approved for disposal by Congress.

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the sale of these AMP commodities. Although comments in response to this Notice must be received by November 14, 2002, to ensure full consideration by the Committee, interested parties are encouraged to submit comments and supporting information at any time thereafter to keep the Committee informed as to the market impact of the sale of these commodities. Public comments are an important element of the Committee's market impact review process.

Public comments received will be made available at the Department of Commerce for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public file. The Committee will seek to protect such information to the extent permitted by law.

The records related to this Notice will be made accessible in accordance with the regulations published in part 4 of Title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*). Specifically, the Bureau of Industry and Security's Freedom of Information Act (''FOIA'') reading room is located on its web page, which can be found at *http://www.bis.doc.gov,* and copies of the public comments received will be maintained at that location (see Freedom of Information Act (FOIA) heading). If requesters cannot access the web site, they may call (202) 482–2165 for assistance.

Dated: October 9, 2002.

James J. Jochum,

Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce.

ATTACHMENT 1.—PROPOSED REVISIONS TO FY 2003 ANNUAL MATERIALS PLAN (AMP) AND PROPOSED FY 2004 AMP

Material	Unit	Current FY 2003 Quanity	Revised FY 2003 quantity	Revised FY03 notes	Proposed FY2004 quantity	Proposed FY 04 notes
Aluminum Oxide, Abrasive	ST	6,000			6,000	
Antimony	ST	5,000		1	0	
Bauxite, Metallurgical Jamaican	LDT	2,000,000		1	0	
Bauxite, Refractory	LCT	43,000		1	43,000	1
Beryl Ore	ST	4,000			4,000	1
Beryllium Metal	ST	40			40	
Beryllium Copper Master Alloy	ST	1,000	1,200	1	1,200	1
Cadmium	LB	1,200,000			400,000	1
Celestite	SDT	3,600	12,794	2	12,794	1
Chromite, Chemical	SDT	100,000		1	100,000	1
Chromite, Metallurgical	SDT	100,000		1	0	
Chromite, Refractory	SDT	100,000			100,000	1
Chromium, Ferro	ST	150,000			150,000	1
Chromium, Metal	ST	500			500	
Cobalt	LB Co	6,000,000			6,000,000	
Columbium Carbide Powder	LB Cb	21,500		1	0	
Columbium Concentrates	LB Cb	560,000			560,000	
Columbium Metal Ingots	LB Cb	20,000			20,000	
Diamond Stone	ct	600,000	1,000,000	1	600,000	1
Fluorspar, Acid Grade	SDT	12,000		1	12,000	1
Fluorspar, Metallurgical Grade	SDT	60,000		1	60,000	1
Germanium	Kg	8,000			8,000	
Graphite	ST	3,760	4,800	1	2,000	1
Iodine	LB	1,000,000			1,000,000	
Jewel Bearings	PC	82,051,558		1	82,051,558	1
Kyanite	SDT	150		1	0	
Lead	ST	60,000			60,000	
Manganese, Battery Grade, Natural	SDT	30,000			30,000	
Manganese, Battery Grade, Synthetic	SDT	3,011		1	3,011	1
Manganese, Chemical Grade	SDT	40,000			40,000	

ATTACHMENT 1.—PROPOSED REVISIONS TO FY 2003 ANNUAL MATERIALS PLAN (AMP) AND PROPOSED FY 2004 AMP—Continued

Material	Unit	Current FY 2003 Quanity	Revised FY 2003 quantity	Revised FY03 notes	Proposed FY2004 quantity	Proposed FY 04 notes
Manganese, Ferro	ST	25,000			50,000	
Manganese, Metal, Electrolytic	ST	2,000			2,000	
Manganese, Metallurgical Grade	SDT	250,000			250,000	1
Mica, All	LB	8,500,000		1	5,000,000	1
Palladium	Tr Oz	350,000		1	200,000	1
Platinum	Tr Oz	50,000		1	25,000	1
Platinum—Iridium	Tr Oz	6,000			6,000	
Quartz Crystals	Lb	216,648		1	150,000	1
Quinidine	OZ	750,000	2,211,122	2	2,211,122	1
Rubber	LT	75,000		1	0	
Sebacic Acid	LB	600,000		600,000		
Silver (Coins)	Tr Oz	5,000,000		1	0	
Talc	ST	2,000		1	1,000	1
Tantalum Carbide Powder	LB Ta	4,000			4,000	1
Tantalum Metal Ingots	LB Ta	40,000			40,000	
Tantalum Metal Powder	LB Ta	50,000		1	40,000	1
Tantalum Minerals	LB Ta	500,000			500,000	
Tantalum Oxide	LB Ta	20,000			20,000	
Thorium	LB	7,100,000		⅓	7,100,000	⅓
Tin	MT	12,000			12,000	
Titanium Sponge	ST	7,000			7,000	
Tungsten Ferro	LB W	300,000			300,000	
Tungsten Metal Powder	LB W	300,000			300,000	
Tungsten Ores & Concentrates	LB W	4,000,000			4,000,000	
VTE, Chestnut	LT	250		1	0	
VTE, Quebracho	LT	50,000			50,000	
VTE, Wattle	LT	6,500		1	0	
Zinc	ST	50,000			50,000	

Notes: 1. Actual quantity will be limited to remaining sales authority or inventory. 2. Previously approve by MIC. Submission to Congress pending. 3. The radioactive nature of this material may restrict sales or disposal options. Efforts are underway to determine the environmentally and economically feasible disposition of the material.

[FR Doc. 02–26165 Filed 10–11–02; 8:45 am]
BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

BALL BEARINGS AND PARTS THEREOF FROM JAPAN; AMENDED FINAL RESULTS OF ANTIDUMPING DUTY ADMINISTRATIVE REVIEW

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: October 15, 2002.

SUMMARY: On August 30, 2002, the Department of Commerce published in the **Federal Register** the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. The period of review is May 1, 2000, through April 30, 2001. Based on the correction of certain ministerial errors, we have changed the margins for ball bearings and parts thereof for two Japanese companies, Koyo Seiko Co., Ltd., and NTN Corporation.

FOR FURTHER INFORMATION CONTACT: Please contact Lyn Johnson at (202) 482–5287 or Dave Dirstine at (202) 482–4033; AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On August 30, 2002, the Department published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from France, Germany, Italy, Japan, and the United Kingdom (67 FR 55780) (*Final Results*).

We received timely allegations from Koyo Seiko Co., Ltd. (Koyo), and NTN Corporation (NTN) that we made ministerial errors in the *Final Results*. In its September 4, 2002, comments Koyo alleges that the Department did not use Koyo's updated databases in the calculation of the final margin. The petitioner, The Torrington Company (Torrington), did not comment.

We agree with Koyo that we did not use its updated databases and, therefore, we have amended the final results to correct this error. *See* the analysis memorandum from the analyst to the file dated September 17, 2002, for a detailed description of the changes we made to correct our calculations of Koyo's dumping margin.

In its September 3, 2002, comments NTN alleges that the Department made a ministerial error that resulted in the treatment of all U.S. sales of samples as zero-priced sales even though there were non-zero-priced sample sales. We agree with NTN's assertion that this is a ministerial error and have removed only zero-priced sample sales from our margin calculations for the amended

final results of review. See the analysis memorandum from the analyst to the file dated September 17, 2002, for a detailed description of the changes we made to correct NTN's margin calculation. On September 9, 2002, Torrington submitted an allegation that there was a typographical error in the draft liquidation instructions we had prepared for merchandise NTN had exported during the period of review. We agree with Torrington and have corrected the error in our liquidation instructions reflecting these amended final results of review.

Amended Final Results of Review

As a result of the correction of ministerial errors, the following weighted-average margins exist for exports of ball bearings by Koyo and NTN for the period May 1, 2000, through April 30, 2001:

Company	Margin (percent)
Koyo Seiko Co., Ltd.	7.68
NTN Corporation	9.34

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these amended final results of review.

We will also direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the *Final Results* and at the rates as amended by this determination. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

We are issuing and publishing these determinations and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: October 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–26113 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–874]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Ball Bearings and Parts Thereof from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Cindy Lai Robinson, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3965, and (202) 482–3797, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to the regulations codified at 19 CFR part 351 (2001).

Preliminary Determination

We preliminarily determine that ball bearings and parts thereof (ball bearings) from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on March 25, 2002. *See Notice of Initiation of Antidumping Duty Investigation: Certain Ball Bearings and Parts Thereof From the People's Republic of China*, 67 FR 15787 (April 3, 2002) (*Initiation Notice*).[1] Since the initiation of the investigation, the following events have occurred.

On April 10, 2002, the Department requested the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) to distribute a mini-section A questionnaire to the top 10 exporters and/or producers, based on their export sales volume or value, who manufactured and exported subject merchandise to the United States, or who manufactured the subject merchandise that was exported to the United States through an another company, during the period of investigation (POI). We received no reply to this letter from MOFTEC.

Between April 16 and April 25, 2002, we received mini-section A responses from 21 producers and exporters of ball bearings in the PRC.

On April 26, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of ball bearings imports from the PRC. *See Ball Bearings From China*, 67 FR 22449 (May 3, 2002).

On May 6, 2002, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* "Respondent Selection" section below.

On May 7, 2002, the Department issued its antidumping questionnaire[2] to MOFTEC. The Department requested that MOFTEC send the questionnaire to Xinchang Peer Bearing Company Ltd. (Peer) and Wanxiang Group Corporation (Wanxiang), the two mandatory respondent companies selected by the Department. In addition, the Department also sent a separate memorandum to MOFTEC concerning those producers and exporters who submitted a complete response to section A of the questionnaire and whether they may be considered for treatment other than inclusion under the rate applicable to the government-controlled enterprise. *See Memorandum from James Terpstra to Melissa Skinner*

[1] The petitioner in this case is the American Bearing Manufacturers Association (ABMA).

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production (FOP) of the subject merchandise under investigation. Section E requests information on further manufacturing.

Re: Selection of Respondents (respondent selection memo), dated May 6, 2002, on file in the Central Records Unit (CRU) located in Room B–099, main Commerce Building. Also *see* the ''Margins for Exporters Whose Responses Were Not Analyzed'' section below.

On May 7, May 13, and May 14, 2002, we received comments from respondents and petitioner urging the Department to select additional mandatory respondents. Based on these comments, on May 15, 2002, the Department added an additional mandatory respondent, Ningbo Cixing Group Corp. and its U.S. affiliate, CW Bearings USA, Inc. (collectively, ''Cixing'').

On April 22, April 23, and May 28, 2002, the Department received scope inquiries from the following parties: Caterpillar Inc., Nippon Pillow Block Sales Company Limited, Nippon Pillow Block Manufacturing Company Limited and FYH Bearing Units USA, Inc. (collectively, ''NPBS''), the ABMA, and Wanxiang. *See* the ''Scope Clarification'' section below.

The Department received responses to sections A, C, D, and E, where applicable, from the three mandatory respondents on June 13, July 11, and July 15, 2002. In addition, 45 exporters submitted section A responses. The Department issued supplemental questionnaires to all three mandatory respondents and the 45 exporters that submitted section A responses in July and August, where appropriate. The supplemental responses were received in August and September.

On July 16, 2002, the petitioner made a request pursuant to 19 CFR 351.205(e) for a 50–day postponement of the preliminary determination, pursuant to section 733(c)(1)(A) of the Act. On July 26, 2002, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation 50 days, from August 12, 2002, to October 1, 2002. *See Certain Ball Bearings and Parts Thereof from the People's Republic of China: Notice of Extension of Preliminary Antidumping Duty Determination*, 67 FR 48878 (July 26, 2002).

On September 13, 2002, we received untimely section A responses from Fuzhou YongShunDa Machinery & Electrical Co. Ltd., Fuzhou Yongdong Xinxing Machinery & Hardware Co. Ltd., and Fuzhou Fujia Machinery & Electrical Mfg. Co. Ltd. Due to the fact that these responses were submitted in an untimely manner, we returned them to the submitters. *See* September 30, 2002, letter from James Terpstra to Fuzhou YongShunDa, et. al.

The petitioner and the three mandatory respondents submitted their comments on factors of production in September 2002.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On September 20, 2002, the three mandatory respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the parties requesting postponement account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination and are extending the provisional measures accordingly.

Scope of Investigation

The scope of the investigation includes all antifriction bearings, regardless of size, precision grade or use, that employ balls as the rolling element (whether ground or unground) and parts thereof (inner ring, outer ring, cage, balls, seals, shields, *etc.*) that are produced in China. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts and parts thereof, ball bearings (including thrust, angular contact, and radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. The scope includes ball bearing type pillow blocks and parts thereof; and wheel hub units incorporating balls as the rolling element. With regard to finished parts, all such parts are included in the scope of the petition. With regard to unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the petition are those that will be subject to heat treatment after importation.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings:

3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.93.30, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4000, 8708.99.4960, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Specifically excluded from the scope are unfinished parts that are subject to heat treatment after importation. Also excluded from the scope are cylindrical roller bearings, mounted or unmounted, and parts thereof (CRB) and spherical plain bearings, mounted and unmounted, and parts thereof (SPB). CRB products include all antifriction bearings that employ cylindrical rollers as the rolling element. SPB products include all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the written description of the merchandise under investigation is dispositive.

Scope Clarification

On April 22, 2002, Caterpillar Inc. requested that XLS (English) series ball bearings and pin-lock slot XLS (English) series ball bearings having an inside diameter of between 1 3/4 inches and 5 1/2 inches be excluded from the scope of the investigation. Caterpillar Inc. also claimed that there is an insufficient domestic supply of XLS series ball bearings and parts. On May 6, 2002, the petitioner responded that these bearings are within the scope. Petitioner also contends that at least four domestic producers manufacture and sell XLS series ball bearings in the U.S. market, and, therefore, there is not an insufficient domestic supply of XLS series ball bearings.

On April 23, 2002, NPBS requested that the Department clarify whether

split pillow block housings and non-split pillow block housings, which are imported separately from ball bearings, are excluded from the scope of the investigation. On May 6, 2002, petitioner stated that non-split pillow blocks, even when imported separately, are used primarily as a housing for ball bearings, and are rightly included in the scope.

On May 28, 2002, Wanxiang, one of the three mandatory respondents, requested guidance as to whether the language in the scope stating that the investigation covers ''wheel hub units incorporating balls as the rolling element'' also includes wheel hub units that do not contain ball bearings or any other type of rolling element at the time of importation. Wanxiang pointed out that every HTSUS subheading in the scope as applicable to subject wheel hub units describes articles either directly as ''bearings'' or indirectly as ''incorporating ball bearings.'' In addition, Wanxiang claimed that the empty wheel hub units that it produces are designed to be used with either ball bearings or tapered roller bearings. On May 29 and May 30, 2002, petitioner stated that both complete wheel hub units incorporating balls as the rolling element and empty wheel hub units capable of incorporating balls as the rolling elements are covered by the investigation.

The scope of the investigation includes all antifriction bearings, regardless of size, precision grade or use. Therefore, XLS (English) series ball bearings and pin-lock slot XLS (English) series ball bearings are clearly within the scope.

With respect to NPBS's request for clarification of whether split pillow block housings and non-split pillow block housings that are imported separately from ball bearings are excluded from the scope of this investigation, the Department previously determined in *Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Republic of Germany*, 54 FR 18992, 19015 (May 3, 1989) (*Antifriction Bearings*). to exclude split pillow block housings (not containing antifriction bearings) from the order. The Department stated that pillow block housings were not mentioned in the petition, and based on the factual information available, determined that pillow block housings are not bearings, do not contain bearings, and are not parts or subassemblies of bearings. *See id*. Therefore, consistent with that determination and the facts of this investigation, we find that split pillow block housings (not containing antifriction bearings) are excluded from the scope of this investigation. However, the scope of the current investigation includes ball bearing type pillow blocks and parts thereof. Thus, non-split pillow blocks, even when imported separately, are included in the scope.

The scope covers all antifriction bearings that employ balls as the rolling element (whether ground or unground) and parts thereof. Wheel hub units are designed to use either ball bearings or tapered roller bearings. Empty wheel units that are designed to employ balls as the rolling elements have characteristic raceways that are dedicated to ball bearings. Therefore, for purposes of the preliminary determination, empty wheel hub units are included in the scope. However, we will address this issue further to determine whether the empty wheel hub units produced by Wanxiang use balls or tapered roller bearings interchangeably.

Period of Investigation

The POI is July 1, 2001, through December 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (i.e., February 2002). See 19 CFR 351.204(b)(1).

Respondent Selection

The Department determined that the resources available to it for this investigation limited its ability to analyze any more than the responses of the three largest exporters/producers of the subject merchandise in this investigation. Based on mini-section A questionnaire responses, the Department originally selected the two largest exporters, Peer and Wanxiang, to be the mandatory respondents in this proceeding. (*See* the respondent selection memo.) On May 7, May 13, and May 14, 2002, we received comments from respondents and petitioner urging the Department to select additional mandatory respondents. Subsequently, based on these comments, on May 15, 2002, the Department added a third mandatory respondent, Cixing. (See May 15, 2002, Letter to Cixing from James Terpstra on file in the CRU.)

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy (NME) country in previous antidumping investigations (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000); and the *Notice of Final Determination of Sales at Less Than Fair Value Certain: Hot-Rolled Carbon Steel Flat Products from the People's Republic of China*, 66 FR 49632 (September 28, 2001)). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. No party to this investigation has sought revocation of the NME status of the PRC. Therefore, pursuant to section 771(18)(C) of the Act, the Department will continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. *See* the ''Surrogate Country'' section below. The sources of individual factor prices are discussed under the ''Normal Value'' section below.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Peer, Wanxiang, Cixing, and the cooperative nonselected exporters named in the ''Suspension of Liquidation'' section below have provided the requested company-specific separate rates information and have indicated that there is no element of government ownership or control over their operations. We have considered whether the mandatory respondents are eligible for a separate rate as discussed below.

The Department's separate-rates test is not concerned, in general, with macroeconomic/ border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the export-related investment, pricing, and output decision-making process at the individual firm level. *See Notice of*

Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China*, 60 FR 14725, 14726 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. *See Silicon Carbide* and the *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22545 (May 8, 1995) (*Furfuryl Alcohol*).

1. *Absence of De Jure Control*

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

The mandatory respondents have placed on the record a number of documents to demonstrate the absence of de jure control, including their business licenses, and the ''Company Law of the People's Republic of China.'' Other than limiting the mandatory respondents' operations to the activities referenced in the respective licenses, we noted no restrictive stipulations associated with these licenses. In addition, in previous cases, the Department has analyzed the ''Company Law of the People's Republic of China'' and found that it establishes an absence of de jure control. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, 54474 (October 24, 1995); and *Furfuryl Alcohol*. We have no information in this proceeding which would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control.

2. *Absence of De Facto Control*

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.With regard to the issue of *de facto* control, the mandatory respondents have reported the following: (1) There is no government participation in setting export prices; (2) its managers have authority to bind sales contracts; (3) it does not have to notify any government authorities of its management selection; and (4) there are no restrictions on the use of its export revenue and it is responsible for financing its own losses. Additionally, the mandatory respondents' questionnaire responses do not suggest that pricing is coordinated among exporters. Furthermore, our analysis of the mandatory respondents' questionnaire responses reveals no other information indicating governmental control of export activities. Therefore, based on the information provided, we preliminarily determine that there is an absence of *de facto* government control over the mandatory respondents' export functions. Consequently, we preliminarily determine that the mandatory respondents have met the criteria for the application of a separate rate.

Margins for Cooperative Exporters Not Selected

For those exporters: (1) who submitted a timely response to Section A of the Department's questionnaire, but were not selected as mandatory respondents, and (2) for whom the Section A response indicates that the exporter is eligible for a separate rate, we assigned a weighted-average of the rates of the fully analyzed companies excluding any rates that were zero, *de minimis* or based entirely on facts available. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China*, 67 FR 36570 (May 24, 2002) (*Welded Steel Pipe*). Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

PRC-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters located in the NME country comprise a single exporter under common government control, the ''NME entity.''

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. As explained above, MOFTEC and some exporters of the subject merchandise failed to respond to the Department's request for information. The failure of these exporters to respond also has significantly impeded this proceeding. Thus, pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have based the PRC-wide rate on adverse facts available.

In applying facts otherwise available, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). The complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act. However, section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

For our preliminary determination, as adverse facts available, we have used as the PRC-wide rate the highest recalculated dumping margin from the petition (*see* below). In the petition, for the normal value calculation, the petitioner based the factors of production, as defined by section 773(c)(3) of the Act, on the quantities of inputs used to produce four representative ball bearings (6201–2RS, 6201ZZ, 6203–2RS, and 6203ZZ) reported by one of its major member companies. The petitioner used the actual usage rates of a U.S. production facility in accordance with 19 CFR § 351.202(b)(7)(B) because information on actual usage rates of representative Chinese bearing producers is not reasonably available to the petitioner. The petitioner based export price (EP) on price lists and quotes of four representative sample products from Chinese distributors of Chinese ball bearings and U.S. distributors of Chinese ball bearings for the period October to December 2001. For further discussion, *see Initiation Notice*.

To corroborate the petitioner's EP calculations, we compared the prices in the petition to the average unit values from import statistics released by the Census Bureau. To corroborate the petitioner's NV calculations, we compared the petitioner's factor consumption and surrogate value data for those same four products to the data reported by the respondents for the most significant factors (steel, factory overhead, and selling, general, and administrative expenses), and the surrogate values for these factors in the petition to the values selected for the preliminary determination, as discussed below.

Our analysis shows that, with the exception of the steel value, the petitioner's data was either reasonably close to the data submitted by the respondents and the surrogate values chosen by the Department, or conservative. For the steel value we found that the information in the petition did not have probative value. In valuing the steel input, petitioner relied on an Indian Harmonized Tariff Schedule (HTS) category for finished bearing parts, not unfinished steel used to produce bearings parts. Petitioner alleged that this value was conservative because it was lower than the actual purchase price of these components by certain U.S. producers. In contrast to this assertion, the record of this case is abundantly clear that ball bearing manufacturers in the PRC purchase unfinished steel to make finished bearing parts. The steel value used by petitioner is significantly higher than the value we are using in our calculations. Thus, we find that this information has no probative value regarding the normal value of the subject merchandise. Therefore, we recalculated the petition margins using other steel factor values on the record. The recalculated petition margins range from 6.00 to 59.30 percent. For a more detailed discussion, see *Memorandum From David Salkeld to James Terpstra Re: Corroboration of Secondary Information* dated October 1, 2002, on file in the CRU.

Fair Value Comparison

To determine whether the mandatory respondents' sales of ball bearings to customers in the United States were made at LTFV, we compared EP or constructed export price (CEP), as appropriate, to NV, calculated using our NME methodology, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs or CEPs.

Export Price and Constructed Export Price

During the POI, of the three mandatory respondents, Peer and Wanxiang made only CEP sales, while Cixing made both EP and CEP sales during the POI. In accordance with section 772(a) of the Act, for Cixing, we used EP where the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation. As explained below, for Peer, Wanxiang, and Cixing, we used CEP, where appropriate.

We calculated EP in accordance with section 772(a) of the Act. Specifically, we calculated Cixing's EP based on the FOB, CIF, or C&F prices charged to the first unaffiliated customer for exportation to the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, brokerage and handling, international freight, domestic inland insurance, and marine insurance. Where foreign inland freight, marine insurance, domestic inland insurance, and brokerage and handling were provided by NME companies, we used surrogate values from India to value these expenses (*see* Factors of Production Valuation Memorandum dated October 1, 2002, on file in the CRU).

For Peer, Wanxiang, and Cixing, where appropriate, we used CEP in accordance with section 772(b) of the Act, because the first sales to unaffiliated purchasers were made after importation. We calculated CEP based on packed prices from the U.S. affiliate's warehouse to the first unaffiliated purchaser in the United States. We made the following deductions from the starting price (gross unit price), where applicable: discounts and rebates, foreign inland freight and brokerage and handling, international (ocean) freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, and U.S. movement expenses. In accordance with section 772(d)(1) of the Act, we deducted from CEP direct and indirect selling expenses (*i.e.*, commissions, credit and indirect selling expenses) that were associated with the respondents' economic activities occurring in the United States. For Peer, we also deducted further manufacturing and re-packing costs. See sections 772(c) and (d) of the Act.

To calculate foreign inland freight expenses, we multiplied the reported distance from the plant to the port of exit by a surrogate rail or truck rate from India. Because U.S. customs duty, brokerage and handling expenses, credit expenses, and selling expenses are

market-economy costs incurred in U.S. dollars, we used actual costs rather than surrogate values for these deductions to gross unit price.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires that the Department value the NME producers' factors of production, to the extent possible, on the prices or costs of factors of production in one or more market economy countries that are 1) at a level of economic development comparable to that of the NME country; and 2) significant producers of comparable merchandise. The Department's Office of Policy initially identified five countries that are at a level of economic development comparable to the PRC in terms of per capita GNP and the national distribution of labor. Those countries are India, Pakistan, Indonesia, Sri Lanka and the Philippines (*see* the June 13, 2002, memorandum from Jeffrey May to Melissa Skinner). According to the information available on the record, we have determined that India meets the statutory requirements for an appropriate surrogate country for the PRC and is the largest producer, among the countries listed above, of like merchandise. In addition, for most factors of production, India has quantifiable, contemporaneous, and publicly available data. Therefore, for purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producers' factors of production, except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market economy currency. We have obtained and relied upon publicly available information wherever possible.

2. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC who produced ball bearings for the exporters who sold ball bearings to the United States during the POI. Factors of production include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. *See* section 773(c) of the Act. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values, where possible.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the surrogate values. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. As appropriate, we included freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997).

We valued material inputs and packing materials (including steel bar, steel tube, steel balls, steel sheets, steel plates, grease, paper boxes, plastic bags, tape, and pallets) using values from the appropriate Harmonized Tariff Schedule (HTS) number for contemporaneous Indian imports statistics reported in the Indian Import Statistics. In accordance with the Department's practice, we used export values to calculate NV when import values for like products were not available. *See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 64 FR 69503 (December 13, 1999).

Certain producers in this investigation purchased material inputs from market economy suppliers and paid for the inputs with market economy currency. In accordance with 19 CFR 351.408(c)(1), we generally valued these material inputs using the actual price reported. However, consistent with Department practice concerning subsidized inputs, we have not used the actual prices paid by PRC producers of material inputs which we have reason to believe or suspect are subsidized. Instead, we have relied on surrogate values. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Preliminary Results of 2000–2001 Administrative Review, Partial Rescission of Review, and Notice of Intent to Revoke Order In Part* (*TRB Review*), 67 FR 45451, 45454 (July 9, 2002). See also Calculation Memoranda for Peer, Wanxiang, and Cixing, on file in the CRU, dated October 1, 2002, for further discussion of company-specific issues.

As appropriate, for these imported materials, we calculated PRC brokerage and inland freight from the port to the factory using surrogate rates from India. We valued the remaining factors using publicly available information from India. Where a producer did not report the distance between the material supplier and the factory, as facts available, we used either the distance to the nearest seaport (if an import value was used as the surrogate value for the factor) or the farthest distance reported for a supplier, as facts available.

In addition, certain producers used market economy carriers to ship subject merchandise to the United States. Because the majority of their shipments were provided by market economy entities and the entities were paid in market economy currencies, we applied the market economy price for these transactions to calculate all ocean freight expenses, in accordance with 19 CFR 351.408(a)(1).

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity, we calculated our surrogate value for electricity based on electricity rate data from the *Energy Data Directory & Yearbook (1999/2000)* published by Tata Energy Research Institute.

To value truck freight rates, we used a collection of seventeen November 1999 price quotes from six different Indian trucking companies which were obtained by the Department in India and used in the *Final Determination of Sales at Less than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000). We valued rail freight using the average of two November 1999 rail freight price quotes for domestic bearing quality steel shipments within India. These quotes were obtained by the Department from two Indian rail freight transporters. *See id. See also, TRB Review*, 67 FR at 45454–5.

We based our calculation of selling, general and administrative (SG&A) expenses, overhead, and profit on the 2001 annual reports of five Indian bearings producers.

For a complete analysis of surrogate values used in the preliminary determination, *see* the Factors of Production Valuation Memorandum.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service (Customs Service) to suspend liquidation of all entries of ball

bearings from the PRC, that are entered, or withdrawn from warehouse, for consumption, on or after the date on which this notice is published in the **Federal Register**. In addition, we are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following percentage weighted-average margins exist for the POI:

Manufacturer/exporter	Weighted-Average Margin (percent)
Xinchang Peer Bearing Company Ltd	2.39
Wanxiang Group Corporation	39.93
CW Bearings USA, Inc. and Ningbo Cixing Group Corp.	32.69
B&R Bearing Co.	22.99
Changshan Import & Export Company, Ltd.	22.99
Changzhou Daya Import and Export Corporation Limited	22.99
China Huanchi Bearing Group Corp. AND Ningbo Huanchi Import & Export Co. Ltd.	22.99
China National Automobile Industry Guizhou Import & Export Corp.	22.99
China National Machinery & Equipment Import & Export Wuxi Co., Ltd.	22.99
Chongqing Changjiang Bearing Industrial Corporation	22.99
CSC Bearing Company Limited	22.99
Dongguan TR Bearing Corporation, Ltd.	22.99
Fujian Nanan Fushan Hardware Machinery Electric Co., Ltd.	22.99
Guangdong Agricultural Machinery Import & Export Company	22.99
Harbin Bearing Group AND Heilongjiang Machinery and Equipment Import and Export Corporation	22.99
Jiangsu CTD Imports & Exports Co., Ltd.	22.99
Jiangsu General Ball & Roller Co., Ltd.	22.99
Jiangsu Hongye Intl. Group Industrial Development Co., Ltd.	22.99
Jinrun Group Ltd. Haining	22.99
Ningbo Cixi Import Export Co.	22.99
Ningbo Economic and Technological Development Zone AND Tiansheng Bearing Co. Ltd AND TSB Group USA Inc. AND TSB Bearing Group America, Co. (TSB Group)	22.99
Ningbo General Bearing Co., Ltd.	22.99
Ningbo Jinpeng Bearing Co., Ltd. AND Ningbo Mikasa Bearing Co. Ltd. AND Ningbo Cizhuang Bearing Co. Tahsleh Development Zone	22.99
Ningbo MOS Group Corporation, Ltd.	22.99
Norin Optech Co., Ltd.	22.99
Premier Bearing & Equipment, Ltd.	22.99
Sapporo Precision Inc./Shanghai Precision Bearing Co., Ltd.	22.99
Shaanxi Machinery & Equipment Import & Export Corp.	22.99
Shandong Machinery Import & Export Group Corp.	22.99
Shanghai Bearing (Group) Company Limited	22.99
Shanghai Foreign Service and Economic Cooperation Co. Ltd.	22.99
Shanghai General Pudong Bearing Co., Ltd.	22.99
Shanghai Hydraulics & Pneumatics Corp.	22.99
Shanghai Nanshi Foreign Economic Cooperation & Trading Co., Ltd.	22.99
Shanghai SNZ Bearings Co., Ltd.	22.99
Shanghai Zhong Ding I/E Trading Co., Ltd. AND Shanghai Li Chen Bearings	22.99
Shaoguan Southeast Bearing Co. Ltd.	22.99
Sin NanHwa Bearings Co. Ltd. AND Sin NanHwa Co. Ltd.	22.99
TC Bearing Manufacturing Co. Ltd.	22.99
Wafangdian Bearing Company Ltd.	22.99
Wholelucks Industrial Limited	22.99
Wuxi New-way Machinery Co., Ltd.	22.99
Zhejiang Rolling Bearing Co. Ltd.	22.99
Zhejiang Shenlong Bearing Co. Ltd.	22.99
Zhejiang Wanbang Industrial Co., Ltd.	22.99
Zhejiang Xinchang Xinzhou Industrial Co. Ltd.	22.99
Zhejiang Xinchun Bearing Co. Ltd.	22.99
Zhejiang ZITIC Import & Export Co. Ltd.	22.99
PRC-Wide Rate	59.30

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of ball bearings from the PRC are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information to value the factors of production for purposes of the final determination

within 30 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose content is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: October 1, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–26114 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839]

Polyester Staple Fiber from Korea: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On June 7, 2002, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on polyester staple fiber from Korea. The period of review is November 8, 1999, through April 30, 2001. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margins for the seven manufacturer/exporters are listed below in the ''Final Results of the Review'' section of this notice.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Andrew McAllister or Jarrod Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1174, or (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR part 351 (April 2001).

Background

Since the publication of the preliminary results in this review (*see Certain Polyester Staple Fiber from Korea: Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 39350 (June 7, 2002) (''*Preliminary Results*'')), the following events have occurred:

We invited parties to comment on the preliminary results of the review. On July 17, 2002, E.I. DuPont de Nemours, Inc., Arteva Specialties S.a.r.l., d/b/a KoSa, Wellman, Inc., and Intercontinental Polymers, Inc., (collectively ''the petitioners''), and Estal Industry Co., Ltd. (''Estal''), Keon Baek Co., Ltd. (''Keon Baek''), Mijung Ind., Co., Ltd. (''Mijung''), Sam Young Synthetics Co., Ltd. (''SamYoung''), Stein Fibers, Ltd. (''Stein Fibers''), and Sunglim Co., Ltd. (''Sunglim'') filed case briefs. On July 24, 2002, the above-mentioned parties and Huvis Corporation (''Huvis'') filed rebuttal briefs.

Scope of the Order

For the purposes of this order, the product covered is certain polyester staple fiber (''PSF''). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at subheading 5503.20.00.20 is specifically excluded from this order. Also specifically excluded from this order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from this order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to this order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65.[1] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under order is dispositive.

Period of Review

The period of review (''POR'') is November 8, 1999, through April 30, 2001.

Fair Value Comparisons

To determine whether sales of PSF from Korea to the United States were

[1] These HTSUS numbers have been revised to reflect changes in the HTSUS numbers at the suffix level.

made at less than normal value, we compared export price (''EP'') to normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Results*, except as noted below and in each individual respondent's calculation memorandum, dated October 7, 2002, which is on file in the Import Administration's Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building.

Export Price

We used EP as defined in section 772(a) of the Act. We calculated EP based on the same methodologies described in the Preliminary Results.

Normal Value

We used the same methodology as that described in the Preliminary Results to determine the cost of production (''COP''), whether comparison market sales were at prices below the COP, and the NV.

Changes from the Preliminary Results

In the *Preliminary Results*, we miscalculated the per-unit assessment rates of Huvis, Keon Baek, Mijung, and Sam Young. This error has been corrected in these final results. Also, for all respondents, we have added programming language to determine whether the importer-specific duty assessment rates were *de mimimis* (*i.e.*, less than 0.50 percent).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the ''Issues and Decision Memorandum'' from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated October 7, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/frnhome.htm*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Final Results of the Review

We determine that the following percentage margins exist for the period November 8, 1999, through April 30, 2001:

Exporter/manufacturer	Weighted-average margin percentage
Daeyang Industrial Co., Ltd.	1.39
Estal Industry Co., Ltd.	0.20 (de minimis)
Huvis Corporation	3.37
Keon Baek Co., Ltd.	0.31 (de minimis)
Mijung Ind., Co., Ltd.	1.00
Sam Young Synthetics Co., Ltd.	0.75
Sunglim Co., Ltd.	0.61

Assessment Rates

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final results of review. We will direct the Customs Service to assess the resulting assessment rates against each of the importer's/customer's entries during the review period.

We have calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on the EPs.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those established above in the ''Final Results of Review'' section, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.35 percent, the ''All Others'' rate made effective by the less-than-fair-value investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as the only reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: October 7, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

List of Comments in the Issues and Decision Memorandum

Comment 1: De Minimis Threshold

Comment 2: Treatment of Sales Above Normal Value

Comment 3: Imposition of Margins and Injury to the Domestic Injury

Comment 4: Individual-Rate Duty Drawback Scheme

Comment 5: Fixed-Rate Duty Drawback Scheme

Comment 6: Treatment of Disqualified Duty Drawback Benefits

Comment 7: Sunglim G&A and Financial Expense Ratios

Comment 8: Sunglim Foreign Movement Charges

Comment 9: Estal U.S. Credit Expense

Comment 10: Estal General and Administrative Expenses

Comment 11: Estal Financial Expenses

Comment 12: Huvis Home Market Sales in U.S. Dollars

Comment 13: Huvis Matching Criteria

Comment 14: Huvis G&A Expense Ratio

Comment 15: Mijung G&A Expenses

[FR Doc. 02–26179 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–822]

Final Results of Antidumping Administrative Review: Stainless Steel Plate in Coils From Italy

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Final Results in the Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Italy.

SUMMARY: In response to a request from ThyssenKrupp Acciai Speciali Terni S.p.A (''TKAST'') and ThyssenKrupp AST USA, Inc. (''TKASTUSA''), the U.S. Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (''SSPC'') from Italy for the period May 1, 2000 through April 30, 2001.

We received no comments on the preliminary results, and we have made no changes in our analysis. Therefore, the final results do not differ from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Robert Bolling, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–1102, or 202–482–3434, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Background

On June 10, 2002, the Department published in the **Federal Register** (67 FR 39677) the preliminary results of its administrative review of the antidumping duty order on stainless steel plate in coils from Italy (''*Preliminary Results*''). We invited parties to comment on our preliminary results of review. No party submitted comments on our preliminary results. We have now completed the administrative review in accordance with section 751(a) of the Act.

Scope of Review

For purposes of this administrative review, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process.

The merchandise subject to this review is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219110030, 7219110060, 7219120005, 7219120020, 7219120025, 7219120050, 7219120055, 7219120065, 7219120070, 7219120080, 7219310010, 7219900010, 7219900020, 7219900025, 7219900060, 7219900080, 7220110000, 7220201010, 7220201015, 7220201060, 7220201080, 7220206005, 7220206010, 7220206015, 7220206060, 7220206080, 7220900010, 7220900015, 7220900060, and 7220900080. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

Because no interested party submitted comments, the Department hereby adopts all findings from the *Preliminary Results* in these final results.

Final Results of Review

We determine that the following percentage margin exists for the period May 1, 2000, through April 30, 2001:

Producer/Manufacturer/Exporter	Weighted-Average Margin (percent)
TKAST	0.00

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the entered quantity of those reviewed sales for TKAST. We will direct the Customs Service to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period (*see* 19 CFR 351.212(b)(1)).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel plate in coils from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for TKAST will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the ''all others'' rate, which is 48.80 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their

responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–26181 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–821]

Stainless Steel Wire Rod From Italy: Notice of Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Stainless Steel Wire Rod from Italy: notice of final results of countervailing duty administrative review.

SUMMARY: On June 7, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on stainless steel wire rod from Italy for the period January 1, 2000, through December 31, 2000.

Upon review of the comments received, the Final Results remain unchanged from the Preliminary Results. For information on the subsidy rate for the reviewed company, see the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Carrie Farley at (202) 482–0395 or Eric B. Greynolds at (202) 482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

On June 7, 2002, the Department published the preliminary results of the administrative review of the countervailing duty order on stainless steel wire rod from Italy. *See Stainless Steel Wire Rod from Italy,* 67 FR 39357 (June 7, 2002) (*Preliminary Results*). This review covers one manufacturer/exporter, Acciaierie Valbruna S.p.A. This review covers the period January 1, 2000, through December 31, 2000 and 17 programs.

Scope of Review

For purposes of this administrative review, certain stainless steel wire rod (SSWR or subject merchandise) comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, and are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter. Two stainless steel grades SF20T and K–M35FL are excluded from the scope of the investigation. The percentages of chemical makeup for the excluded grades are as follows:

SF20T:	
Carbon	0.05 max
Manganese	2.00 max
Phosphorous	0.05 max
Sulfur	0.15 max
Silicon	1.00 max
Chromium	19.00/21.00
Molybdenum	1.50/2.50
Lead	added (0.10/0.30)
Tellurium	added (0.03 min)
K–M35FL:	
Carbon	0.015 max
Manganese	0.40 max
Phosphorous	0.04 max
Sulfur	0.03 max
Silicon	0.70/1.00
Chromium	12.50/14.00
Nickel	0.30 max
Lead	added (0.10/0.30)
Aluminum	0.20/0.35

The products covered by this administrative review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this review is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum (*Decision Memorandum*), dated October 7, 2002, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov,* under the heading ''Federal Register Notices.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. We determine the total estimated net countervailable subsidy rate to be:

Producer/exporter	Net subsidy rate
Acciaierie Valbruna S.p.A.	0.27 percent *ad valorem*

As provided for in the *Statement of Administrative Action (SAA)* accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1 (1994) at 939 and 19 CFR 351.106(c)(1), any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis*. Normally, we would instruct the U.S. Customs Service (Customs) to liquidate without regard to countervailing duties, shipments of the subject merchandise that are covered by this review. However, because liquidation of entries of subject merchandise manufactured or exported by Acciaierie Valbruna S.r.l and/or Acciaierie Bolzano S.r.l. is barred by the terms of an injunction, we will not issue liquidation instructions at this time. However, we will instruct Customs to set the cash deposit rate at zero for Acciaierie Valbruna S.p.A.[1] *See SAA* at 939.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g), the predecessor to 19 CFR 351.222(c)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy,* 63 FR 40474 at 40503. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 2000 through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Assessment Rates

We will not liquidate entries covered by this review until the injunction covering this order is lifted.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1)and 777(i)(1) of the Act.

Dated: October 7, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues Discussed in the Decision Memorandum

Methodology and Background Information

I. Background Information
- *A. Corporate History*
- *B. Changes in Ownership*

II. Subsidies Valuation Information
- *A. Allocation Period*
- *B. Benchmark for Loans and Discount Rates*

III. Programs Determined to Be Countervailable
- *A. Government of Italy Law 451/94 Early Retirement Benefits*
- *B. Province of Bolzano Law 25/81, Articles 13 through 15*
- *C. European Social Fund*
- *D. Lease of Bolzano Industrial Site to Valbruna*
- *E. Environmental and Research and Development Assistance to Bolzano Under Law 25/81*

IV. Programs Determined To Be Not Used
- A. Capacity Reduction Payments under Articles 3 and 4 of Law 193/1984
- B. Law 796/76 Exchange Rate Guarantees
- C. Article 33 of Law 227/77, Export Credit Financing Under Law 227/77, and Decree Law 143/98
- D. Grants under Laws 46/82 and 706/85
- E. Law 181/89 and Law 120/89
- F. Law 488/922, Legislative Decree 96/93 and Circolare 38522
- G. Law 341/95 and Circolare 50175/95
- H. Law 675/77
  - 1. Interest Grants on Bank Loans
  - 2. Mortgage Loans
  - 3. Interest Contribution on IRI Loans
  - 4. Personnel Retraining Aid
- I. Law 394/81 Export Marketing Loans
- J. Law 481/94 (and Precursors) Grants for Reduced Production
- K. Law 489/94
- L. Law 10/91

V. Total Ad Valorem Rate

VI. Analysis of Comments

Comment 1: Selection of Discount Rate

Comment 2: Government of Italy Law 451/94 Early Retirement Benefits

Comment 3: Attribution of Law 25/81 Grants to Valbruna

Comment 4: Bolzano Industrial Site Lease and Extraordinary Maintenance

Comment 5: Final Results Should Identify The Producer/Exporter as Acciaierie Valbruna S.p.A.

[FR Doc. 02–26178 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DS–P

[1] We note that Acciaierie Valbruna S.r.l and Acciaierie Bolzano S.r.l. merged, effective January 1, 2000, and that the name of the merged companies was changed to Acciaierie Valbruna S.p.A. Thus, for liquidation purposes, we will refer to the companies Acciaierie Valbruna S.r.l and Acciaierie Bolzano S.r.l. Because it is possible that subject merchandise also entered the United States during the POR under the new name of the merged companies, we will also use the name Acciaierie Valbruna S.p.A. for liquidation purposes. For cash deposit purposes, we refer to Acciaierie Valbruna S.p.A.

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below.

Explore BC

Vancouver, Canada, November 18–19, 2002, Recruitment closes on October 18, 2002.

For further information contact: Ms. Cheryl Schell, U.S. Department of Commerce. Telephone 604–642–6679, or e-mail *Cheryl.Schell@mail.doc.gov.*

RepCom Mexico City 2002

Mexico City, Mexico, December 2–5, 2002, Recruitment closes on October 26, 2002.

For further information contact: Mr. Bryan Larson, U.S. Department of Commerce. Telephone 011–52–55–5140–2612, or e-mail *Bryan.Larson@mail.doc.gov.*

Textile and Apparel Trade Mission to South Africa

Cape Town, Durban and Johannesburg, December 8–14, 2002, Recruitment closes on November 8, 2002.

For further information contact: Ms. Pamela Kirkland, U.S. Department of Commerce.

Telephone 202–482–3587, or e-mail *Pamela.Kirkland@mail.doc.gov.*

Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997. For further information contact Mr. Thomas Nisbet, U.S. Department of Commerce, telephone 202–482–5657, or e-mail *Tom_Nisbet@ita.doc.gov.*

Dated: October 4, 2002.

Thomas H. Nisbet,

Director, Export Promotion Coordination, Office of Planning, Coordination and Management.

[FR Doc. 02–26062 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 981028268–1287–05]

Announcing Approval of Changes to Federal Information Processing Standard (FIPS) 186–2, Digital Signature Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce has approved changes to Federal Information Processing Standard (FIPS) 186–2, Digital Signature Standard (DSS). These changes extend the transition period for the implementation of FIPS 186–2 to December 2002 and clarify that a private sector algorithm (PKCS #1, version 1.5 or higher) may be used during the extended transition period.

DATE: These changes are effective October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

SPECIFICATIONS: These changes are available electronically from the NIST Web site at *http://csrc.nist.gov/encryption/tkdigsigs.html.*

SUPPLEMENTARY INFORMATION: In January 2000, the Secretary of Commerce approved FIPS 186–2, Digital Signature Standard (DSS), which adopts three techniques for the generation and verification of digital signatures. These are the Digital Signature Algorithm (DSA) and two techniques specified in industry standards (ANSI X9.31–1998, Digital Signatures Using Reversible Public Key Cryptography for the Financial Services Industry and ANSI 9.62, 1998, Public Key Cryptography for the Financial Services Industry: Elliptical Curve Digital Signature Algorithm). When the standard was approved, it provided for a transition period from July 2000 to July 2001 to enable federal agencies to continue to use their existing digital signature systems and to acquire additional equipment that might be needed to interoperate with these legacy digital signature systems. Several agencies notified NIST that commercial equipment implementing the digital signature algorithms adopted by FIPS 186–2 is not readily available, and that existing systems would be jeopardized by adherence to the original implementation schedule.

A notice was published in the **Federal Register** (Volume 66, Number 133, pp. 36254–5) on July 11, 2001, seeking public review or comment on proposed changes to ease transition to FIPS 186–2. The proposed changes extended the transition period for the implementation of FIPS 186–2 from July 2001 until December 2002 and specified that a private sector algorithm (PKCS #1, version 1.5 or higher) may be used during the extended transition period. The **Federal Register** notice solicited comments from the public, academic and research communities, manufacturers, voluntary standards organizations, and Federal, state, and local government organizations. In addition to being published in the **Federal Register**, the notice was posted on the NIST Web pages; information was provided about the submission of electronic comments. Responses were received from four individuals and private sector organizations. Below are three comments received; the fourth response was a ''no comments'' response. None of the responses received opposed the changes.

Comment: The extended transition period will give government agencies a longer period in which to implement FIPS 186–2 and insure its interoperability with existing systems. Overall, these changes to FIPS 186–2 are favorable, and should be adopted as soon as possible.

Comment: This office concurs with the document as written and has no additional comments to offer.

Comment: I support the indefinite continuation to ANSI X9.31 as a data formatting approach approved under FIPS 186. NIST is to be congratulated on its continuing interaction with the PKI industry to ensure compatible standards as reflected in the continuing support for PKCS #1.

Therefore, the Secretary of Commerce approved the changes to Federal Information Processing Standard (FIPS) 186–2, Digital Signature Standard (DSS). These changes extend the transition period for the implementation of FIPS 186–2 from July 2001 to December 2002 and clarify that a private sector algorithm (PKCS #1, version 1.5 or higher) may be used during the extended transition period.

Authority: Under Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, the Secretary of Commerce is authorized to approve standards and guidelines for the cost effective security and privacy of sensitive information processed by Federal computer systems.

E.O. 12866: This notice has been determined to be non-significant for purposes of E.O. 12866.

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

Dated: October 8, 2002.

Arden L. Bement, Jr.,

Director.

[FR Doc. 02–26132 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advanced Technology Program Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Advanced Technology Program Advisory Committee, National Institute of Standards and Technology (NIST), will meet Tuesday, October 29, 2002, from 8:45 a.m. to 3:45 p.m. The Advanced Technology Program Advisory Committee is composed of eight members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Advanced Technology Program (ATP), its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an ATP update, a panel from the international community on technology programs, an update on the ATP competition and a presentation on emerging knowledge about ATP's impacts on firm behavior, collaboration, etc. Discussions scheduled to begin at 8:45 a.m. and to end at 9:50 a.m. and to begin at 2:30 p.m. and to end at 3:45 p.m. on October 29, 2002, on the ATP budget issues and staffing of positions will be closed. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Carolyn Peters no later than Thursday, October 24, 2002, and she will provide you with instructions for admittance. Ms. Peters's email address is *carolyn.peters@nist.gov* and her phone number is 301/975–5607.

DATES: The meeting will convene October 29, 2002, at 8:45 a.m. and will adjourn at 3:45 p.m. on October 29, 2002.

ADDRESS: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room B, Gaithersburg, Maryland 20899. Please note admittance instructions under **SUMMARY** paragraph.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Peters, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–1004, telephone number (301) 975–5607.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 3, 2002, that portions of the meeting of the Advanced Technology Program Advisory Committee which involve discussion of proposed funding of the Advanced Technology Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of staffing of positions in ATP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: October 8, 2002.

Arden L. Bement, Jr.,

Director.

[FR Doc. 02–26131 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100902A]

Caribbean Fishery Management Council (CFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's Habitat Advisory Panel (HAP), and the Scientific and Statistical Committee (SSC), and the Sustainable Fisheries Act (SFA) Committee will hold meetings.

DATES: The SFA Committee will meet on October 23–24, 2002, and the HAP/SSC meeting will be held on October 25, 2002.

ADDRESSES: The meetings will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Carolina, PR.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone 787–766–5926.

SUPPLEMENTARY INFORMATION: The SFA Committee, the HAP, and the SSC will meet to discuss the items contained in the following agendas:

October 23, 2002

SFA Committee Meeting

Presentation of SFA Parameter Tables

Review of Section I of the SFA Amendment Options Paper

The SFA Committee will need to review the various SFA parameter options and offer recommendations to the CFMC based on group consensus. These recommended alternatives will then be utilized to construct the table of SFA parameters for CFMC managed species.

Additionally, the SFA Committee will need to review the various alternatives regarding the aquarium trade species in the Reef Fish and Coral Fishery Management Plans, in order to produce a recommendation to the CFMC on how to pursue management of these species. This discussion will have ramifications on the generation of stock status determination criteria for these species.

Construction of SFA Parameters

The SFA Committee will need to evaluate the various biological and socio-economic data, as well as personal knowledge and experience, on all managed species and species groups, in order to recommend prudent stock status determination criteria to the CFMC. This process may, in turn drive additional management measures, based on the resulting stock status determination (i.e., approaching overfished or overfished status).

October 24, 2002

Discussion on Sections I and II of the SFA Amendment OptionsPaper

The SFA Committee will need to review the various proposed alternatives and offer recommendations to the CFMC based on group consensus that will comply with Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act) and National Environmental Policy Act requirements.

Discussion on Sections I and II of the SFA Amendment OptionsPaper (continued)

October 25, 2002

HAP/SSC

Call to Order

Decision Making Process for Essential Fish Habitat (EFH)

Alternatives (Decision Tree)

Mapping EFH

Fishing Impacts on EFH

Alternatives for Habitat Areas of Particular Concern (HAPC)

Environmental Consequences

Other Business

The SFA Committee will meet on Wednesday, October 23, and Thursday, October 24, 2002. The HAP/SSC will convene on Friday, October 2002, from 10–4 p.m.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal Council action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issue arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address this emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: October 9, 2002.

Matteo Milazzo,

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

[FR Doc. 02–26135 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100802D]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee, Habitat Oversight Committee and Groundfish Oversight Committee in October, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be between October 28 - 30, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Wakefield, MA, Plymouth, MA and Portsmouth, NH. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, October 28, 2002, 9:30 a.m.--Research Steering Committee Meeting.

Location: Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

The committee will hear an update on the status of current projects, recent contract awards and funding for the NOAA Fisheries Cooperative Research Partners Initiative. They will also discuss development of procedures for tracking cooperative research projects, project evaluation, and the integration of results into the management process. Also on the agenda will be discussion and planning for a public process to identify habitat research priorities that could be addressed through collaborative research.

Tuesday, October 29, 2002, 9:30--Habitat Oversight Committee Meeting.

Location: Sheraton Inn, 180 Water Street, Plymouth, MA 02360; telephone: (508) 747–4900.

The Committee will review the analysis for the Essential Fish Habitat Sections of the Draft Supplementary Environmental Impact Statement (DSEIS) for Amendment 13. They may select preferred alternatives for Amendment 13 to be recommended to the full Council.

Wednesday, October 30, 2002, 9:30 a.m.--Groundfish Oversight Committee Meeting.

Location: Holiday Inn, 300 Woodbury Ave., Portsmouth, NH 03801; telephone: (603) 431–8000.

The committee will meet to review the Draft Environmental Impact Statement (DEIS) for Amendment 13 to the Northeast Multispecies Fishery Management Plan. The Committee will review alternatives and analyses, provide advice on improving the DEIS, and will consider recommending a preferred alternative for Council consideration. In addition, the Committee will meet in a closed session to review applications to fill several vacant advisory panel positions.

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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 9, 2002.

Matteo J. Milazzo,

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

[FR Doc. 02–26139 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100802E]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory bodies will hold public meetings.

DATES: The Council and its advisory bodies will meet October 28, 2002 through November 1, 2002. The Council session will begin on Monday, October 28 at 3:30 p.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held at 3:30 p.m. on Monday, October 28 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Crowne Plaza Hotel, 1221 Chess Drive, Foster City, CA 94404; telephone: 650–570–5700.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: 503–820–2280 or 866–806–7204.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order. All items listed are subject to potential Council action.

A. Call to Order

1. Opening Remarks, Introductions
2. Council Member Appointments
3. Roll Call
4. Executive Director's Report
5. Approve Agenda
6. Approve April 2002 Minutes

B. Habitat Issues

Essential Fish Habitat (EFH) Issues

C. Salmon Management

1. NMFS Report on Salmon Management
2. Update of Ongoing Fisheries
3. Salmon Management 2003 Option Hearing Sites and Preseason Schedule
4. Scientific and Statistical Committee (SSC) Methodology Review Report

D. Highly Migratory Species (HMS) Management

1. NMFS Report on HMS Management
2. Adoption of Final HMS Fishery Management Plan (FMP)

E. Pacific Halibut Management

Proposed Changes to the 2003 Catch Sharing Plan and Annual Regulations

F. Coastal Pelagic Species (CPS) Management

1. NMFS Report on CPS Management
2. Pacific Sardine Stock Assessment and Harvest Guideline for 2003
3. Consideration of Long-Term Sardine Harvest Allocation

G. Groundfish Management

4. NMFS Report on Groundfish Management
5. Status of Fisheries and Inseason Adjustments
6. Status of Vessel Monitoring System (VMS) Plans
7. Stock Assessment Review (STAR) Panel Process
8. Amendment 17 - Multi-Year Management
9. Exempted Fishing Permits (EFPs): Update and New Proposals
10. Groundfish FMP Programmatic Environmental Impact Statement (EIS)
11. Groundfish FMP EFH EIS
12. Groundfish Strategic Plan Two-Year Review
13. Further Refinement of Amendment 16 - Rebuilding Plans
14. Planning for Bycatch and B0/ Maximum Sustainable Yield Workshops

H. Administrative and Other Matters

1. Legislative Matters
2. Financial Matters
3. Appointments to Advisory Bodies, Standing Committees, and Other Forums
4. Election of Council Chair and Vice Chair
5. Council Staff Work Load Priorities
6. March 2003 Council Meeting Draft Agenda

SCHEDULE OF ANCILLARY MEETINGS

MONDAY, OCTOBER 28, 2002

Council Secretariat 8 a.m.
Highly Migratory Species Plan Development Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
Habitat Committee 10 a.m.
Legislative Committee 10 a.m.
Groundfish Advisory Subpanel 1 p.m.
Groundfish Management Team 1 p.m.
Budget Committee 1 p.m.

TUESDAY, OCTOBER 29, 2002

Council Secretariat 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
STAR Panel Debriefing (GAP/GMT/ SSC) 10 a.m.
Enforcement Consultants Immediately following Council Session

WEDNESDAY, OCTOBER 30, 2002

Council Secretariat 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team As necessary
Enforcement Consultants As necessary

THURSDAY, OCTOBER 31, 2002

Council Secretariat 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.- noon
Groundfish Management Team As necessary
Enforcement Consultants As necessary

FRIDAY, NOVEMBER 1, 2002

Council Secretariat 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503)820–2280 or (866)806–7204 at least 5 days prior to the meeting date.

Dated: October 9, 2002.

Matteo J. Milazzo,

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

[FR Doc. 02–26138 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Burma (Myanmar)

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Burma (Myanmar) and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 2003 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Burma (Myanmar) and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340/640	102,781 dozen.
342/642	27,761 dozen.
347/348	143,995 dozen.
351/651	43,630 dozen.
448	2,533 dozen.
647/648	26,342 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 23, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26149 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Arab Republic of Egypt

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Egypt and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–O [1], 314–O [2], 315–O [3], 317–O [4] and 326–O [5], as a group	182,709,318 square meters.
Sublevels within Fabric Group	
218	2,508,000 square meters.
219	42,987,425 square meters.
220	42,987,425 square meters.
224	42,987,425 square meters.
225	42,987,425 square meters.
226	42,987,425 square meters.
227	42,987,425 square meters.
313–O	78,937,229 square meters.
314–O	42,987,425 square meters.
315–O	50,480,520 square meters.
317–O	42,987,425 square meters.
326–O	2,508,000 square meters.
Levels not in a group	
300/301	17,071,349 kilograms of which not more than 5,354,175 kilograms shall be in Category 301.
338/339	4,717,195 dozen.
340/640	1,954,268 dozen.
369–S [6]	2,474,710 kilograms.
448	20,894 dozen.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 23, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26148 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limit for textile products, produced or manufactured in Fiji and exported during the period January 1, 2003 through December 31, 2003 is based on a limit notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limit for the 2003 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of 2,113,052 dozen of which not more than 1,760,880 dozen shall be in Categories 338–S/339–S/638–S/639–S [1]

The limit set forth above is subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers in Category 638 except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers in Category 639 except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

applicable category limit for that year (see directive dated November 14, 2001) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26147 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Indonesia and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC), a Memorandum of Understanding (MOU) dated November 1, 1996 between the Governments of the United States and Indonesia, and an exchange of notes dated December 10, 1997 and January 9, 1998.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Uruguay Round Agreement on Textiles and Clothing (ATC); a Memorandum of Understanding dated November 1, 1996 between the Governments of the United States and Indonesia, and an exchange of notes dated December 10, 1997 and January 9, 1998, you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Indonesia and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
200	1,330,628 kilograms.
219	14,781,156 square meters.
225	10,350,643 square meters.
300/301	6,325,394 kilograms.
313–O [1]	26,820,249 square meters.
314–O [2]	93,649,603 square meters.
315–O [3]	42,552,636 square meters.
317–O [4]/617/326–O [5]	41,099,712 square meters of which not more than 6,072,930 square meters shall be in Category 326–O.
331pt./631pt. [6]	1,666,284 dozen pairs.
334/335	345,858 dozen.
336/636	966,065 dozen.
338/339	1,867,716 dozen.
340/640	2,300,141 dozen.
341	1,383,424 dozen.
342/642	575,035 dozen.
345	668,871 dozen.
347/348	2,530,157 dozen.
351/651	747,545 dozen.
359–C/659–C [7]	2,185,136 kilograms.
359–S/659–S [8]	2,300,141 kilograms.
360	2,047,118 numbers.
361	2,047,118 numbers.
369–S [9]	1,411,928 kilograms.
433	12,449 dozen.
443	92,357 numbers.
445/446	61,888 dozen.

Category	Twelve-month restraint limit
447	18,473 dozen.
448	22,746 dozen.
604–A [10]	1,098,159 kilograms.
611–O [11]	6,886,642 square meters.
613/614/615	38,987,416 square meters.
618–O [12]	9,200,572 square meters.
619/620	14,260,885 square meters.
625/626/627/628/629–O [13]	43,513,216 square meters.
634/635	460,028 dozen.
638/639	2,392,151 dozen.
641	3,507,034 dozen.
643	511,782 numbers.
644	716,490 numbers.
645/646	1,210,497 dozen.
647/648	5,014,922 dozen.
Group II	
201, 218, 220, 224, 226, 227, 237, 239pt. [14], 332, 333, 352, 359–O [15], 362, 363, 369–O [16], 400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. [17], 469pt. [18], 603, 604–O [19], 624, 633, 652, 659–O [20], 666pt. [21], 845, 846 and 852, as a group	138,437,136 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 434, 435, 436, 438, 440, 442, 444, 459pt. and 469pt., as a group	3,259,744 square meters equivalent.
In Group II subgroup	
435	51,178 dozen.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[7] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[9] Category 369–S: only HTS number 6307.10.2005.

[10] Category 604–A: only HTS number 5509.32.0000.

[11] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[12] Category 618–O: all HTS numbers except 5408.24.9010 and 5408.24.9040.

[13] Category 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

[14] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[15] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545 (Category 359pt.).

[16] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[17] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[18] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[19] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[20] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000. 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[21] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26146 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Korea and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–220, 224–V [1], 224–O [2], 225–227, 300–326, 360–363, 369pt., [3], 400–414, 469pt., [4], 603, 604, 611–620, 625-629, 666pt. [5], as a group	253,720,844 square meters equivalent.
Sublevels within Group I	
200	561,429 kilograms.
201	3,457,628 kilograms.
218	11,380,348 square meters.
219	10,362,594 square meters.
224–V	13,063,634 square meters.
300/301	3,817,516 kilograms.
313	62,212,568 square meters.
314	34,687,000 square meters.
315	20,582,834 square meters.
317/326	23,119,807 square meters.
363	1,332,334 numbers.
410	3,846,388 square meters.
604	491,879 kilograms.
611	4,552,140 square meters.
613/614	7,586,898 square meters.
617	6,291,576 square meters.
619/620	102,373,098 square meters.
624	11,102,779 square meters.
625/626/627/628/629	19,422,460 square meters.

Category	Twelve-month restraint limit
Group II	
237, 239pt. [6], 331pt. [7], 332–348, 351, 352, 359pt. [8], 433–438, 440–448, 459–W [9], 459pt. [10], 631pt. [11], 633–648, 651, 652, 659–H [12], 659–S [13] and 659pt. [14], as a group	578,811,286 square meters equivalent.
Sublevels within Group II	
237	75,497 dozen.
239pt.	305,271 kilograms.
333/334/335	341,411 dozen of which not more than 174,500 dozen shall be in Category 335.
336	72,150 dozen.
338/339	1,517,380 dozen.
340	789,038 dozen of which not more than 409,694 dozen shall be in Category 340–D [15].
341	205,830 dozen.
342/642	274,411 dozen.
345	147,411 dozen.
347/348	561,429 dozen.
351/651	288,275 dozen.
352	224,328 dozen.
433	14,504 dozen.
434	7,439 dozen.
435	38,152 dozen.
436	16,151 dozen.
438	64,753 dozen.
440	206,758 dozen.
442	54,579 dozen.
443	322,056 numbers.
444	59,475 numbers.
445/446	54,411 dozen.
447	92,830 dozen.
448	38,397 dozen.
459–W	103,865 kilograms.
631pt.	76,980 dozen pairs.
633/634/635	1,391,680 dozen of which not more than 157,813 dozen shall be in Category 633 and not more than 588,121 dozen shall be in Category 635.
636	305,832 dozen.
638/639	5,418,295 dozen.
640–D [16]	3,264,604 dozen.
640–O [17]	2,720,502 dozen.
641	1,105,410 dozen of which not more than 41,753 dozen shall be in Category 641–Y [18].
643	818,942 numbers.
644	1,232,061 numbers.
645/646	3,739,567 dozen.
647/648	1,438,155 dozen.
659–H	1,509,879 kilograms.
659–S	225,828 kilograms.
Group III–only 852	13,315,835 square meters equivalent.
Levels not in a group	
845	2,315,056 dozen.
846	825,385 dozen.

[1] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36,0020.

[2] Category 224–O: all remaining HTS numbers in Category 224.

[3] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[4] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[5] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

[6] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[7] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[8] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[9] Category 459–W: only HTS number 6505.90.4090.

[10] Category 459pt.: all HTS numbers except 6505.90.4090 (Category 459–W); 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[11] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[12] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[15] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[16] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[17] 640–O: only HTS numbers 6203.23.0080, 6203.29.2050, 6205.30.1000, 6205.30.2050, 6205.30.2060, 6205.30.2070, 6205.30.2080 and 6211.33.0040.

[18] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 23, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (Square meters equivalent/category unit)
333/334/335	33.75
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26145 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, and Memorandum of Understanding (MOU) dated July 13, 2000 between the Governments of the United States and Nepal establish limits for the period January 1, 2003 through December 31, 2003.

These limits may be revised if Nepal becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Nepal.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended; and the Memorandum of Understanding dated July 13, 2000 between the Governments of the United States and Nepal, you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
336/636	344,775 dozen.
340	452,694 dozen.
341	1,257,755 dozen.
342/642	395,100 dozen.
347/348	1,019,668 dozen.
363	9,220,374 numbers.
369–S [1]	1,074,647 kilograms.
640	227,839 dozen.
641	513,718 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Nepal.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 23, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such

products shall be charged to the limits set forth in this directive.

These limits may be revised if Nepal becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Nepal.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26144 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Philippines and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
237	2,817,254 dozen.
331pt./631pt. [1]	2,508,042 dozen pairs.
333/334	441,328 dozen of which not more than 63,358 dozen shall be in Category 333.
335	287,260 dozen.
336	1,045,361 dozen.
338/339	3,010,898 dozen.
340/640	1,337,015 dozen.
341/641	1,206,487 dozen.
342/642	904,185 dozen.
345	269,264 dozen.
347/348	3,167,764 dozen.
351/651	986,193 dozen.
352/652	3,873,037 dozen.
359–C/659–C [2]	1,339,891 kilograms.
361	3,010,999 numbers.
369–S [3]	682,518 kilograms.
433	3,638 dozen.
443	43,984 numbers.
445/446	30,042 dozen.
447	8,352 dozen.
611	9,036,247 square meters.
633	58,261 dozen.
634	722,860 dozen.
635	406,743 dozen.
636	2,724,275 dozen.
638/639	3,093,012 dozen.
643	1,391,609 numbers.
645/646	1,110,327 dozen.
647/648	1,911,398 dozen.

Category	Twelve-month restraint limit
659–H [4]	2,244,769 kilograms.
Group II	
200–220, 224–227, 300–326, 332, 359pt. [5], 360, 362, 363, 369pt. [6], 400–414, 434–438, 442, 444, 448, 459pt. [7], 469pt. [8], 603, 604, 613–620, 624–629, 644, 659–O [9], 666pt. [10], 845, 846 and 852, as a group	223,178,785 square meters equivalent.
Sublevel in Group II	
604	3,192,230 kilograms.

[1] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[5] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[6] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[7] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[8] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[9] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[10] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26143 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Thailand and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001).

Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended, and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003.

Category	Twelve-month restraint limit
Level not in a Group	
239pt. [1]	2,883,381 kilograms.
Levels in Group I	
200	1,881,872 kilograms.
218	28,031,246 square meters.
219	10,036,662 square meters.
300	7,527,496 kilograms.
301–P [2]	7,527,496 kilograms.
301–O [3]	1,505,502 kilograms.
313–O [4]	35,128,315 square meters.
314–O [5]	80,293,288 square meters.
315–O [6]	50,183,304 square meters.
317–O/326–O [7]	21,067,437 square meters.
363	32,619,148 numbers.
369–S [8]	501,833 kilograms.
604	1,174,119 kilograms of which not more than 752,749 kilograms shall be in Category 604–A [9].
611–O [10]	14,061,435 square meters.
613/614/615	75,842,768 square meters of which not more than 44,161,309 square meters shall be in Categories 613/615 and not more than 44,161,309 square meters shall be in Category 614.
617	27,387,665 square meters.
619	11,291,242 square meters.
620	11,291,242 square meters.
625/626/627/628/629	22,120,806 square meters of which not more than 17,564,156 square meters shall be in Category 625.
Group II	
237, 331pt. [11], 332–348, 351, 352, 359pt. [12], 433–438, 440, 442–448, 459pt. [13], 631pt. [14], 633–648, 651, 652, 659–H [15], 659pt. [16], 845, 846 and 852, as a group	430,013,156 square meters equivalent.
Sublevels in Group II	
331pt./631pt.	824,914 dozen pairs.
334/634	978,575 dozen.
335/635	758,632 dozen.
336/636	501,833 dozen.
338/339	2,606,139 dozen.
340	451,651 dozen.
341/641	1,066,396 dozen.
342/642	928,392 dozen.
345	476,742 dozen.
347/348	1,280,778 dozen.
351/651	376,374 dozen.
659–H	2,006,898 kilograms.
433	10,442 dozen.
434	12,890 dozen.
435	58,571 dozen.
438	19,334 dozen.
442	22,452 dozen.
638/639	3,071,521 dozen.
640	828,022 dozen.
645/646	501,833 dozen.
647/648	1,786,525 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[3] Category 301–O: only HTS numbers 5205.21.0020, 5205.21.0090, 5205.22.0020, 5205.22.0090, 5205.23.0020, 5205.23.0090, 5205.24.0020, 5205.24.0090, 5205.26.0020, 5205.26.0090, 5205.27.0020, 5205.27.0090, 5205.28.0020, 5205.28.0090, 5205.41.0020, 5205.41.0090, 5205.42.0020, 5205.42.0090, 5205.43.0020, 5205.43.0090, 5205.44.0020, 5205.44.0090, 5205.46.0020, 5205.46.0090, 5205.47.0020, 5205.47.0090, 5205.48.0020 and 5205.48.0090.

[4] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[5] Category 314–O: all HTS numbers except 5209.51.6015.

[6] Category 315–O: all HTS numbers except 5208.52.4055.

[7] Category 317–O: all HTS numbers except 5208.59.2085; Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[8] Category 369–S: only HTS number 6307.10.2005.

[9] Category 604–A: only HTS number 5509.32.0000.

[10] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[11] Categories 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[12] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[13] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[14] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[15] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[16] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directives dated Nobember 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factors for Category 659–H and merged Categories 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26142 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Uruguay

October 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334	255,440 dozen.
335	219,897 dozen.
410	3,168,972 square meters of which not more than 1,810,843 square meters shall be in Category 410–A [1] and not more than 2,917,464 square meters shall be in Category 410–B [2].
433	18,923 dozen.
434	28,230 dozen.
435	57,013 dozen.
442	40,331 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.3030, 5112.11.3060, 5112.11.6030, 5112.11.6060, 5112.19.6010, 5112.19.6020, 5112.19.6030, 5112.19.6040, 5112.19.6050, 5112.19.6060, 5112.19.9510, 5112.19.9520, 5112.19.9530, 5112.19.9540, 5112.19.9550, 5112.19.9560, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–26141 Filed 10–11–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Leader, Regulatory 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 November 14, 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 e-mail 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 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: October 8, 2002.

John D. Tressler,

Leader, Regulatory Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 66.

Burden Hours: 1,056.

Abstract: This data collection will be conducted annually to obtain program and performance information from the AIVRS grantees on their project activities. The information collected will assist federal Rehabilitation Services Administration (RSA) staff in responding to the Government Performance and Results Act (GPRA). Data will primarily be collected through an Internet form.

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 2121. 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 Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–26115 Filed 10–11–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–086]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate

October 8, 2002.

Take notice that on October 4, 2002, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 1, 2002:

Original Sheet No. 655
Sheet Nos. 656–699

CEGT states that the purpose of this filing is to reflect the implementation of a new negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26092 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–087]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

October 8, 2002.

Take notice that on October 4, 2002, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective November 4, 2002:

Third Revised Sheet No. 240
Original Sheet No. 653
Sheet Nos. 655–699
Original Sheet No. 461
Original Sheet No. 652
Original Sheet No. 654
Sheet Nos. 462–466;

CEGT states that the purpose of this filing is to describe the provisions of new negotiated rate transactions and also to submit one of the agreements as a non-conforming service agreement along with revised tariff sheets to reference such agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly

encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Dated:

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26093 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–402–001]

Clear Creek Storage Company, L.L.C.; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Clear Creek Storage Company, L.L.C., (Clear Creek) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of October 1, 2002:

Substitute Third Revised Sheet No. 41
Substitute Second Revised Sheet No. 41A
Substitute First Revised Sheet No. 41B
Substitute Third Revised Sheet No. 77

Clear Creek states that the filing is being made in compliance with the Commission's September 23, 2002, letter order in Docket No. RP02–402–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26097 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–444–001]

Colorado Interstate Gas Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 3, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, with an effective date of October 1, 2002:

Sub Fourteenth Revised Sheet No. 231

CIG states that this filing is being submitted to revise the North American Energy Standards Board (NAESB) Standards contained in CIG's Tariff in compliance with the Commission's order in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26100 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–068]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

October 8, 2002.

Take notice that on September 27, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a negotiated rate tranaction: PAL Service Agreement No. 73536 between Columbia Gulf Transmission Company and Occidental Energy Marketing, Inc. dated September 26, 2002.

Service is to commence October 1, 2002 and end October 31, 2002 under the agreement.

Columbia Gulf states that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26094 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–485–001]

Enbridge Pipelines (AlaTenn) Inc.; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Enbridge Pipelines (AlaTenn) Inc. (AlaTenn) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 141, Substitute First Revised Sheet No. 142, Substitute First Revised Sheet No. 195, and Substitute First Revised Sheet No. 196, with an effective date of October 1, 2002:

AlaTenn states that the filing is being made in compliance with the Commission's September 26, 2002, Order in the captioned proceeding and the Commission's Order No. 587–O.

AlaTenn states that complete copies of its filing are being mailed to all of the parties on the Commission's Official Service list for these proceedings, all of its jurisdictional customers, and applicable State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26101 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–486–001]

Enbridge Pipelines (Midla) Inc.; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Enbridge Pipelines (Midla) Inc. (Midla) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Substitute First Revised Sheet No. 191, and Substitute Original Sheet No. 192, with an effective date of October 1, 2002.

Midla states that the filing is being made in compliance with the Commission's September 25, 2002, Order in the captioned proceeding that accepted, subject to certain conditions, Midla's Order No. 587–O compliance filing.

Midla states that complete copies of its filing are being mailed to all of the parties on the Commission's Official Service list for these proceedings, all of its jurisdictional customers, and applicable State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26102 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–487–001]

Enbridge Pipelines (UTOS) LLC; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Enbridge Pipelines (UTOS) LLC (UTOS) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Substitute Second Revised Sheet No. 164, with an effective date of October 1, 2002.

UTOS states that the filing is being made in compliance with the Commission's September 26, 2002, Order in the referenced proceeding that accepted, subject to certain conditions, UTOS's Order No. 587–O compliance filing.

UTOS states that complete copies of its filing are being mailed to all of the parties on the Commission's Official Service list for these proceedings, all of its jurisdictional customers, and applicable State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26103 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–413–001]

Florida Gas Transmission Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 165A; Seventh Revised Sheet No. 166; and Second Revised Sheet No. 166A, to become effective October 1, 2002.

FGT states that on August 1, 2002, FGT filed revised tariff sheets to comply with Order No. 587–0. In the August 1 filing, FGT did not include tariff revisions incorporating North American Energy Standards Board (NAESB) Standards 5.3.2, 5.3.31 and 5.3.32 because revisions to incorporate these standards were included in FGT's June 17, 2002 Order No. 637 Compliance Filing as required by Commission Order dated May 16, 2002 in Docket No. RP00–387 et. al. Subsequently, on September 25, 2002, the Commission issued an order accepting FGT's August 1 filing and directing FGT to file revised tariff sheets, within 15 days of the date of the order, to incorporate NAESB Standards 5.3.2, 5.3.31 and 5.3.32. In the instant filing FGT is filing tariff revisions implementing these standards as required by the order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26099 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–12–000]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing

October 8, 2002.

Take notice that on October 4, 2002, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–B, Sixth Revised Sheet No. 4 and Original Sheet No. 95, to be effective November 4, 2002.

KMIGT states that the purpose of this filing is to add a new Section 39 to the General Terms and Conditions (GT&C) of KMIGT's FERC Gas Tariff addressing the use of offsystem capacity acquired by KMIGT and a waiver of the Commission's ''shipper must hold title'' requirement.

KMIGT states that a copy of this filing has been served upon all of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26105 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–52–000]

MDU Resources Group, Inc.; Notice of Application

October 4, 2002.

Take notice that on September 24, 2002, MDU Resources Group, Inc. (MDU Resources) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue a combination of securities not to exceed in the aggregate of $750 million and not to exceed the following amounts:

(1) $750,000,000 of common stock;

(2) $112,500,000 worth of preferred stock;

(3) $262,000,000 worth of new mortgage bonds, senior notes, debentures, subordinated and unsubordinated debentures, or other evidences of indebtedness and/or guarantees from time to time;

(4) $262,500,000 worth or other evidences of indebtedness of stock purchase contracts, stock purchase units, and/or warrants; and

(5) $262,500,000 worth of other securities, including, without limitation, hybrid securities and any related guarantees.

MDU Resources seeks a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the

applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. 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.

Comment Date: October 25, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26107 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–54–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Application

October 4, 2002.

Take notice that on September 24, 2002, Midwest Independent Transmission System Operator, Inc. submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to assume unsecured debt previously issued by Southwest Power Pool, Inc. in the amount of $25 million.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. 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.

Comment Date: October 25, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26106 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–409–001]

MIGC, Inc.; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 3, 2002, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2002:

Sub Sixth Revised Sheet No. 51
Sub Third Revised Sheet No. 52A
Sub Third Revised Sheet No. 74
Sub Third Revised Sheet No. 90A
Sub Original Sheet No. 90B

MIGC asserts that the purpose of this filing is to comply with the Commission's Letter Order issued September 23, 2002, in Docket No. RP02–409, requiring MIGC to revise certain tariffs which were originally filed in MIGC's Order No. 587–O compliance filing in RM96–1–020.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26098 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–34–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 2, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, to be effective November 1, 2002, except that the requested effective date for Substitute Original Sheet No. 315A is September 16, 2002.

Natural states that the purpose of this filing is to comply with the Commission's ''Order Conditionally Accepting Tariff Sheets'' issued on September 13, 2002, in Docket No. GT02–34–000.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. GT02–34–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26077 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–38–001]

Northern Natural Gas Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 4, 2002, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, with an effective date of September 23, 2002:

Substitute Fifth Revised Sheet No. 289

Northern states that the filing is being made in compliance with the Commission's order issued on September 20, 2002, in Docket No. GT02–38–000.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26078 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–30–002]

OkTex Pipeline Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 2, 2002 OkTex Pipeline Company (OkTex), filed a tariff sheet to cancel Dynegy Midstream Pipeline, Inc. (Midstream) First Revised Volume No. 1 as instructed by the Order approving abandonment and issuing certificate in Docket Nos. CP01–30–000 dated December 1, 2000.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26074 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–397–004 and RP01–33–006]

Questar Pipeline Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on September 26, 2002, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain tariff sheets, with an effective date of August 1, 2002.

Questar states that the filing is being made in compliance with the Commission's August 27, 2002 order in Docket No. RP00–397.

Questar states that a copy of the filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before October 15, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26095 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–17–002 and CP02–45–002]

Texas Eastern Transmission, L.P.; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 1, 2002, Texas Eastern Transmission, L.P. (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, FERC Gas Tariff, Seventh Revised Volume No. 1, the tariff sheets listed in Appendix A of the filing.

Texas Eastern states that the purpose of this filing is to comply with the Order issuing Certificates and Granting Abandonment Authority issued by the Commission on June 12, 2002 in Docket Nos. CP02–17–000 and CP02–45–000. Texas Eastern states that the tariff sheets listed in Appendix A (i) implement Texas Eastern's new Rate Schedule MLS–1 and related form of service agreement; (ii) establish maximum recourse rate and the related negotiated rate for service to New Jersey Natural Gas Company on Texas Eastern's Freehold Lateral under Rate Schedule MLS–1; (iii) establish the maximum recourse rate for service to Duke Energy Hanging Rock, LLC on Texas Eastern's Hanging Rock Lateral under Rate Schedule MLS–1; and (iv) effect the relocation of the primary delivery point to New Jersey Natural under Texas Eastern's Rate Schedules X–127 and X–129.

Texas Eastern states that copies of its filing have been mailed to all affected customer and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26075 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–472–002, and RP01–31–002]

USG Pipeline Company; Notice of Compliance Filing

October 8, 2002.

Take notice that on October 3, 2002, USG Pipeline Company (USGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, with an effective date of October 1, 2002:

Substitute First Revised Sheet No. 51
Substitute Original Sheet No. 51A

USGPC states that the filing is being made pursuant to the Commission's September 25, 2002, letter order in compliance with the September 25 letter order and Order Nos. 637, 587–G, and 587–L.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26096 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–11–000]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 8, 2002.

Take notice that on October 3, 2002, Vector Pipeline L.P. (Vector), tendered for filing for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 137 and Second Revised Sheet No. 140, with an effective date of December 1, 2002.

Vector states that the revised tariff sheets are being filed in compliance with the Commission's determination not to extend after September 30, 2002 the experimental removal of the price cap on short-term capacity release transactions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. 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) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26104 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–232—Oklahoma]

Grand River Dam Authority; Notice of Availability of Draft Environmental Assessment

October 8, 2002.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR part 380), Commission staff have reviewed an application for non-project use of project lands and waters at the Pensacola Project (FERC No. 1494), and have prepared a draft Environmental Assessment (EA) on the application. The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

Specifically, the project licensee (Grand River Dam Authority) has requested Commission approval to permit Joe Harwood d/b/a Arrowhead Investment & Development Company to expand and modernize an existing marina located on the Duck Creek arm of Grand Lake, the project reservoir. In the draft EA, Commission staff have analyzed the probable environmental effects of the proposed marina improvements and have concluded that approval of the proposal, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the draft EA are available for review in Public Reference Room 2-A of the Commission's offices at 888 First Street, NE, Washington, DC. The draft EA also may be viewed on the Commission's Internet Web site (*www.ferc.gov*) using the ''FERRIS'' link. Additional information about the project is available from the Commission's Office of External Affairs, at (202) 502–8004 or on the Commission's Web site using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502–8222, TTY (202) 502–8659. The FERRIS link on the FERC's Internet website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

This notice, which was previously issued on September 19, 2002, is being reissued with a new 30-day comment period to allow for its publication in local area newspapers. Any comments on the draft EA should be filed within 30 days of the date of this notice and should be addressed to Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference ''Pensacola Project, FERC Project No. 1494–232'' on all comments. Comments may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26079 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–37–000]

Williston Basin Interstate Pipeline Company; Amended Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Grasslands Project and Request for Comments on Environmental Issues

October 8, 2002.

As previously noticed on February 5, 2002, and amended herein, the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Grasslands Project, as amended, involving construction, operation, and abandonment of facilities by Williston Basin Interstate Pipeline Company (WBI).[1] WBI proposes to construct new pipeline and appurtenant facilities in Wyoming, Montana, and North Dakota to transport 80,000 (rather than the originally proposed 120,000) thousand cubic feet per day (Mcf/d) of natural gas from the Powder River Basin to its storage facilities in Montana and to the Northern Border Pipeline Company's system in North Dakota. This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

The FERC will be the lead Federal agency for the preparation of the EIS. The Miles City Field Office of the U.S. Department of the Interior's Bureau of Land Management (BLM), the Medora Ranger District of the U.S. Department of Agriculture's Forest Service (FS), and the Montana Department of Environmental Quality (MTDEQ) will be cooperating with us in the preparation of the EIS. Meetings with the MTDEQ, BLM, and FS were held January 14, 15, and 16, 2002, respectively, to discuss procedural and potential environmental issues for this project.[2] Other Federal, state, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues may also request cooperating agency status.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice WBI provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

This notice is being sent to landowners of property crossed by and adjacent to both WBI's originally proposed route and their currently proposed route, as filed in WBI's September 27, 2002 Amendment filing (the EIS will evaluate both routes); tenants and lessees on affected public land; Federal, state, and local agencies; elected officials; Indian tribes that might attach religious and cultural significance to historic properties in the

[1] WBI's application was filed with the Commission under sections 7(b) and (c) of the Natural Gas Act on November 30, 2001, and amended on September 27, 2002.

[2] Summaries of these meetings have been placed in the public file in this docket.

area of potential effects; environmental and public interest groups; and local libraries and newspapers. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Summary of the Proposed Project (as Amended on September 27, 2002)

The proposed facilities consist of about 248 miles of pipeline and 5,329 (rather than the originally proposed 12,540) horsepower (hp) of compression. Additionally, WBI is seeking to abandon certain other pipeline facilities in Wyoming and Montana. WBI also has revised its construction schedule, proposing to construct the Grasslands Project in three phases. Specifically, WBI seeks authority to:

- Construct approximately 219 miles of new 16-inch-diameter pipeline from near Belle Creek, Montana, to the proposed Manning Compressor Station in Dunn County, North Dakota (no change, except for approximately 69.5 miles of proposed route realignments);
- Construct approximately 28 miles of 16-inch-diameter pipeline loop [3] adjacent to its existing Bitter Creek supply lateral pipeline in Wyoming (no change, except for approximately 2.6 miles of proposed route realignments);
- Increase the maximum allowable operating pressure (MAOP) on approximately 28 miles of its existing 8-inch-diameter Bitter Creek supply lateral pipeline in Wyoming from 1,203 pounds per square inch gauge (psig) to 1,440 psig, and abandon in place segments of existing pipe at three road crossings and replace them with heavier walled pipe (new, per amended filing);
- Increase the MAOP on approximately 40 miles of its existing 8-inch-diameter Recluse-Belle Creek supply lateral pipeline in Wyoming and Montana from 1,203 pounds per square inch gauge (psig) to 1,440 psig, and abandon in place segments of existing pipe at eight road crossings and replace them with heavier walled pipe (no change);
- Construct 4,180 hp of gas fired compression (comprised of two 2,090 hp compressors) at one new compressor station located in Dunn County, North Dakota (Manning Compressor Station), and install electric coolers rather than running the coolers off the horsepower produced at the station (previously, WBI was proposing two more additional compressor stations, each with 4,180 hp);
- Install an additional transmission compressor unit (1,200 hp) at the existing Cabin Creek Compressor Station in Fallon County, Montana (new, per amended filing);
- Construct 0.9 mile of 12-inch-diameter pipeline from the proposed mainline to the existing Cabin Creek Compressor Station in Fallon County, Montana (no change, except that this line would have connected the previously proposed Cabin Creek South Compressor Station to the existing Cabin Creek Compressor Station);
- Construct 1.0 mile of 16-inch-diameter pipeline from the proposed Manning Compressor Station to interconnect with Northern Border Pipeline Company's Compressor Station 5 in Dunn County, North Dakota (no change); and
- Construct various additional facilities, including 14 mainline valves, 4 cathodic protection units, 8 pig launchers/receivers (2 fewer than previously proposed), 5 metering stations (2 fewer than previously proposed), and 2 regulators (3 fewer than previously proposed).

WBI indicates in its September 27, 2002 Amended filing that it will no longer be necessary to build an amine treatment facility as part of its proposal.

The general location of the project facilities is shown in appendix 1.[4]

Land Requirements for Construction

Construction of WBI's proposed pipeline facilities would require about 3,124.8 acres of land including the construction right-of-way, extra workspaces, and contractor/pipe yards, and access roads. WBI proposes to use a 100-foot-wide construction right-of-way. Following construction and restoration of the right-of-way and temporary work spaces, WBI would retain a 50-foot-wide permanent pipeline right-of-way. Total land requirements for the permanent right-of-way would be about 1,526.1 acres, some of which would overlap existing rights-of-way.

WBI proposes to acquire 10 acres for the proposed Manning Compressor Station. The entire 10 acre parcel could be disturbed during construction and would be fenced following construction. WBI also will require 0.33 acre of land for the Cabin Creek tie-in in Fallon County, Montana.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [5] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the impacts that could occur as a result of the construction and operation of the proposed project will be in the Draft EIS. The Draft EIS will be mailed to Federal, state, and local agencies, public interest groups, affected landowners and other interested individuals, Indian tribes, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received on the Draft EIS and will be used by the Commission in its decision-making process to determine whether to approve the project.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 6.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the environmental information provided by WBI and discussions with the cooperating agencies. This preliminary list of issues may be changed based on your comments and our analysis.

[3] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call 1–866–208–3676. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[5] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

• Geology
—Impact on mineral resources
—Paleontological concerns
• Cultural Resources
—Impact on the proposed Custer-Sully Historic Corridor
• Soils and Vegetation
• Construction on steep slopes
—Noxious weeds
—Seed mixes for restoration
—Loss of riparian vegetation
• Water Resources and Wetlands
—Use of directional drilling
—Ensuring pipe is placed below scour depth
• Wildlife and Fisheries
—Impact on bighorn sheep habitat
—Impact on raptor nesting and roosting areas
—Impact on sage grouse habitat
• Endangered and Threatened Species
—Impact on Federally-listed species
—Impact on FS, BLM, and state sensitive species
• Socioeconomic Impacts
• Public Safety
• Cumulative Impacts
—Discussion of regional coal bed methane development
• Air Quality and Noise
—Visibility degradation
—Compressor station emissions
—Noise from compressor stations
• Alternative Routes and Site Locations
—Co-location with other pipelines may not be feasible in certain areas across Little Missouri National Grasslands
—Abandonment method for road crossings (in-place vs. removal)
• Land Use
—Use of access roads on public land
—Impact on planned residential or commercial development
—Ensuring access across the right-of-way for cattle during construction

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of the comments for the attention of OEP—Gas 1, PJ–11.1.

• Reference Docket No. CP02–37–000.

• Mail your comments so that they will be received in Washington, DC on or before November 8, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

All commentors will be retained on our mailing list. If you do not want to send comments at this time but still want to stay informed and receive copies of the Draft and Final EISs, you must return the attached Information Request (appendix 3). Note: If you have already sent comments in response to the February 5, 2002 Notice, you do not need to send them again to be retained on the mailing list. If you do not send, or have not sent, comments or return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[6] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies to express their interest in becoming cooperating agencies for the preparation of the EIS.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*www.ferc.gov*) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *ferconlinesupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02–26076 Filed 10–11–02; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–243]

Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available

[6] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

for public inspection. This notice was previously issued on September 12, 2002. Due to an error in publishing the notice in local area newspapers, the notice is being reissued with a new comment period.

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 1494–243.

c. *Date Filed:* July 15, 2002.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola Dam.

f. *Location:* The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The proposed non-project use would be located on the Duck Creek arm of Grand Lake 'O the Cherokees, the project reservoir. The project does not occupy any Federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mary Von Drehle or Teresa Hicks, Grand River Dam Authority, PO Box 409, Vinita, OK 74301. Phone: (918) 256–5545.

i. *FERC Contact:* Steve Naugle, *steven.naugle@ferc.gov*, 202–502–6061.

j. *Deadline for filing comments and or motions:* November 8, 2002.

All documents (original and eight copies) should be filed with Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. Please reference ''Pensacola Project, FERC Project No.1494–243'' on any comments or motions filed.

k. Description of the Application: The applicant requests Commission approval to permit the reconfiguration of docks at the Thunder Bay Marina previously approved pursuant to a Commission order dated July 25, 1996. The reconfigured docks would consist of a total of eight docks containing 209 boat slips as originally approved.

l. Locations of the Application: This filing is available for review at the Commission in the Public Reference Room or may 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. A copy is also available for inspection and reproduction at the address in item h above.

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. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Mail Stop PJ–12.1, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26080 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2067–019]

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

October 8, 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.

b. *Project No:* 2067–019.

c. *Date Filed:* September 24, 2002.

d. *Applicant:* Oakdale & San Joaquin Irrigation Districts.

e. *Name of Project:* Tulloch.

f. *Location:* The project is located on the Stanislaus River, in Calavaras Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and § § 799 and 801.

h. *Applicant Contact:* Steve Felte, General Manager, Tri-Dam Project, PO Box 1158, Pinecrest, California 95364, (209) 965–3996.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Jean Potvin at (202) 502–8928, or e-mail address: *jean.potvin@ferc.gov*.

j. *Deadline for filing comments and or motions:* November 8, 2002.

All documents (original and eight copies) should be filed with: Ms. Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2067–019) on any comments or motions filed. 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 e-filings.

k. *Description of Request:* The licensee proposes to permit those elements of a commercial business proposed by Merle & Beverly Holman (permittee) that would be located within the project boundary. The elements of the development that would occupy project lands include: a waterfront park with shade trees, lawn, picnic tables and barbeques; a 16-slip marina; a kayak & cartop boat launch pier; a rock retaining wall (existing) at elevation 511′ to elevation 518′; a 6-foot-wide sidewalk along the lakefront, at the top of the existing rock wall, at elevation 511′; and a handicap access ramp from elevation 518′ down to the docks at

elevation 511′. Outside of the project boundary but in the conjunction with this development, the permitte plans on building a parking lot for 36 vehicles and a building housing an office and public restrooms.

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room , located at 888 First Street, NE., Room 2A, Washington, DC 20426, 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, please call the Helpline at (202) 502–8222 or contact *ferconlinesupport@ferc.gov*. For TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26081 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Project No. 3218–040, et al.]

Federal Energy Regulatory Commission

October 8, 2002.

Notice of Extension of Time to Complete Project Construction and Soliciting Comments

Take notice that the following request for extension of time has been filed with the Commission and is available for public inspection:

a. *Application Type:* Extension of Time to Complete Project Construction.

b. *Project Nos:* 3218–040, 6901–048, and 6902–061.

c. *Date Filed:* June 21, 2002 and Supplemented on September 19, 2002.

d. *Applicants:* City of Orrville, Ohio (FERC Project No. 3218) and the City of New Martinsville, West Virginia (FERC Project Nos. 6901, and 6902).

e. *Project Names:* Pike Island Hydroelectric Project, FERC No. 3218, New Cumberland Hydroelectric Project, FERC No. 6901 and Willow Island Hydroelectric Project, FERC No. 6902.

f. *Locations of Projects:* FERC Project No. 3218 is located at the U.S. Army Corps of Engineers' (Corps) Pike Island Locks and Dam on the Ohio River in Ohio County, West Virginia, and Belmont County, Ohio. FERC Project No. 6901 is located at the Corps' New Cumberland Lock and Dam on the Ohio River in Hancock County, West Virginia. FERC Project No. 6902 is located at the Corps' Willow Island Lock and Dam on the Ohio River in Pleasants County, West Virginia.

g. *Filed Pursuant to:* 18 CFR 375.308 (c)(4)

h. *Applicant Contact:* Mr. E. J. Garceau, Bedford Energy Associates LLC, 214 North Amherst Road, Bedford, New Hampshire 03110, (603) 472–5731.

i. *FERC Contact:* Any questions on this notice should be directed to Mr. Lynn R. Miles at (202) 502–8763.

j. *Deadline for filing comments, protests, and motions to intervene:* November 8, 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 project numbers (P–3218–040, P–6901–048, and P–6902–061) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Proposal:* The Cities jointly and severally request to extend the deadlines for completion of their respective projects to September 23, 2006.

l. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the

filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26082 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 7725–005.

c. *Date Filed:* September 27, 2002.

d. *Applicant:* Barton Village Inc.

e. *Name of Project:* Barton Village Hydroelectric Project.

f. *Location:* On the Clyde River in the Town of Charleston, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Denis H. Poirier, Village Supervisor, Barton Village Inc., 17 Village Square, PO Box 519, Barton, Vermont 05822. (802) 525–4747.

i. *FERC Contact:* Kenneth Hogan at (202) 502–8434 or *kenneth.hogan@ferc.gov*.

j. *Cooperating agencies:* We are asking Federal, state local and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preperation of the environmental document. Agencies who would like to request cooperating status should follow instructions for filing comments described in item k below.

k. *Deadline for filing additional study requests:* December 9, 2002.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

l. This application is not ready for environmental analysis at this time.

m. *The existing Barton Village Hydroelectric Project consists of:* (1) A 77-foot-long, 24-foot-high masonry and concrete gravity dam; (2) 1.5 foot high flashboards extending 57 feet across a concrete spillway; (3) a 187-acre impoundment at elevation 1,140.9 feet mean sea level (msl); (4) a 665-foot-long, 7-foot-diameter steel penstock; (5) two 105-foot-long, 5.8-foot-diameter steel penstocks leading to: (6) a powerhouse with two units having a total installed capacity of 1,4 MW; and (7) other appurtenant facilities.

n. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''FERRIS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

o. With this notice, we are initiating consultation with the Vermont State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. *Procedural schedule and final amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Issue Deficiency Letter, January, 2003.

Notice of application accepted for filing, April, 2003.

Issuance of NEPA Scoping Document 1, for comments May, 2003.

Request for Additional Information, July, 2003.

Issuance of NEPA Scoping Document 2, August, 2003.

Notice of application is ready for environmental analysis, August, 2003.

Notice of the availability of the draft NEPA document, February, 2004.

Notice of the availability of the final NEPA document, May, 2004.

Order issuing the Commission's decision on the application, May, 2004.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26083 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12255–000.

c. *Date filed:* June 20, 2002.

d. *Applicant:* Blue Mountain Hydro, LLC.

e. *Name and Location of Project*: The Blue Mountain Dam Hydroelectric Project would be located on the Petit Jean River in Yell County, Arkansas. The project would occupy lands administered by the U.S. Army Corps of Engineers.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Elizabeth Jones (202) 502–8246.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12255–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed run-of-river project would utilize the Corps' existing Blue Mountain Dam and would consist of: (1) A proposed 84-inch steel penstock approximately 200 feet long, (2) a proposed powerhouse containing one turbine with a total installed capacity of 1.6 MW, (3) a proposed switchyard, (4) approximately two miles of proposed 25kV transmission line, and (5) appurtenant facilities.

The project would have an estimated annual generation of 5.2 GWH.

k. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov* . For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at Blue Mountain Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26085 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12280–000.

c. *Date filed:* June 26, 2002.

d. *Applicant:* MR L&D 3 Hydro, LLC.

e. *Name and Location of Project:* The Monongahela Lock and Dam #3 Hydroelectric Project would be located on the Monongahela River in Allegheny County, Pennsylvania. The project would occupy lands administered by the U.S. Army Corps of Engineers.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Elizabeth Jones (202) 502–8246.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12280–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed run-of-river project would utilize the Corps' existing Monongahela Lock and Dam #3 and would consist of: (1) A proposed 156-inch concrete penstock approximately 50 feet long, (2) a proposed powerhouse containing one turbine with a total installed capacity of 2.5 MW, (3) a proposed switchyard, (4) approximately one mile of proposed 15kV transmission line, and (5) appurtenant facilities.

The project would have an estimated annual generation of 18 GWH.

k. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at MR L&D 3 Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26086 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12293–000.

c. *Date filed:* July 5, 2002.

d. *Applicant:* Taylorsville Hydro, LLC.

e. *Name and Location of Project:* The Taylorsville Dam Hydroelectric Project would be located on the Great Miami River in Montgomery County, Ohio. The

project would utilize a dam owned by the Miami Conservancy District. The project would not occupy Federal or Tribal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Elizabeth Jones (202) 502–8246.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12293–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would operate in a run-of-river mode and would consist of: (1) An existing gravity dam 90-feet high, and 2,980-feet-crest-length, (2) an existing reservoir with a surface area of 2,560 acres, a storage capacity of 23,040 acre-feet, and a normal maximum water surface elevation of 818 feet, (3) a proposed 66-inch steel penstock approximately 200 feet long, (4) a proposed powerhouse containing one turbine with a total installed capacity of 1.28 MW, (5) a proposed switchyard, (6) approximately one mile of proposed 15kV transmission line, and (7) appurtenant facilities.

The project would have an estimated annual generation of 9.25 GWH.

k. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at Taylorsville Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26087 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12296–000.

c. *Date filed.* July 5, 2002.

d. *Applicant:* Holbrook Hydro, LLC.

e. *Name and Location of Project:* The Holbrook Diversion Dam Hydroelectric Project would be located on the Arkansas River in Crowley County, Colorado. The project would utilize a dam owned by the Holbrook Mutual Irrigation Company. The project would not occupy Federal or Tribal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact:* Mr. Brent Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Elizabeth Jones (202) 502–8246

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12296–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would operate in a run-of-river mode and would consist of: (1) An existing gravity dam 23-feet high, and 3,168-feet long, (2) a proposed 108-inch steel penstock approximately 100 feet long, (3) a proposed powerhouse containing one turbine with a total installed capacity of 1.2 MW, (4) a proposed switchyard, (5) approximately two miles of proposed 15kV transmission line, and (6) appurtenant facilities.

The project would have an estimated annual generation of 5.5 GWH.

k. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at Holbrook Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file

comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26088 Filed 10–11–02; 8: 45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12315–000]

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12315–000.

c. *Date Filed:* July 1, 2002.

d. *Applicant:* Midwest Hydro, Inc.

e. *Name of Project:* Brandon Road Lock & Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the U.S. Army Corps of Engineers, on the Des Plaines River in Will County, Illinois. Part of the project would be on lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. William Pickrell, Midwest Hydro, Inc., 695 Garland Avenue, Winnetka, IL 60093, (847) 501–3030.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12315–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project using the existing Corps of Engineers' Brandon Lock & Dam would consist of: (1) Three 54-inch-diameter 80-foot-long steel penstocks, (2) a proposed powerhouse containing three generating units with an installed capacity of 3 MW, (3) a 14.7 kv transmission line approximately 1 mile long, and (4) appurtenant facilities. The project would have an annual generation of 18 GWh.

l. 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 toll-free 1–866–208–3676 or e-mail *ferconlinesupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned

address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26089 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

October 8, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12360–000.

c. *Date filed:* September 3, 2002.

d. *Applicant:* City of Broken Bow, Oklahoma.

e. *Name and Location of Project:* The Pine Creek Lake Hydroelectric Project would be located on the Little River in McCurtain County, Oklahoma. The project would utilize the U.S. Army Corps of Engineers' existing Pine Creek Dam and Reservoir.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. W. B. Smith, Hydropower International Services, L.L.C., 28508 West 41st Street South, Mannford, OK 74044, (918) 865–6977.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12360–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. Description of Project: The proposed project, using the existing the Pine Creek Dam and Reservoir, would consist of: (1) A diversion structure connecting to the existing outlet conduit, (2) a penstock connecting the diversion structure to the powerhouse, (3) a 48-foot by 60-foot powerhouse containing two 3.25-megawatt generating units, (4) a tailrace returning flows to the Little River, (5) a six-mile-long, 6.9-kilovolt transmission line connecting to an existing distribution line, and (6) appurtenant facilities. The project would have an average annual generation of 28.5 gigawatthours.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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 toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g. above.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application— Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the

Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26090 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; Federal Register Citation of Previous Announcement: October 7, 2002, 67 FR 62463.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 9, 2002, 10 a.m.

CHANGE IN THE MEETING: The following Docket Nos. and Companies have been added to Item A–3 on the Commission Meeting agenda of October 9, 2002.

Item No., Docket No. and Company

A–3

ER02–1326–001 and ER02–1326–002, PJM Interconnection, L.L.C.
ER02–2330–000, New England Power Pool and ISO-New England, Inc.
EL00–62–039, ISO-New England, Inc.

Magalie R. Salas,

Secretary.

[FR Doc. 02–26252 Filed 10–10–02; 11:16 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

October 8, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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) 502–8659.

EXEMPT

Docket no.	Date filed	Presenter or requester
1. CP01–384–000	9–23–02	Frank P. Petrone.
2. Project No. 2042–013	9–23–02	Lloyd K. Harding.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26091 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12120–001]

North Unit Irrigation District; Notice of Surrender of Preliminary Permit

October 8, 2002.

Take notice that North Unit Irrigation District, permittee for the proposed Wickiup Dam Project, has requested that its preliminary permit be terminated. The permit was issued on February 7, 2002, and would have expired on January 31, 2005. The project would have been located on the Deschutes River in Deschutes County, Oregon.

The permittee filed the request on August 5, 2002, and the preliminary permit for Project No. 12120 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR

385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–26084 Filed 10–11–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2002–0006; FRL–6724–6]

Toxic Chemical Release Reporting; Community Right-To-Know; Notice of On-Line Dialogue

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: EPA will hold an on-line public dialogue for 60-days from October 16, 2002 to December 17, 2002 as part of a national Stakeholder Dialogue on the Toxics Release Inventory (TRI) Program that the Environmental Protection Agency (EPA) is launching. EPA is seeking suggestions and ideas on the Agency's methods for reporting, collecting, processing, and releasing the TRI data. Instructions for participating in the on-line dialogue are posted at EPA's TRI Web site, see *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* EPA is announcing the availability of three issue papers which are intended to provide background to help focus the on-line dialogue.

DATES: The Stakeholder Dialogue online comment process will be held from October 16, 2002 to December 17, 2002.

ADDRESSES: The On-line Dialogue will be accessible via the Internet at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* Please follow the instructions provided in Section I of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on this stakeholder process, contact: Annette Marion, Environmental Protection Agency, Office of Environmental Information, Office of Information Analysis and Access, Toxics Release Inventory Program Division: telephone: (202) 566–0731; Fax number: (202) 566–0715; e-mail: *marion.annette@epa.gov.* For general information on the Toxics Release Inventory contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346, or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

You may be interested in this notice if you use data collected under the Emergency Planning and Community Right-to-know Act (EPCRA) section 313, or if you manufacture, process, or otherwise use any of the EPCRA section 313 chemicals and you are required to report annually to EPA their environmental releases and other waste management quantities. Potentially affected entities may include, but are not limited to:

Category	Examples of potentially interested entities
Public	Environmental groups, community groups, researchers.
Industry	SIC major group codes (Except 1011, 1081, and 1094), 12 (except 1231), or 20 through 39; industry codes 4911 (limited to facilities that combusts coal and/or oil for the purpose of generating power for distribution in commerce); or 4939 (limited to facilities that combusts coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis).
Federal Government.	Federal facilities in any SIC code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of Information Associated With This Stakeholder Dialogue Process?

1. *Electronic Access.* Electronic copies of the issue papers are available from EPA's TRI Web site at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket, EPA Dockets (*http://www.epa.gov/edocket/*). To view the contents of the docket, go to the EPA Dockets web site. Once in the system, select ''search,'' then key in the appropriate docket identification number, OEI–2002–0006.

2. *Docket.* EPA has established an official public docket for this action under Docket ID No. OEI–2002–0006. The official public docket consists of the documents specifically referenced in this action and other information related to this action. The official public dockets are the collection of materials available for public viewing at the EPA Docket Center Public Reading Room located in the basement of EPA West, 1301 Constitution Avenue, NW., Washington, DC 20460. This Docket Facility is open from 8:30 am to 4:30 pm, Monday through Friday, excluding legal holidays. The Docket telephone number is (202)–566–1752.

C. How Do I Participate in the On-line Dialogue?

You may submit your ideas and suggestions electronically through the TRI Stakeholder Outreach Web site at: *http://www.epa.gov/tri/programs/stakeholders/outreach.htm* during the time period specified in this notice.

D. How Should I Handle Confidential Business Information (CBI) That I Want To Submit to the Agency?

Do not submit any information that you consider to be confidential business information (CBI) under this notice.

II. Background

EPA is undertaking a stakeholder dialogue for the Toxics Release Inventory (TRI) program. While the TRI program has been very successful, EPA is continuing to seek ways to improve the program. Given the community focus of the TRI program and the broad and varied uses of the TRI data, it is important that EPA receive input from all stakeholders—the states, the reporting community and other businesses, community and environmental groups, researchers, and the public.

The stakeholder dialogue process will have two phases. Phase 1 will focus on the reporting, collecting, processing, and annual release of the TRI data. Specifically, EPA is seeking comment on ways to: (1) Improve the compliance

assistance provided by the TRI program, both at Headquarters and in the Regions, to aid the reporting community; (2) streamline the collection and processing of the more than 90,000 TRI forms that EPA receives annually; and (3) improve the materials, including the context, documents and tools, that EPA develops for its annual public release of the TRI data to support their use and analysis of the data.

The on-line dialogue will be the first opportunity for stakeholder input in Phase 1. Once the dialogue has been analyzed, additional opportunities may be extended in the form of public meetings, more formal comment periods, or other methods which will be described in future notices.

Phase 2 of the stakeholder dialogue will focus on future directions for the program, including what data are collected in the TRI, how these data are characterized, and whether additional data should be collected. One key element will be clarifying the data elements on recycling and other waste management activities required by the Pollution Prevention Act. A future **Federal Register** notice will announce Phase 2.

III. Availability of Documents

EPA is making available three papers which describe aspects of the TRI Program and raise issues for stakeholder discussion. The scope of each paper corresponds to a phase of the annual TRI reporting cycle. TRI data for a calendar year must be reported to EPA by July 1st after the end of that calendar year. Therefore, reporting years are the same as calendar years. The ''reporting cycle'' begins with EPA's compliance assistance activities, including the development of reporting forms and instructions that are generally mailed to facilities in March each year. Once EPA receives the forms, it enters the data from the forms (over 91,000 in 2000) in the TRI database. After entry into the database, EPA runs a series of data quality checks on both the facility identification information and on the chemical-specific data. After the data entry and data quality steps are completed, the TRI database is ''frozen'' for analysis and development of data products for release to the public. Generally, EPA announces the annual release of the TRI data by holding a press event or issuing a press release, and simultaneously notifying a wide range of stakeholders.

The first background paper for this stakeholder dialogue is entitled TRI Data Collection, Processing and Management, and addresses the TRI data process beginning with submission of the forms and ending at the data ''freeze.'' The second paper, TRI Data Release Issue Paper discusses TRI data products, the process for analyzing and releasing the TRI data, uses of the data, and issues and considerations associated with these aspects of the TRI program. The third paper is TRI Compliance Assistance Activities. TRI compliance assistance activities are carried out throughout the year with certain of the activities being closely aligned with the reporting cycle.

Dated: October 4, 2002.

Elaine G. Stanley,

Director, Office of Information Analysis and Access.

[FR Doc. 02–26175 Filed 10–11–02; 8:45 am]

BILLING CODE 6561–07–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2002–0008; FRL6724–5]

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency

AGENCY: Environmental Protection Agency, EPA.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has developed final *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (herein after referred to as Information Quality Guidelines), in response to final Office of Management and Budget (OMB) information quality guidelines directing all federal agencies to develop and implement their own guidelines by October 1, 2002 (67 FR 8451, February 22, 2002). The EPA Information Quality Guidelines build upon on-going efforts to improve the quality of the data and analyses that support Agency policy and regulatory decisions and programs. EPA is announcing the availability of the Agency's final Information Quality Guidelines at the EPA Web site, *www.epa.gov/oei/qualityguidelines.* As described in the new Information Quality Guidelines, EPA is also introducing a Request for Correction process to allow affected persons to seek and obtain correction of information that EPA disseminates that they believe does not meet the EPA Information Quality Guidelines or the OMB information quality guidelines (67 FR 8451, February 22, 2002). Please read the Information Quality Guidelines to learn more about this new Request for Correction process including where and how to submit a request for correction.

DATES: The EPA final Information Quality Guidelines were made available on October 2, 2002.

ADDRESSES: The Information Quality Guidelines can be found at the EPA Web site at *http://www.epa.gov/oei/qualityguidelines.* To obtain a written copy of the Information Quality Guidelines, you may contact: Ms. Evangeline Tsibris Cummings, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Code 2842T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; Telephone: 202–566–0621; or e-mail: *cummings.evangeline@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the OMB information quality guidelines, EPA published a notice in the **Federal Register** on April 30, 2002 (67 FR 21234) announcing the availability of EPA's draft Information Quality Guidelines and soliciting public comment by May 31, 2002. EPA extended the comment period to June 21, 2002 (67 FR 42254). After considering the extensive public comment, EPA revised its Information Quality Guidelines and submitted the revised draft to OMB in accordance with OMB's guidelines so OMB could review the draft Information Quality Guidelines for consistency with OMB's information quality guidelines. OMB completed its review and approved of the final EPA Information Quality Guidelines. EPA's general discussion of and responses to the public comments appears in Appendix A of EPA's Information Quality Guidelines.

FOR FURTHER INFORMATION CONTACT: Ms. Evangeline Tsibris Cummings, Environmental Protection Agency, Office of Environmental Information, Mail Code 2842T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Telephone: 202–566–0621; e-mail: *cummings.evangeline@epa.gov.*

Elaine Stanley,

Director, Office of Information Analysis and Access, Office of Environmental Information, EPA.

[FR Doc. 02–26176 Filed 10–11–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 2002—18]

Filing Dates for the Hawaii Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Hawaii has scheduled a special election on November 30, 2002, to fill the U.S. House of Representatives seat in the Second Congressional District held by the late Congresswoman Patsy T. Mink.

Committees participating in the Hawaii special election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates participating in the Hawaii Special General shall file a 12-day Pre-General Report on November 18, 2002; and a 30-day Post-General Report on December 30, 2002. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political Committees that file on a quarterly basis during 2002 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Hawaii Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Hawaii Special General should continue to file according to the election year monthly reporting schedule.

CALENDAR OF REPORTING DATES FOR HAWAII SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. mailing date [2]	Filing date
Committees Involved in the Special General (11/30/02) Must File			
Pre-General	11/10/02	11/15/02	11/18/02
Post-General	12/20/02	12/30/02	12/30/02
Year-End	12/31/02	01/31/03	01/31/03

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: October 7, 2002.

David M. Mason,

Chairman, Federal Election Commission.

[FR Doc. 02–26119 Filed 10–11–02; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1437–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana, (FEMA–1437–DR), dated October 3, 2002, and related determinations.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 3, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from Hurricane Lili beginning on October 1, 2002, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (Stafford Act).

I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate subject to completion of Preliminary Damage Assessments. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Individual and Family Grant program will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carlos Mitchell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

Acadia, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermillion Parishes for Individual Assistance.

Acadia, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangeline, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne,

Vermillion, and West Baton Rouge Parishes for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.

All parishes within the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26118 Filed 10–11–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1436–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1436–DR), dated October 1, 2002, and related determinations.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 1, 2002, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from Tropical Storm Isidore on September 23, 2002, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and the Individual and Family Grant program will be limited to 75 percent of the total eligible costs

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Bolch of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

Amite, Hancock, Harrison, Jackson, Pearl River, Pike, and Stone Counties for Individual Assistance.

Hancock, Harrison, Jackson, Lincoln, Pearl River, and Pike Counties for Public Assistance.

Amite, Hancock, Harrison, Jackson, Lincoln, Pearl River, and Pike Counties are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26117 Filed 10–11–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1434–DR]

Texas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas, (FEMA–1434–DR), dated September 26, 2002, and related determinations.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 26, 2002: Jim Wells County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–26116 Filed 10–11–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 2002–N–10]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) is seeking public comments concerning a three-year extension by the Office of Management and Budget (OMB) of the

previously approved information collection entitled ''Community Support Requirements.''

DATES: Interested persons may submit comments on or before December 16, 2002.

ADDRESSES: Address comments and requests for copies of the information collection to Elaine L. Baker, Secretary to the Board, by telephone at (202) 408–2837, by electronic mail at *bakere@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Emma Fitzgerald, Program Analyst, Community Investment and Affordable Housing Division, Office of Supervision, by telephone at 202/408–2874, by electronic mail at *fitzgeralde@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that Federal Home Loan Bank (FHLBank) members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). In establishing these community support requirements for FHLBank members, the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.,* and record of lending to first-time homebuyers. 12 U.S.C. 1430(g)(2). Part 944 of the Finance Board's regulations implements section 10(g) of the Bank Act. *See* 12 CFR part 944. The rule provides uniform community support standards all FHLBank members must meet and review criteria Finance Board staff must apply to determine compliance with section 10(g). More specifically, section 944.2 of the rule implements the statutory community support requirement. 12 CFR 944.2. Section 944.3 establishes community support standards for the two statutory factors—CRA and first-time homebuyer performance—and provides guidance to a respondent on how it may satisfy the standards. 12 CFR 944.3. Sections 944.4 and 944.5 establish the procedures and criteria the Finance Board uses in determining whether FHLBank members satisfy the statutory and regulatory community support requirements. 12 CFR 944.4 and 944.5.

The information collection contained in Form 96–01, the Community Support Statement Form, and sections 944.2 through 944.5 of the rule is necessary to enable and is used by the Finance Board to determine whether FHLBank members satisfy the statutory and regulatory community support requirements. Only FHLBank members that meet these requirements may maintain continued access to long-term FHLBank advances. *See* 12 U.S.C. 1430(g).

The OMB number for the information collection is 3069–0003. The OMB clearance for the information collection expires on January 31, 2003.

The likely respondents are institutions that are members of an FHLBank.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 3970 FHLBank members, with one response per member. The estimate for the average hours per response is one hour. The estimate for the total annual hour burden is 3970 hours (3970 members × 1 response per member × 1 hour).

C. Comment Request

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

By the Federal Housing Finance Board.

Dated: October 2, 2002.

Donald Demitros,

Chief Information Officer.

[FR Doc. 02–26057 Filed 10–11–02; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2002–N–11]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it has submitted the information collection currently known as ''Advances to Housing Associates'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number, which is due to expire on November 30, 2002. The information collection formerly was titled ''Advances to Nonmember Mortgagees.''

DATES: Interested persons may submit comments on or before November 14, 2002.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503. Address requests for copies of the information collection and supporting documentation to Elaine L. Baker, Secretary to the Board, by telephone at (202) 408–2837, by electronic mail at *bakere@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Senior Financial Analyst, Financial and Quantitative Analysis Division, Office of Supervision, by telephone at (202) 408–2866, by electronic mail at *curtisj@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 10b of the Federal Home Loan Bank Act (Bank Act) authorizes the Federal Home Loan Banks (FHLBanks) to make advances under certain circumstances to certified nonmember mortgagees.[1] The Finance Board refers to nonmember mortgagees as housing associates. In order to be certified as a housing associate, an applicant must meet the eligibility requirements set forth in section 10b of the Bank Act. Part 926 of the Finance Board regulations implements the statutory eligibility requirements and establishes uniform review criteria an applicant must meet in order to be certified as a housing associate by an FHLBank.[2]

[1] *See* 12 U.S.C. 1430b.

[2] *See* 12 CFR 926.1–926.6. Formerly codified at 12 CFR 935.22–935.23. *See* 65 FR 8253, at 8256 (Feb.

More specifically, sections 926.3 and 926.4 of the rule implement the statutory eligibility requirements and provide guidance to an applicant on how it may satisfy such requirements.[3] Section 926.5 authorizes the FHLBanks to approve or deny all applications for certification as a housing associate, subject to the statutory and regulatory requirements.[4] Section 926.6 permits an applicant to appeal an FHLBank decision to deny certification to the Finance Board.[5]

Section 950.17 of the Finance Board regulations establishes the terms and conditions under which an FHLBank may make advances to a certified housing associate. Section 950.17 also imposes a continuing obligation on a housing associate to provide information necessary for the FHLBank to determine if the housing associate remains in compliance with applicable statutory and regulatory requirements.[6]

The information collection contained in sections 926.1 through 926.6 and section 950.17 of the Finance Board regulations is necessary to enable the FHLBanks to determine whether an applicant satisfies the statutory and regulatory requirements to be certified initially and to maintain its status as a housing associate eligible to receive FHLBank advances. The Finance Board requires and uses the information collection to determine whether to uphold or overrule an FHLBank decision to deny housing associate certification to an applicant.

The OMB control number for the information collection is 3069–0005. The OMB clearance for the information collection expires on November 30, 2002.

The likely respondents include applicants for housing associate certification and current housing associates.

B. Burden Estimate

The Finance Board estimates the total annual average number of applicants at five, with one response per applicant. The estimate for the average hours per application is 15 hours. The estimate for the annual hour burden for applicants is 75 hours (5 applicants × 1 response per applicant × 15 hours).

The Finance Board estimates the total annual average number of maintenance respondents, that is, certified housing associates, at 57, with 1 response per housing associate. The estimate for the average hours per maintenance response is 0.5 hours. The estimate for the annual hour burden for certified housing associates is 28.5 hours (57 certified housing associates × 1 response per associate × 0.5 hours).

The estimate for the total annual hour burden is 103.5 hours (57 housing associates × 1 response per associate × 0.5 hours + 5 applicants × 1 response per applicant × 15 hours).

C. Comment Request

In accordance with 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on June 28, 2002. *See* 67 FR 43602 (June 28, 2002). The 60-day comment period closed on August 27, 2002. The Finance Board received no public comments. Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on applicants and housing associates, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted to OMB in writing at the address listed above.

By the Federal Housing Finance Board.

Dated: October 2, 2002.

Donald Demitros,

Chief Information Officer.

[FR Doc. 02–26056 Filed 10–11–02; 8:45 am]

BILLING CODE 6725–01–P

18, 2000) and 65 FR 44414, at 44424–25, 44426–28 (July 18, 2000).

[3] *See* 12 CFR 926.3–926.4. Formerly codified at 12 CFR 935.22. *See* 65 FR at 8256 and 65 FR at 44427.

[4] *See* 12 CFR 926.5. Formerly codified at 12 CFR 935.23(a). *See* 65 FR at 8256 and 65 FR at 44427.

[5] *See* 12 CFR 926.6. Formerly codified at 12 CFR 935.23(c)(4). *See* 65 FR at 8256 and 65 FR at 44428.

[6] *See* 12 CFR 950.17. Formerly codified at 12 CFR 935.24. *See* 65 FR at 8256 and 65 FR at 444330–31.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02-25215) published on page 62246 of the issue for October 4, 2002.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Robert B. Whitlock, Minneapolis, Minnesota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Robert B. Whitlock, Minneapolis, Minnesota, and Marie Gillespie, LaGrange Park, Illinois; as trustees; to acquire voting shares of Lake Bank Shares, Inc., Employee Stock Ownership Plan, Emmons, Minnesota, and thereby indirectly control Lake Bank Shares, Inc., Emmons, Minnesota and its subsidiaries, Security Bank of Minnesota, Albert Lea, Minnesota, and First State Bank of Emmons, Emmons, Minnesota.

In connection with this application Jonathon H. Berg, M.D., Northwood, North Dakota, has applied to become a trustee of the Herbert A. Lund Revocable Trust, and thereby indirectly acquire voting shares of Lake Bank Shares, Inc.

Comments on this application must be received by October 21, 2002.

Board of Governors of the Federal Reserve System, October 8, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–26061 Filed 10–11–02; 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 *http://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 November 8, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. RBC Centura Banks, Inc., Rocky Mount, North Carolina, and Royal Bank of Canada, Montreal, Canada; to merge with Admiralty Bancorp, Inc., Palm Beach Gardens, Florida, and thereby indirectly acquire voting shares of Admiralty Bank, Palm Beach Gardens, Florida.

Board of Governors of the Federal Reserve System, October 8, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–26060 Filed 10–11–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities; Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Office at (202) 619–2118 or e-mail *Geerie.Jones@HHS.gov.*

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.

Proposed Project 1. ''Request for Review of Medicare Hearing Decision/Order''—NEW—The Departmental Appeals Board (DAB) proposes to discontinue use of the existing SSA form HA–520 and establish a new HHS form to obtain information relevant to Medicare appeals. The HA–520 was originally developed by the Social Security Administration (SSA) for use in requesting review of Administrative Law Judges (ALJs) actions in both Social Security and Medicare cases. After SSA became an independent agency, SSA regulations beginning at 20 CFR 404.967 governing review of cases by the SSA Appeals Council were adopted by HHS to govern the DAB's review of ALJ decisions in Medicare cases. We are now establishing a new form which reflects the changed responsibilities of HHS, and includes the proper address for submission of requests for review of ALJ actions in Medicare cases. Revision of the form would allow for the collection of accurate information to facilitate sending these requests directly to the appropriate HHS office for processing and review. Respondents: Individuals; Number of Respondents: 1,000; Average Burden per Response: 15 minutes; Total Burden: 250 hours.

Send comments via e-mail to *Geerie.Jones@HHS.gov* or mail to OS Reports Clearance Office, Room 503H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Comments should be received within 60 days of this notice.

Dated: October 7, 2002.

Kerry Weems,

Deputy Assistant Secretary, Budget.

[FR Doc. 02–26182 Filed 10–11–02; 8:45 am]

BILLING CODE 4150–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community/Tribal Subcommittee and the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community/Tribal Subcommittee.

Times and Dates: 9 a.m.–5 p.m., November 5, 2002. 8:30 a.m.–5 p.m., November 6, 2002.

Place: Westin Peachtree Plaza Hotel, 210 Peachtree Street, Atlanta, Georgia 30303.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee brings to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters to be Discussed: Agenda items include a presentation on ATSDR's role in public health and disease prevention in Brownfields; update on Chemical Mixtures Guidance Document; discussion on ATSDR's marketing and outreach activities; discussion on community involvement in ATSDR's Public Health Assessment Process; presentation on cumulative risks and impacts in preparation for the joint CTS and National Environmental Justice Advisory Council workgroups; update on the CTS Evaluation Process; discussion and a presentation by Indian Health Services (IHS) on efforts to link ATSDR's Pediatric Environmental Health Specialty Units and IHS to analyze health trends in Native Americans.

Name: Board of Scientific Counselors, ATSDR.

Times and Dates: 8:30 a.m.–4:30 p.m., November 7, 2002. 8:30 a.m.–12:30 p.m., November 8, 2002.

Place: Westin Peachtree Plaza Hotel, 210 Peachtree Street, Atlanta, Georgia 30303.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary; the Assistant Secretary for Health; and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of science in ATSDR-supported research, emerging problems that require scientific investigations, accuracy and currency of the science in ATSDR reports, and program areas to emphasize or de-emphasize. In addition, the Board recommends research programs and conference support for which the Agency awards grants to universities, colleges, research institutions, hospitals, and other public and private organizations.

Matters to be Discussed: Agenda items will include a review of Action Items; Agency updates; updates on Environmental and Health Tracking; update on Libby and the World Trade Center registries; discussion on National Vermiculite Response; discussion on ATSDR and Indian Health Service involvements in Environmental Health; review of the ATSDR Public Health Guidance Manual; update on the Florida Anthrax Investigation; review of the Childhood Longitudinal Study; and a discussion on the new CDC/ATSDR peer review policy.

Written comments are welcomed and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Robert Spengler, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/498–0003.

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: October 8, 2002.

Burma Burch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–26070 Filed 10–11–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–01]

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: The National Birth Defects Prevention Study (OMB 0920–0010)—Extension—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC) has been monitoring the occurrence of serious birth defects and genetic diseases in Atlanta since 1967 through the Metropolitan Atlanta Congenital Defects Program (MACDP). The MACDP is a population-based surveillance system for birth defects in the 5 counties of Metropolitan Atlanta. Its primary purpose is to describe the spatial and temporal patterns of birth defects occurrence and serve as an early warning system for new teratogens. From 1993 to 1996, NCBDDD conducted the Birth Defects Risk Factor Surveillance (BDRFS) study, a case-control study of risk factors for selected birth defects. Infants with birth defects were identified through MACDP and maternal interviews, and clinical/laboratory tests were conducted on approximately 300 cases and 100 controls per year. Controls were selected from among normal births in the same population.

In 1997 the BDRFS became the National Birth Defects Prevention Study (NBDPS). The major components of the study did not change.

The NBDPS is a case-control study of major birth defects that includes cases identified from existing birth defect surveillance registries in ten states (including metropolitan Atlanta). Control infants are randomly selected from birth certificates or birth hospital records. Mothers of case and control infants are interviewed using a computer-assisted telephone interview. Parents are asked to collect cheek cells from themselves and their infants for DNA testing. Information gathered from both the interviews and the DNA specimens will be used to study independent genetic and environmental factors as well as gene-environment interactions for a broad range of carefully classified birth defects.

OMB approval for NBDPS was obtained in September 1999 and will expire 30 November 2002. This request is submitted to obtain approval for current NBDPS activities for three more years with one change indicated below:

The CDC NBDPS currently remunerates participants for the biologic sample collection portion of the study. The cheek cell kits include $20.00 as an incentive to complete them and send them back. Overall, only 50% of participants completing the interview send in a completed cheek cell kit. While some subjects have stated that they do not wish to provide buccal samples due to their concerns about genetic testing, many subjects state that it is time consuming and difficult to remember to complete the kit and mail it back. An additional $20.00 incentive will be added that is linked to the return of the cheek cell kits. It is appropriate to have a higher level of compensation for those who spend the additional time to complete the cheek cell collection and return the kit than for those who only receive the kit and invest no time in further participation. This would make a total of $60.00 compensation ($20.00 for the completing of the interview, $20.00 for receiving the cheek cell kit and $20.00 for returning the kit) for subjects who choose to complete the entire study including the return of the cheek cell samples for herself and the baby or for just herself if the baby is deceased. While samples are requested from the father, the third incentive would not be dependent on the cooperation of the father since this may pose a hardship to those mothers who are not in regular contact with the father. Given the time and inconvenience required for the entire study (interview and cheek cell), a total of $60.00 is an appropriate level of compensation. The additional $20.00 money order is expected to increase the number of kits that are completed and returned and will be included in the thank you letter that each participant receives upon completion of the study. This is no cost to respondents.

Survey	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden in hours
NBDPS Case/Control Interview	400	1	1	400
Cheek Cell Collection (mother/father/infant)	1,200	2	20/60	800
Completion of Entire Study	400	1	1	400
Total				1600

Dated: October 7, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–26049 Filed 10–11–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02163]

Support for Civil Society Organizations Responding to HIV/AIDS in Zimbabwe; Notice of Availability of Funds; Amendment III

A notice announcing the availability of Fiscal Year 2002 funds for cooperative agreements for Support for Civil Society Organizations Responding to HIV/AIDS in Zimbabwe was published in the **Federal Register** on May 23, 2002, Volume 67, Number 100, Pages 36194–36196. Amendment II to the original notice was published in the **Federal Register** on August 6, 2002, Volume 67, Number 101, Pages 50891–50892 to communicate a set of Funding Priorities established by the CDC-Zimbabwe AIDS Program Office.

This Amendment serves to announce that CDC has elected to rescind Amendment II to this Program Announcement. The responsiveness of all applications received under this Program Announcement will be evaluated against the Evaluation Criteria set forth in the original Program Announcement published May 23, 2002. Applicants are not required to submit any additional information or applications.

Dated: October 4, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–26066 Filed 10–11–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES).

Times and Dates: 8:30 a.m.–4:30 p.m., November 6, 2002. 8:30 a.m.–11:15 p.m., November 7, 2002.

Place: The Coeur d'Alene, 115 South 2nd Street, Coeur d'Alene, Idaho 83816, telephone (208)767–4000, fax (208)664–7276.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and to serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include DOE Research Program and discussion of the National Council on Radiation Protection and Measurement Report 136; Status Report on Dose Reconstruction; Biological Bases of Cancer; Projected Future Doses from Snake River Aquifer Contaminants; Idaho National Engineering and Environmental Laboratory (INEEL) Public Health Assessment; Combining Doses from Nevada Test Site Fallout, Global Fallout, and Hanford; and Presentation on INEEL Meteorological Issues. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Natasha Friday, Executive Secretary, INEELHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, Georgia 30333, telephone (404)498–1800, fax (404)498–1811.

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 CDC and ATSDR.

Dated: October 8, 2002.

Burma Burch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–26069 Filed 10–11–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Health And Nutrition Examination Survey III (NHANES)DNA Specimens: Guidelines for Proposals To Use Samples and Proposed Cost Schedule; Amendment

A notice announcing the availability of DNA Specimens from the National Health and Nutrition Examination Survey III (NHANES) with guidelines for proposals to use samples and a proposed cost schedule was published in the **Federal Register** on August 8, 2002, [Vol.67 Number 153, Pages 51585–51589]. The notice is amended as follows:

(1) On page 51585,second column under Summary: replace the first sentence of the last paragraph with: Although all researchers are encouraged to submit letters of intent, proposals will be accepted without a letter of intent. If a researcher wishes to submit

a letter of intent the deadline (third column) will be extended to October 18, 2002. The NHANES program will review letters of intent to clarify any issues that may help in proposal development. Proposal application receipt deadline is November 18,2002. All other dates are not changed.

(2) On page 51585, third column under Dates: delete the second bullet, Submission of Proposals: October 7, 2002.

(3) The following clarifications are added to the potential research proposals section: page 51586, first column, under the heading Potential Research Proposals: insert the following as paragraph 1:

If several researchers submit proposals for the same genetic assessments, they may be asked to collaborate in the publication of the estimates. The willingness to do this should be addressed in the proposal.

Umbrella category A proposals where researchers collaborate to use the same set of DNA specimens, to address several specific research questions, requiring different genetic assessments, are encouraged. In this case, each research question will be reviewed as a separate entity by the Technical Panel, but the fact that only one set of specimens will be used, will be noted.

(4) On page 51588, first column, first full paragraph, replace the first sentence with the following: Although all researchers are encouraged to submit letters of intent, proposals will be accepted without a letter of intent.

(5) Also on page 51588, first column, second paragraph, replace the first sentence with the following: Letters of intent should be submitted by October 18, 2002.

(6) On page 51589, first column, under Submission of Proposals, replace the first paragraph with: The proposal application rceipt deadline is November 18, 2002.

Dated: October 8, 2002.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–26065 Filed 10–11–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Evaluation of the Health Care for the Homeless Respite Pilot Initiative—New

The Bureau of Primary Health Care (BPHC), HRSA, proposes to conduct an evaluation of the Health Care for the Homeless (HCH) Respite Pilot Initiative. Data will be collected from the ten HCH grantees participating in the Pilot Initiative. The evaluation will be developed and conducted by the National Health Care for the Homeless Council through a cooperative agreement with the BPHC. The focus of the evaluation will be on assessing the effect of respite services on the health of homeless people as well as looking at any differences in outcomes based on client or program characteristics. The evaluation will be conducted throughout the 3-year period of the Pilot Initiative.

The estimated response burden is as follows:

Type of respondent	Number of respondents	Response per respondents	Hours per response	Total hour burden
Client-Level Data	10	200	.25	500
Program Descriptive Data	10	1	.5	5
Total	10			505

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 7, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–26110 Filed 10–11–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Organ Procurement and Transplantation Network

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of meeting of the Advisory Committee on Organ Transplantation.

SUMMARY: Pursuant to Public Law 92–463, the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the third meeting of the Advisory Committee on Organ Transplantation (ACOT), Department of Health and Human Services (HHS). The meeting will be held from approximately 9 a.m. to 5:30 p.m. on November 18, 2002, and from 9 a.m. to 5:30 p.m. on November 19, 2002, at the Sheraton National Hotel, 900 S. Orme Street, Arlington, Virginia 22204. The meeting will be open to the public; however, seating is limited and pre-registration is encouraged (see below).

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. section 217a, Section 222 of the Public Health Service Act, as amended, and 42 CFR 121.12 (2000), the ACOT was established to assist the Secretary in enhancing organ donation, ensuring that the system of organ transplantation is grounded in the best available medical science, and assuring the public that the system is as effective and equitable as possible, and, thereby, increasing public confidence in the integrity and effectiveness of the transplantation system. The ACOT is

composed of 41 members, including the Chair. Members are serving as Special Government Employees and have diverse backgrounds in fields such as organ donation, health care public policy, transplantation medicine and surgery, critical care medicine and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences, economics and statistics, as well as representatives of transplant candidates, transplant recipients, organ donors, and family members.

The ACOT will hear and discuss reports from the following ACOT subcommittees: Kidney/Pancreas Allocation Review; Heart/Lung Allocation Review; Liver Allocation Review; Education and Recognition of Donors; Improving Systemic Performance [The Law]; Improving Systemic Performance [The Professions]; Meeting the Needs of Multicultural Populations; and Clinical Issues.

The draft meeting agenda will be available on November 1 on the Division of Transplantation's Web site *http://www.hrsa.gov/osp/dot/whatsnew.htm* or the Department's donation Web site at *http://www.organdonor.gov/news.htm.*

A registration form is available on the Division of Transplantation's Web site: http://www.hrsa.gov/osp/dot/whatsnew.htm or the Department's donation Web site at http://www.organdonor.gov/news.htm. The completed registration form should be submitted by facsimile to McFarland and Associates, Inc., the logistical support contractor for the meeting, at FAX number (301) 589–2567. Individuals without access to the Internet who wish to register may call Paulette Wiggins with McFarland and Associates, Inc., at 301–562–5337. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACOT Executive Director, Jack Kress, in advance of the meeting. Mr. Kress may be reached by telephone at 301–443–8653, by e-mail at: *jkress2@hrsa.gov,* or in writing at the address of the Division of Transplantation provided below. Management and support services for ACOT functions are provided by the Division of Transplantation, Office of Special Programs, HRSA, Room 7C–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301–443–7577.

After the presentation of the subcommittee reports, members of the public will have an opportunity to provide comments on the subcommittee reports. Because of the Committee's full agenda and the time frame in which to cover the agenda topics, public comment will be limited. All public comments will be included in the record of the ACOT meeting.

Dated: October 7, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–26196 Filed 10–11–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee A—Cancer Centers.

Date: December 6, 2002.

Time: 7:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: David E. Maslow, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 8117, Bethesda, MD 20892–7405. 301/496–2330.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26042 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Clinical Research.

Date: October 22, 2002.

Time: 1 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Eric H. Brown, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, Msc 7965, One Rockledge Center, Room 6018, Bethesda, MD 20892–7965. (301) 435–0815. *browne@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26046 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mesenchymal Stem Cell.

Date: November 21–22, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert B. Moore, PhD, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892. 301–435–3541.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources, Research, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26041 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Programs Review Committee, MBRS Review Subcommittee B.

Date: November 19–20, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shiva P. Singh, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13J, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26043 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in according with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, SEP on Minority Student Training.

Date: October 25, 2002.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Benjamin Xu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6143, MSC 9608, Bethesda, MD 20892–9608, 301–443–1178. *benxu1@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Collaboration for Low Resource Communities of Color.

Date: October 30, 2002.

Time: 10:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award: 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26044 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.c. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Neuroscience SEP.
Date: October 28, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, AD K Awards.
Date: November 12, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Alfonso R. Latoni, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892. 301/496–9666. *latonia@mail.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Genetic Changes in Aging Muscle.
Date: November 12–13, 2002.
Time: 7 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ramesh Vemuri, PhD, National Institute of Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Health Indexes.
Date: November 13, 2002.
Time: 11 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin Avenue, Bethesda, MD 20814. (Telephone Conference Call).
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Therapeutics Of Bone Loss.
Date: November 13–14, 2002.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin New York at Times Square, 270 West 43rd Street, New York, NY 10036.
Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814. (301) 496–9666. *harwoodj@mail.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging, Vasculature, Ischemia, and Behavior.
Date: November 13–14, 2002.
Time: 7 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. (301)496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Proteopathies.
Date: November 21–22, 2002.
Time: 7 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 12 Fourth Street at Market, San Francisco, CA 94103.
Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892. (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26045 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Experimental Virology Study Section.
Date: October 15–16, 2002.
Time: 8 am to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892. 301–435–1050. *freundr@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Risk and Protective Factors in Child and Adolescent Development.
Date: October 16, 2002.
Time: 3 p.m. to 6 p.m..
Agenda: To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Streets NW., Washington, DC 20005.
Contact Person: Mariela Shirley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. 301–435–3554. *shirleym@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Family Processes and Close Relationships.
Date: October 18, 2002.
Time: 3 p.m. to 6 p.m..
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mariela Shirley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. 301–435–3554. *shirleym@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Center Group, Virology Study Section.
Date: October 22–23, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7808, Bethesda, MD 20892. 301–435–1151. *pyperj@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RG1 SSS–O (02)M: Tissue Activator.
Date: October 22, 2002.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892. 301–435–1739. *gangulyc@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Promotion and Lifestyle Behaviors.
Date: October 23, 2002.
Time: 3 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Mariela Shirley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. 301–435–3554. *shirleym@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Genetic Sciences Integrated Review Group, Genome Study Section.
Date: October 27–29, 2002.
Time: 7:30 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Sally Ann Amero, PhD, Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892–7890. (301)–435–1159. *ameros@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS T: 10B: Small Business: Endocrinology, Metabolism, Nutrition, & Reproductive Sciences.
Date: October 28, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892. (301) 435–1041.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (10B): Small Business: Ultrasound.
Date: October 28, 2002.
Time: 8 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 2.
Date: October 28–29, 2002.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Madison hotel, Fifteenth & M Streets, NW., Washington, DC 20005.
Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20892. (301) 435–4433.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG SSS 8 10B: Small Business: Bioengineering and Physiology..
Date: October 28–29, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Paul Parakkal, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892. 301–435–1176. *parakkap@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS2 10B Proteomics, Protein Expression, and Protein Therapeutics.
Date: October 28–29, 2002.
Time: 8:30 a.m. to 3 p.m.
Agenda: .To review and evaluate grant applications.
Place: Holiday Inn—Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Prabha L. Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892. (301) 435–8367. *atreyap@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–L (10) B Drug Delivery & Drug Discovery SBIR/STTR Panel.
Date: October 28–29, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Hotel, 8727 Colesville Road, Silver Spring, MD 20910.
Contact Person: Sergei Ruvinov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892. (301) 435–1180. *ruvinser@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.
Date: October 28–30, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Westin Fairfax Hotel, 2100 Massachusetts Ave., NW., Washington, DC 20008.
Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7816, Bethesda, MD 20892. (301) 435–1716. *strudlep@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pain: Neurophysiology.
Date: October 28, 2002.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (12) Small Business: Ultrasound.
Date: October 28, 2002.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Migration.

Date: October 28, 2002.

Time: 4:15 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Robert Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892. (301) 435–0694.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Genetic Sciences Integrated Review Group, Mammalian Genetics Study Section.

Date: October 29–30, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Cheryl M. Corsaro, PhD, Genetic Sciences IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892. (301) 435–1045. *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CAMP 04 (M) Mechanisms of Colon Carcinogenesis.

Date: October 29, 2002.

Time: 12 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. (301) 435–1779. *riverse@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Collaborative Groups.

Date: October 29, 2002.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1625 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Sally Ann Amero, PhD, Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC7890, Bethesda, MD 20892–7890 301–435–1159. *ameros@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CVB(02)S: Aldosterone & CV damage.

Date: October 29, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center For Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda MD 20892 (301) 435–1169. *dowellr@drg/nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CDF–1 01 Panel on Cell Signaling and Growth Control.

Date: October 29, 2002.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892 (301) 435–1219.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Bioengineering and Physiology (BISTI).

Date: October 29, 2002.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Paul Parakkal, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892 301–435–1176. *parakkap@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–C (01) BBBP–1 Member reviews in Animal Learning.

Date: October 30, 2002.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892 301–435–0902. *krausem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GRM (02) SMB Conflicts.

Date: October 30, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892. (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CVB(01)M: Salt-induced hypertension.

Date: October 30, 2002.

Time: 2:15 p.m. to 3:15 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 FO5 (20) L Fellowships: Cell and Developmental Biology.

Date: October 31–November 1, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Old Town Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892. (301) 435–1024. *rodewalr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 CDF 01P: Program Project: Cell Development and Function—4.

Date: October 31, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marcia Steinberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7840, Bethesda, MD 20892. (301) 435–1023. *steinberm@csr.nih.gov.*

Name of Committee: Center for Scientific Special Emphasis Panel, Computational Biology.

Date: October 31–November 1, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892. 301–435–1220. *chackoge@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Disease Management and Health Promotion.

Date: October 31–November 1, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, Washington, DC 20037.

Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892. 301–435–0676. *siroccok@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–SSS–X (41) Resource Research Site Visit.

Date: October 31–November 2, 2002.

Time: 7 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel Metrodome, 615 Washington, Ave., SE., Minneapolis, MN 55414.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SOH Member Application.

Date: October 31, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892. 301–435–0695.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–26047 Filed 10–11–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4679–N–05]

Reduction in Certain FHA Multifamily Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice reissues the notice published on August 30, 2002, effective October 1, 2002, lowering the mortgage insurance premiums (MIPs) for certain Federal Housing Administration (FHA) multifamily mortgage insurance programs whose commitments will be issued in Fiscal Year 2003, and republishing others at the rate that was in effect in Fiscal Year 2002 (hereafter, ''the August notice''). This notice includes responses to comments from the public that HUD received on the August notice.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–1142. Hearing- or speech-impaired individuals may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. The Interim Rule and August Notice

The interim rule on ''Mortgage Insurance Premiums in Multifamily Programs,'' published on July 2, 2001, at 66 Federal Register 35070, revised previous regulations that set mortgage insurance premiums (MIPs) at a specific figure. The Secretary may now change MIPs within the full range of HUD's statutory authority of one fourth of one percent to one percent. That rule stated that HUD would provide a 30-day period for public comment on future notices changing mortgage insurance premiums in multifamily insured housing programs (66 FR 35071).

On August 30, 2002, HUD published a notice pursuant to the interim rule setting new mortgage insurance premiums for FY 2003, which became effective on October 1, 2002 (67 FR 55859). HUD accepted public comments on the August notice. HUD is now publishing its response to the public comments and republishing the FY 2003 mortgage insurance premiums and transition provisions.

B. Public Comments

HUD received two public comments on the August notice, both from trade associations. Both comments were generally favorable to the new premiums, but they did raise some issues for HUD's consideration. HUD is making no change to the rates or other aspects of the notice, however, as a result of those comments for reasons explained in the responses to the comments.

Comment: Two commenters supported the reduction in the mortgage insurance premiums. One commenter specifically praised the premium reduction in the Section 221(d)(4) program. The other commenter stated that ''the reductions proposed in the notice are a step in the right direction.''

HUD Response: No response is necessary.

Comment: The commenters expressed views on the data and assumptions underlying the rates. Both commenters praised HUD's willingness to share the formula and data, or what one commenter referred to as the ''model,'' underlying the mortgage insurance premium calculation. One commenter was satisfied with the revisions to the model, while the other commenter stated that HUD should continue to update its data to assure that the mortgage insurance premium for each program reflects the actual risk to the government. Both commenters stated that they wanted to be included in discussions of any future revisions to the formula and data, or model.

HUD Response: The MIP reductions were a result of a comprehensive review of the credit subsidy calculations instituted by the Secretary in response to industry concerns. HUD staff had several meetings with the industry and considered industry input in the re-analysis of the credit subsidy rates and assumptions. HUD is required to update the data and assumptions each year and we expect to have similar discussions with the industry in the future.

Comment: Regarding the transition provisions of the notice, one commenter praised HUD's decision to reprocess applications with outstanding firm commitments but which have not yet been initially endorsed at the new, lower rates, and did not object to the fact that certain applications will have to be reviewed to ensure that the underwriting conclusions remain valid. However, this commenter suggested that HUD begin reprocessing these cases ''prior to October 1'' at the request of the mortgagee to assure that the loans can close as soon as possible.

HUD Response: HUD has directed the field staff to begin reprocessing of outstanding commitments at the lower MIP.

Comment: Both commenters urged HUD to publish the final notice as quickly as possible.

HUD Response: No response is needed.

II. This Notice

This notice restates and republishes the August notice at the same premium rates as stated in that notice. The rates effective as of October 1, 2002 continue to be as follows for the remainder of FY 2003:

Multifamily loan program	FY 2003 basis points
Section 207—Multifamily Housing—New Construction/Substantial Rehabilitation	61

Multifamily loan program	FY 2003 basis points
Section 207—Manufactured Home Parks	61
Section 220—Housing In Urban Renewal Areas	61
Section 221(d)(3)—Moderate Income Housing	80
Section 221(d)(4)—Moderate Income Housing	57
Section 223(a)(7)—Refinancing of Insured Multifamily Project	50
Section 223(d)—Operating Loss Loans	80
Section 207/223(f)—Purchase or Refinance Housing	50
Section 231—Housing for the Elderly	61
Section 232—Health Care Facilities	50
Section 232 pursuant to Section 223(f)—Purchase or Refinance Health Care Facilities	50
Section 234(d)—Condominium Housing	50
Section 241(a)—Additions & Improvements for Apartments	80
Section 241(a)—Additions & Improvements for Health Care Facilities	50
Section 242—Hospitals	50
Title XI—Group Practice	50
HOPE VI Projects with or without LIHTC—[221(d)(4)]	57
HOPE VI Projects with or without LIHTC—[207, 220 and 231]	61
Low Income Housing Tax Credit Projects—221(d)(4), 207, 220, and 231 without HOPE VI	50

III. Applicable Mortgage Insurance Premium Regulations

The MIP regulations are contained in 24 CFR 207.252, 207.252a, and 207.254, published at 66 FR 35072 (July 2, 2001). This notice is published in accordance with the procedures stated in those regulations.

IV. Transition Guidelines

A. General

If a firm commitment has been issued at a higher mortgage insurance premium (MIP) and FHA has not initially endorsed the note, the lender may request the field office to reprocess the commitment at the lower MIP and issue an amended commitment on or after October 1, 2002. If the initial endorsement has occurred, the MIP cannot be changed.

B. Extension of Outstanding 80 basis point Firm Commitments

FHA may extend outstanding firm commitments when the HUB/Program Center determines that the underwriting conclusions (rents, expenses, construction costs, mortgage amount and cash required to close) are still valid.

C. Reprocessing of Outstanding 80 basis point Firm Commitments

FHA will consider requests from mortgagees to reprocess outstanding firm commitments at the lower mortgage insurance premium once the new premiums become effective in Fiscal Year 2003:

1. *Outstanding commitments with initial 60 day expiration dates on or after the effective date of the MIP notice.* FHA Multifamily HUB/Program Center staff will simply reprocess these cases to reflect the impact of the lower MIP and issue amended commitments;

2. *Outstanding commitments with initial expiration dates prior to the effective date of the MIP notice which have pending extension requests or have had extensions granted by FHA beyond the initial 60 day period.* These cases will require more extensive reprocessing by FHA staff. Reprocessing will include an updated FHA field staff analysis and review of rents, expenses, construction costs, particularly considering any changes in Davis-Bacon wage rates and cash required to close. (An updated appraisal may be required from the mortgagee depending on the age of the appraisal.) If reprocessing results in favorable underwriting conclusions, HUB/Program Center staff will issue amended commitments at the new MIP.

D. Reopening of Expired 80 Basis Point Firm Commitments

FHA will consider requests from mortgagees, which requests may be either updated Traditional Application Processing (TAP) firm commitment applications or updated Multifamily Accelerated Processing (MAP) applications with updated exhibits, to reopen expired 80 basis point commitments on or after the effective date of the MIP notice, provided that the reopening requests are received within 90 days of the expiration of the commitments and include the $.50 per thousand of requested mortgage reopening fee. Reopening requests will be reprocessed by FHA field staff under the instructions in paragraph C.2 above.

After expiration of the 90 day reopening period, mortgagees are required to submit new applications with the $3 per thousand application fee. (MAP applications must start at the preapplication stage.)

Credit Subsidy

Mortgagee Letters will be issued from time to time to advise mortgagees of any requirements for credit subsidy, and the availability of credit subsidy. In Fiscal Year 2003, it is anticipated that only three programs will require credit subsidy: Section 221(d)(3) for nonprofit sponsors and cooperatives for new construction or substantial rehabilitation, Section 223(d) for operating loss loans for both apartments and health care facilities, and Section 241(a) for supplemental loans for additions or improvements to existing apartments only. FHA will not issue amended commitments for increased mortgage amounts nor obligate additional credit subsidy for projects requiring credit subsidy in Fiscal Year 2003.

Dated: October 9, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

[FR Doc. 02–26197 Filed 10–9–02; 3:52 pm]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

Information Quality Guidelines

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Availability of information quality guidelines.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is publishing a notice of availability of the OFHEO's ''Guidelines for Ensuring Quality of Disseminated Information and Procedures for Correction by the Public'' (Guidelines). The purpose of this notice is to publish the location of the Guidelines on the OFHEO web site at *http://www.ofheo.gov.*

DATES: On October 1, 2002, OFHEO's ''Guidelines for Ensuring Quality of Disseminated Information and Procedures for Correction by the Public'' were posted on the OFHEO Web site.

FOR FURTHER INFORMATION CONTACT: Andrew Varrieur, Chief Information Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–8883 (not a toll free number). Alternatively, questions or comments may also be sent by electronic mail to *infoquality@ofheo.gov.* The telephone number for the Telecommunications Device for the Deaf is: (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Guidelines are based largely on the ''Guidelines for Ensuring and

Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies'' (Government-wide guidance) published by the Office of Management and Budget (OMB) in the **Federal Register**.[1] That Government-wide guidance was issued pursuant to Section 515 of the Treasury and General Government Appropriations Act for FY 2001, Pub. L. 106–554, which directed OMB to provide guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information, including statistical information, disseminated by Federal agencies. In accordance with these provisions, each Federal agency was obligated to:

1. Issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility and integrity of information, including statistical information, disseminated by the agency;

2. Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the agency's guidelines; and

3. Report annually to the Director of OMB, beginning January 1, 2004, the number and nature of complaints received by the agency regarding agency compliance with its guidelines concerning the quality, objectivity, utility and integrity of information and how such complaints were resolved.

Consistent with the Government-wide guidance, the Guidelines ensure and maximize the quality, objectivity, utility, and integrity of information that is disseminated by the agency to the public. The Guidelines also provide an administrative process allowing affected individuals to seek and obtain correction of information maintained and disseminated by OFHEO. The Guidelines reflect OFHEO's internal procedures for reviewing and substantiating information to ensure and maximize the quality, including the objectivity, utility and integrity of information, before it is disseminated. The administrative mechanism allows affected persons to seek and obtain, where appropriate, obtain correction of information disseminated by OFHEO that does not comply with the Guidelines.

[1] 66 FR 49718 (Sept. 28, 2001), updated 67 FR 369 (Jan. 3, 2002), and corrected at 67 FR 8452 (Feb. 22, 2002).

Comments

In accordance with OMB guidance, OFHEO published a notice in the **Federal Register** on April 2, 2002, entitled ''Solicitation of Public Comments on Proposed Information Quality Guidelines''[2] requesting public comments on OFHEO's proposed Guidelines. Three comments were received from private persons in response to this notice and the proposed Guidelines. Those comments were received from the Federal National Mortgage Association (Fannie Mae); the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises); and the Center for Regulatory Effectiveness.

Both Enterprises commented on the proposed Guidelines' statement that ''OFHEO disseminates very little information that would be subject to section 515 legislation'' and that OFHEO cites only the House Price Index as an example of such information. Both Enterprises disagreed that very little information falls within the scope of the Government-wide guidance and suggested that other examples of information should be included in the Guidelines. OFHEO deleted the single citation to the House Price Index as an example. Instead, the scope of the Guidelines' applicability will become more clearly defined in light of experience and the accumulation of precedents over time.

OFHEO's proposed Guidelines also provided that they do not ''apply to opinions if it is clear that what is being offered is someone's opinion, rather than fact or the agency's views. For example, the guidelines do not apply to staff working papers that are preliminary in nature and do not represent the views of the agency.''[3] OFHEO deleted the citation to working papers. Instead, the scope of the Guidelines' applicability will become more clearly defined in light of experience and the accumulation of precedents over time.

Freddie Mac commented that OFHEO should not exempt all press releases from the scope of the Guidelines. Freddie Mac also asserted that a press release that ''only discloses an agency's position on political or policy issues would appropriately fall outside of the scope of the information quality guidelines.''[4] Freddie Mac also commented that OFHEO should not exempt all correspondence with individuals from the scope of the Guidelines. OMB's Government-wide guidance explicitly exempts press releases and correspondence with individuals from the definition of ''dissemination,'' thus removing both from the scope of the Guidelines.

Both Enterprises commented that the proposed Guidelines do not contain procedures for review of influential information subject to higher standards of data quality. Freddie Mac noted that the proposed Guidelines do not include a definition of ''influential information.'' Both Enterprises also asserted that much of the information that OFHEO disseminates is within the scope of influential information and thus subject to higher standards of data quality. Although OFHEO need not identify the information within the purview of ''influential information'' for purposes of the Guidelines, the Government-wide guidance suggested agencies adopt a definition of ''influential.'' OFHEO clearly adopts a definition of ''influential'' in the Guidelines in section VI.9. However, in accordance with OMB guidance, the definition of ''influential'' has been narrowed. The amended definition of ''influential,'' when used in the phrase ''influential scientific, financial, or statistical information,'' is amended to provide that ''the agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.'' Consistent with OMB's guidance, the intent of the new phrase ''clear and substantial'' is to reduce the need for speculation on the part of agencies of the breadth of the definition of ''influential.''[5]

Fannie Mae asserted in its comment letter that the Guidelines may be judicially reviewable. The statute upon which the Government-wide guidance is based is wholly silent on the matter. Speculation as to future judicial treatment of such guidelines is, however, beyond the scope of this rulemaking and will not be addressed here.

Finally, Fannie Mae commented that the proposed Guidelines are confusing as to the responsibilities of each division of OFHEO with respect to data quality. Specifically, Fannie Mae suggests that, inasmuch as compliance with law is generally the function of the General Counsel, OFHEO's General Counsel should be vested with primary responsibility for compliance with the Government-wide guidance. The Guidelines have been clarified as to the

[2] 67 FR 15580 (April 2, 2002).

[3] 3 *Id.*

[4] Letter from Allan Ratner, Freddie Mac to Andrew Varrieur, Office of Federal Housing Enterprise Oversight, at 3.

[5] 67 FR 8455 (2002).

responsibility of each office within OFHEO to ensure and maximize the quality, including the objectivity, utility and integrity, of the data originating from it. The General Counsel has overarching responsibility to advise and counsel the Director and agency personnel as to compliance with the applicable law. The Guidelines so reflect and preserve the respective responsibilities of the various agency officials.

The Center for Regulatory Effectiveness (CRE) outlined a number of broad cross-cutting policy issues of general concern to all agencies related to ''Data Quality Guidelines'' and provided recommendations on how such issues should be addressed. The CRE identified and evaluated a number of differing agency approaches to these issues, which it suggested might be emulated or avoided. OFHEO considered these comments in conjunction with OMB guidance in fashioning the final information quality guidelines.

Dated: October 8, 2002.

Jimmy F. Barton,

Deputy Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–26186 Filed 10–11–02; 8:45 am]

BILLING CODE 4220–01U–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Delta National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of application for a natural gas pipeline right-of-way on Delta National Wildlife Refuge, Plaquemines Parish, Louisiana.

SUMMARY: Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449: 30 U.S.C. 185), as amended by Public Law 93–153, the Southern Natural Gas Company has applied for a permit to remove a 14″ underground natural gas pipeline, and install a new 14″ underground natural gas pipeline in a 50-foot wide right-of-way which will run approximately 10,421 feet in length.

This pipeline right-of-way will be on, over, and across a strip of land lying in Plaquemines Parish, State of Louisiana, Sections 10, 15, and 22 of Township 20 South, Range 19 East, on the West Bank of East Fork of Romere Pass. The Southern Natural Gas Company currently operates a 14″ pipeline and wants to install a new pipeline 200—1,200 feet west of its current location. The land described herein contains approximately 12.59 acres with 7.79 acres in a temporary (1 year) construction servitude. The existing pipeline will be completely removed after the new line has been installed and is operational.

The purpose of this notice is to inform the public that the Fish and Wildlife Service is currently considering the merits of approving this application.

ADDRESSES: Interested persons desiring to comment on this application should do so within thirty (30) days following the date of publication of this notice. If you wish to comment, you may do so by one of the following methods. You may mail comments to Mr. Dwight Stanley, Fish and Wildlife Service, 1875 Century Boulevard, Suite 420, Atlanta, Georgia 30345. You may also comment via the Internet at the following address: *dwight_stanley@fws.gov.* If you submit comments by electronic mail, please submit them as an ASCII file, avoiding the use of special characters and any form of encryption. Please include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us at the phone number or address listed in this notice. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law.

FOR FURTHER INFORMATION CONTACT: Mr. Dwight Stanley at 404–679–7235; fax 404–679–7273.

Authority: Right-of-way applications are filed in accordance with Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449:30 U.S.C. 185), as amended by Public Law 93–153.

Dated: September 19, 2002.

Christine Eustis,

Acting Regional Director.

[FR Doc. 02–26051 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Rate Adjustments for Indian Irrigation Facilities

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of rate adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation facilities located on various Indian reservations throughout the United States. The BIA establishes irrigation assessment rates to recover its costs to administer, operate, maintain, and rehabilitate certain of those facilities. We are notifying you that we have adjusted the irrigation assessment rates at several of our irrigation facilities where we are required to recover our full costs of operation and maintenance.

EFFECTIVE DATE: The irrigation assessment rates shown in the tables were effective on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: For details about a particular BIA irrigation facility, please use the tables in the **SUPPLEMENTARY INFORMATION** section to contact the regional or agency office where the facility is located.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was published in the **Federal Register** on March 8, 2002 (67 FR 10748–10752), to adjust the irrigation rates at several BIA irrigation facilities. A correction of the March 8, 2002, notice was published on April 26, 2002, at 67 FR 20820–20321 for all units of the Wapato Irrigation Project. The public and interested parties were provided an opportunity to submit written comments during the 60 day-periods subsequent to March 8, 2002, and April 26, 2002.

Did the BIA Receive Any Comments on the Proposed Irrigation Assessment Rate Adjustments?

Written comments were received only for the proposed irrigation assessment rate adjustment at the Blackfeet Irrigation Project, Montana (Project).

What Issues Were of Concern by the Commentators?

All of the comments were concerned with one or more of three issues: (1) Consultation with stakeholders; (2) how are funds expended on operation and maintenance; and (3) the impact of a rate increase on the local agricultural economy.

How Does BIA Respond to the Concern of Consultation With Stakeholders?

Consultations between stakeholders and any of the BIA irrigation facilities are ongoing through local meetings held periodically at different locations convenient to the stakeholders of the individual irrigation facilities. At those consultation meetings, any issue of concern by a stakeholder can be brought up and discussed such as water operations, facility maintenance, and financial management. For example, a BIA representative attended meetings of the Seville Water Users Association of

the Project on May 27, 2000, April 30, 2001, and April 25, 2002. During those meetings, the BIA representative notified stakeholders of the need for an increase in irrigation assessment rates. Concurrent with the **Federal Register** notice of March 8, 2002, the local BIA agency at the Project also publicized the proposed rate adjustment in a local newspaper asking for comments.

How Does BIA Respond to the Concern of How Funds Are Expended for Operation and Maintenance?

The BIA's records for expenditures on all of its irrigation facilities are public records and available for review by stakeholders or interested parties. These records can be reviewed during normal business hours at the individual agency offices. To review these records, stakeholders and interested parties are directed to contact the BIA representative at the specific facility serving them using the tables in the **SUPPLEMENTARY INFORMATION** section.

How Does BIA Respond to the Concern of an Irrigation Assessment Rate Increase and Its Impact on the Local Agricultural Economy?

The irrigation operations and maintenance rate for the 2001 irrigation season at the Project was $11.00 per acre. Based on a financial analysis for the 2002 irrigation season, the rate to sustain the Project should be $15.85 per acre. The BIA realized that a $4.85 rate increase, a 44 percent increase over the 2001 rate, had the potential to place an economic strain on the agricultural community served by the facility. The BIA took this into consideration and is raising the 2002 assessment rate $2.00, an increase of 18 percent, for a total assessment rate for the 2002 irrigation season of $13.00. This is an increase of less than half necessary to sustain the facility. To accommodate the lesser increase, the facility will continue to defer some maintenance. A rate of $13.00 per acre will provide funding for operation of the facility and perform minimal maintenance.

Does the BIA Have Any Other Justification for Increasing Its Irrigation Assessment Rates at the Project or at Any Other Irrigation Facilities?

Over the past several years the BIA's irrigation program has been the subject of several Inspector General (IG) audits. In the most recent audit, No. 96–I–641, 1996, the IG concluded, ''Operation and maintenance revenues were insufficient to maintain the projects, and some projects had deteriorated to the extent that their continued capability to deliver water was in doubt. This occurred because operation and maintenance rates were not based on the full cost of delivering water, including the costs of systematically rehabilitating and replacing project facilities and equipment, and because project personnel did not seek regular rate increases to cover the full cost of operation.'' This audit recommendation is still outstanding.

Previous IG audits reached the same conclusion. This showed a lack of response in addressing this critical issue by the BIA over an extended period of time. Irrigation assessment rates must be systematically reviewed and adjusted when necessary to reflect the BIA's actual full costs to properly operate and perform all appropriate maintenance on the irrigation facility infrastructure. If this is not accomplished, a rate deficiency can accumulate. Overcoming rate deficiencies can result in having to raise rates in larger increments and over shorter time frames than would have been otherwise necessary.

Does the BIA Have Any Proposed Rate Adjustments That Were Not Put Into Effect?

The proposed rate adjustment for the 2003 irrigation season at the Flathead Irrigation Project from $19.95 to $21.45 is not being put into effect. After further consultation with the stakeholders, the BIA agreed a rate adjustment could be delayed.

Where Can I Get Information on the Regulatory and Legal Citations in This Notice?

You can contact the individuals listed in the contact tables below or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov*.

What Authorizes Us To Issue This Notice?

Our authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

Does This Notice Affect Me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation facilities, or you have a carriage agreement with one of our irrigation facilities.

Who Can I Contact for Further Information?

The following tables list the regional and agency contacts for the irrigation facilities where the BIA recovers its costs for local administration, operation, maintenance, and rehabilitation.

Project name	Project/agency/contacts
Northwest Region Contacts	
Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, Telephone (503) 231–6702	
Flathead Irrigation Project	Ernest T. Moran, Superintendent, Flathead Agency Irrigation Division, P.O. Box 40, Pablo, Montana 59855–5555, Telephone: (406) 675–2700.
Fort Hall Irrigation Project	Eric J. LaPointe, Superintendent, Fort Hall Agency, P.O. Box 220, Fort Hall, Idaho 83203–0220, Telephone: (208) 238–2301.
Wapato Irrigation Project	Pierce Harrison, Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951–0220, Telephone: (509) 877–3155.
Rocky Mountain Region Contacts	
Keith Beartusk, Regional Director, Bureau of Indian Affairs, Rock Mountain Regional Office, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 247–7943	
Blackfeet Irrigation Project	Ross Denny, Superintendent, Cliff Hall, Irrigation Manager, Box 880, Browning, MT 59417, Telephones: (406) 338–7544, Superintendent, (406) 338–7519, Irrigation.

Project name	Project/agency/contacts
Crow Irrigation Project	Gordon Jackson, Superintendent, Dan Lowe, Irrigation Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638–2672. Superintendent, (406) 638–2863, Irrigation.
Fort Belknap Irrigation Project	Cleo Hamilton, Superintendent, Ted Hall, Acting Irrigation Manager, R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353–2901, Superintendent, (406) 353–2905, Irrigation.
Fort Peck Irrigation Project	Dennis Whiteman, Superintendent, P.O. Box 637, Poplar, MT 59255, Marvin Azure, Irrigation Manager (acting), 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768–5312, Superintendent, (406) 653–1752, Irrigation.
Wind River Irrigation Project	Perry Baker, Superintendent, Sheridan Nicholas, Irrigation Manager, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332–7810, Superintendent, (307) 332–2596, Irrigation.
Southwest Region Contacts	
Bob Baracker, Regional Director, Bureau of Indian Affairs, Southwest Regional Office, 615 First Street, NW., Albuquerque, New Mexico 87102, Telephone: (505) 346–7587	
Pine River Irrigation Project	Michael Stancampiano, Superintendent, Kenneth Caveny, Irrigation Engineer, P.O. Box 315, Ignacio, CO 81137–0315, Telephones: (970) 563–4511, Superintendent, (970) 563–1017, Irrigation.
Western Region Contacts	
Wayne Nordwall, Regional Director, Bureau of Indian Affairs, Western Regional Office, PO Box 10, Phoenix, Arizona 85001, Telephone: (602) 379–6600	
Colorado River Irrigation Project	Allen Anspach, Superintendent, R.R. 1 Box 9–C, Parker, AZ 85344, Telephone: (928) 669–7111.
Duck Valley Irrigation Project	Paul Young, Superintendent, Pete LeFebvre, Nat'l Resources Specialist, 1555 Shoshone Circle, Elko, Nevada 89801, Telephones: (775) 738–0569, Superintendent, (775) 738–0590, Irrigation.
Fort Yuma Irrigation Project	William Pyott, Land Operations Officer, P.O. Box 11000, Yuma, Arizona, Telephone: (520) 782–1202.
San Carlos Irrigation Project Joint Works	Randy Shaw, Irrigation Manager, 13805 N. Arizona Boulevard, Coolidge, AZ 85228, Telephone: (520) 723–6216.
San Carlos Irrigation Project Indian Works	Joe Revak, Pima Agency, Land Operations, Box 8, Sacaton, AZ 85247, Telephone: (520) 562–3372.
Uintah Irrigation Project	Lynn Hansen, Irrigation Manager, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722–4341.
Walker River Irrigation Project	Chuck O'Rourke, Natural Resource Officer, 1677 Hot Springs Road, Carson City, Nevada 89706, Telephone: (775) 887–3550.

What Will BIA Charge for the 2002 or 2003 Irrigation Seasons?

The rate table below shows how we will bill at each of our irrigation facilities for the 2002 or 2003 irrigation season as indicated. The irrigation facilities where rates were adjusted are noted by an asterisk immediately following the name of the facilities.

NORTHWEST REGION RATE TABLE

Project name	Rate category	Current 2002 rate	Proposed 2003 rate
Flathead Irrigation Project	Basic per acre	$19.95	$19.95
Fort Hall Irrigation Project	Basic per acre	20.00	To be Determined (See Note below).
Fort Hall Irrigation Project Minor Units	Basic per acre	14.00	
Fort Hall Irrigation Project* Michaud	Basic per acre	28.00	
	Pressure per acre	41.00	
Wapato Irrigation Project* Ahtanum Unit	Billing Charge Per Tract	5.00	
	Farm unit/land tracts up to one acre (minimum charge).	10.35	
	Farm unit/land tracts over one acre—per acre	10.35	
Wapato Irrigation Project* Toppenish/Simcoe Units	Billing Charge Per Tract	5.00	
	Farm unit/land tracts up to one acre (minimum charge).	10.40	
	Farm unit/land tract over one acre—per acre	10.40	
Wapato Irrigation Project* Wapato/Satus Unit	Billing Charge Per Tract	5.00	
	Farm unit/land tracts up to one acre (minimum charge).	41.40	
	"A" farm unit/land tracts over one acre—per acre	41.40	

NORTHWEST REGION RATE TABLE—Continued

Project name	Rate category	Current 2002 rate	Proposed 2003 rate
	Additional Works farm unit/land tracts over one acre—per acre.	45.76	
	''B'' farm unit/land tracts over one acre—per acre	49.68	
	Water Rental Agreement Lands—per acre	50.96	

Note—''To be determined,'' means that future rates will become effective only after we have published another rate notice for comments, followed by a final rate notice.

ROCKY MOUNTAIN REGION RATE TABLE

Project name	Rate category	2002 season rate
Blackfeet Irrigation Project*	Basic-per acre	$13.00
Crow Irrigation Project (See note below)	Basic-per acre	16.00
Fort Belknap Irrigation Project	Indian per acre	6.25
	Non-Indian per acre	12.50
Fort Peck Irrigation Project	Basic-per acre	14.00
Wind River Irrigation Project	Basic-per acre	12.00

Note—The Crow Project rate adjustment was previously announced in the FEDERAL REGISTER for the 2002 irrigation season and is being provided for informational purposes only, reference Fed. Reg., Vol. 64, No. 95, Page 27003, May 18, 1999.

SOUTHWEST REGION RATE TABLE

Project name	Rate category	2002 rate
Pine River Irrigation Project	Minimum Charge per tract	$25.00
	Basic-per acre	8.50

WESTERN REGION RATE TABLE

Project name	Rate category	Current 2002 rate	Proposed 2003 rate
Colorado River Irrigation Project	Basic per acre up to 5.0 acre feet	$37.00	To be Determined.[1]
	Excess Water per acre foot 5.0–5.5 acre-feet	7.40	
	Excess Water per acre-foot over 5.5 acre-feet	17.00	
Duck Valley Irrigation Project	Basic-per acre	5.30	
Fort Yuma Irrigation Project (See note below)	Basic-per acre up to 5.0 acre-feet	60.00	
	Excess Water per acre-foot over 5.0 acre-feet	10.50	
San Carlos Irrigation Project (Joint Works)	Basic-per acre	20.00	$20.00
San Carlos Irrigation Project (Indian Works)	Basic-per acre	56.00	To be Determined.[1]
Uintah Irrigation Project	Basic-per acre	8.50	
Walker River Irrigation Project	Indian per acre	7.32	
	Non-Indian per acre	15.29	

[1] ''To be determined,'' means that future rates will become effective only after we have published another rate notice for comments, followed by a final rate notice.

Note—The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation (Reclamation). The irrigation rates assessed for operation and maintenance are established by Reclamation and are provided for informational purposes only. The BIA only collects the irrigation assessments on behalf of Reclamation.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

The BIA irrigation facilities are vital components of the local agriculture economy of the reservations on which they are located. To fulfill its responsibilities to the tribes, tribal organizations, water user organizations, and the individual water users, the BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, costs of administration, operation, maintenance, and rehabilitation. This is accomplished at the individual irrigation facilities by agency and regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of the BIA's overall coordination and consultation process to provide notice and request comments from these entities on adjusting irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA owned and operated irrigation facilities, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated

by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is ''a rule of particular applicability relating to rates.'' 5 U.S.C. 601(2).

Unfunded Mandates Act of 1995

These rate adjustments impose no unfunded mandates on any governmental or private entity and are in compliance with the provisions of the Unfunded Mandates Act of 1995.

Takings Implications (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant ''takings'' implications. The rate adjustments do not deprive the public, state, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they pertain solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

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 of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires November 30, 2002.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Dated: September 24, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–26038 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–600–03–1010–BN–241A]

Notice of Public Meetings, Southwest Colorado and Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Southwest Colorado Resource Advisory Council (RAC) and Northwest Colorado RAC will meet as indicated below.

DATES: The Southwest Colorado RAC meeting will be held November 22, 2002 at the Bill Heddles Recreation Center located at 180 Gunnison River Drive in Delta, Colorado.

The Northwest Colorado RAC meeting will also be held November 22, 2002 at the Bill Heddles Recreation Center located at 180 Gunnison River Drive in Delta, Colorado.

Both the Southwest and Northwest Colorado RAC meetings will begin at 9 a.m. and adjourn at approximately 4 p.m. Public comment periods at the meetings will be in the morning at 9:30 a.m and in the afternoon, to start no later than 3 p.m.

FOR FURTHER INFORMATION CONTACT: Larry J. Porter, RAC Coordinator, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3012.

SUPPLEMENTARY INFORMATION: The Southwest and Northwest Colorado RACs advise the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Colorado.

Purpose of the Southwest Colorado RAC meeting is to consider several resource management related topics including County Partnership Restoration Project; Coal Bed Methane Development; Phoenix RAC Conference Report; RAC Goals; and Cooperative Management Opportunities.

Purpose of the Northwest Colorado RAC meeting is to consider several resource management related topics including Wildlife, Cultural, Weeds, and Wild Horse Management Plan Subcommittee reports; Travel Management Update; RAC's Functioning; and Moffat County Pilot Proposal.

These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals planning to attend the meetings who need special assistance should contact the RAC Coordinator listed above.

Dated: October 7, 2002.

Dave Atkins,

Acting Western Slope Center Manager.

[FR Doc. 02–26050 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the National Park System Advisory Board will meet October 30–31, 2002, in the St. Francis Suite of The Westin St. Francis, Union Square, 335 Powell Street, San Francisco, California. On October 30, the Board will tour and receive briefings on the Golden Gate National Recreation Area and partnership programs. On October 31, the Board will convene its business meeting at 8:00 a.m., and adjourn at 5:30 p.m. During the morning session, National Park Service Director Fran Mainella will address the Board, followed by the Board's consideration of National Historic Landmark nominations. In the afternoon, the Board will receive reports from its National Parks Science Committee, Education Committee, and Partnerships Committee, and discuss pending business.

Other officials of the National Park Service and the Department of the Interior may address the Board, and

other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Mr. Loran Fraser, Office of Policy, National Park Service, 1849 C Street, NW., Washington, DC 20240; telephone 202–208–7456.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 7252, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: October 3, 2002.

Loran Fraser,

Chief, Office of Policy.

[FR Doc. 02–26185 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 28, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by October 30, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Solano County

Brown, Jackson Fay, House, 6751 Maine Prairie Rd., Dixon, 02001289.

GEORGIA

Candler County

Candler County Jail, 349 N. Rountree St., Metter, 02001291.

Chatham County

Eastside Historic District, Roughly bounded by E. Broad, Cedar, Gwinnett and Anderson Sts., Savannah, 02001292.

Glynn County

Colored Memorial School and Rinsley High School, 1800 Albany St., Brunswick, 02001290.

Laurens County

Stubbs Park—Stonewall Street Historic District, Roughly bounded by W. Moore St., Roosevelt St., Bellevue Ave., Marion St., Academy Ave., Lancaster and Thompson Sts., Dublin, 02001293.

Wilkes County

Smith, Robert Shand, House, 902 S. Spring St., Washington, 02001294.

KANSAS

Barton County

Wolf Hotel, 104 E. Santa Fe, Ellinwood, 02001295.

LOUISIANA

Vermilion Parish

Landry Plantation House, (Louisiana's French Creole Architecture MPS), 1320 Gallett Rd., Youngsville, 02001296.

MONTANA

Flathead County

Middle Fork Bridge, Across Middle Fork of Flathead R., West Glacier, 02001297.

PENNSYLVANIA

Washington County

Bethel African American Episcopal Church of Monongahela City, Jct. 7th and Main Sts., Monongahela City, 02001298.

[FR Doc. 02–26184 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meetings.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP provides an organization and process to ensure the use of scientific information in decisionmaking concerning Glen Canyon Dam operations and protection of the affected resources consistent with the Grand Canyon Protection Act. The AMP has been organized and includes a federal advisory committee (the AMWG), a technical work group (the TWG), a monitoring and research center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and information for the AMWG to act upon.

Date and Location: The Glen Canyon Dam Technical Work Group will conduct the following public meeting:

Phoenix, Arizona—November 7–8, 2002. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 2 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs—Western Regional Office, 2 Arizona Center, Conference Rooms A and B (12th floor), 400 North 5th Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the experimental flow status, Low Steady Summer Flow (LSSF) Report on integrated sediment studies, warm water science plan, FY 2004 Annual Work Plan and Budget, the target development process, environmental compliance, and other administrative and resource issues pertaining to the AMP.

Agenda items may be revised prior to any of the meetings. Final agendas will be posted 15 days in advance of each meeting and can be found on the Bureau of Reclamation Web site under Environmental Programs at *http://www.uc.usbr.gov/amp.* Time will be allowed on each agenda for any individual or organization wishing to make formal oral comments (limited to 10 minutes) at the meetings.

To allow full consideration of information by the AMWG or TWG members, written notice must be provided to Randall Peterson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147; telephone (801) 524–3758; faxogram (801) 524–3858; e-mail at *rpeterson@uc.usbr.gov* at least five (5) days prior to the meeting. Any written

comments received will be provided to the AMWG and TWG members at their respective meetings.

FOR FURTHER INFORMATION CONTACT: Randall Peterson, telephone (801) 524–3758; faxogram (801) 524–3858; or via e-mail at *rpeterson@uc.usbr.gov.*

Dated: October 2, 2002.

Randall V. Peterson,

Manager, Adaptive Management and Environmental Resources Division.

[FR Doc. 02–26067 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–030]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 18, 2002 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–421–1 (Market Disruption)(Pedestal Actuators from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination on market disruption to the President on October 18, 2002.).
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: October 10, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–26331 Filed 10–10–02; 2:36 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–031]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 21, 2002 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–1014–1018 (Preliminary) (Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on October 21, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before October 28, 2002.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: October 10, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–26332 Filed 10–10–02; 2:36 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–032]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: October 22, 2002 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–426 and 731–TA–984–985 (Final) (Sulfanilic Acid from Hungary and Portugal)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before November 1, 2002.)
5. Inv. No. 731–TA–749 (Review) (Persulfates from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before October 31, 2002.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 10, 2002.

By order of the Commission:

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–26355 Filed 10–10–02; 3:30 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Douglas L. Geiger, M.D.; Denial of Application

On September 24, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Douglas L. Geiger, M.D. (Dr. Geiger), proposing to deny his pending application for DEA Certificate of Registration as a practitioner, and deny any pending modifications of such application pursuant to 21 U.S.C. 823(f). As a basis for the denial of his pending application, the Order to Show Cause alleged that Dr. Geiger is not currently authorized to handle controlled substances in the State of Georgia. 21 U.S.C. 824(a)(3). The order also notified Dr. Geiger that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Geiger at a location in Riverdale, Georgia. A second copy of the Order to Show Cause was sent by certified mail to Dr. Geiger at a location in College Park, Georgia. DEA received a signed receipt indicating that the Order to Show Cause was received on behalf of Dr. Geiger at that location. Subsequently, and at Dr. Geiger's request, a copy of the Order to Show Cause was sent to him by facsimile on October 9, 2001. DEA received a printed report indicating that the show cause order had been successfully transmitted to the number provided by Dr. Geiger. DEA has not received a request for hearing or any other reply from Dr. Geiger or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Geiger is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Geiger was issued a temporary medical license #0142 on October 6, 1994. That license was extended until December 8, 1994, and subsequently extended on separate occasions until its expiration on October 5, 1995. A second temporary medical license was issued to Dr. Geiger on December 21, 1998, and on February 4, 1999, that license also expired. According to a August 6, 2001 letter contained within the investigative file from the Executive Director of the Composite State Board of Medical Examiners, Dr. Geiger has never been issued a permanent license to practice medicine in the State of Georgia.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See* Carla Johnson, M.D., 66 FR 52939 (2001); Graham Travers Schuler, M.D., 65 FR 50570 (2000); Demetris A. Green, M.D., 61 FR 60,728 (1996).

DEA has also consistently held that a DEA registration may not be maintained if the applicant or registrant lacks state authority to dispense controlled substances, even if such lack of state authorization was the result of the expiration of his/her state registration without further action by the state. *See e.g.,* Mark L. Beck, D.D.S., 64 FR 40899 (1999); Gary D. Benke, M.D., 58 FR 65734 (1993); Carlyle Balgobin, D.D.S., 58 FR 46992 (1993); Charles H. Ryan, M.D., 58 FR 14430 (1993); James H. Nickens, M.D., 57 FR 59847 (1992).

In the instant case, the Deputy Administrator finds that there is evidence demonstrating that Dr. Geiger is not authorized to handle controlled substances in Georgia, the State in which he seeks a DEA registration. Since Dr. Geiger lacks such authority, he is not entitled to a DEA registration in that state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for DEA Certificate of Registration submitted by Douglas L. Geiger, M.D. be, and it hereby is denied. This order is effective November 14, 2002.

Dated: September 30, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–26164 Filed 10–11–02; 8:45 am]

BILLING CODE 4410–09–M

LEGAL SERVICES CORPORATION

Development of a National Reporting System To Collect Performance and ''Outcomes'' Information on the Results of the Services Provided by LSC-funded Grantees to Eligible Clients

AGENCY: Legal Services Corporation.

ACTION: Request for Information on the Development of a National Reporting System to Collect Performance and ''Outcomes'' Information on the Results of the Services Provided by LSC-funded Grantees to Eligible Clients.

SUMMARY: This notice is a request for information for use by the Legal Services Corporation regarding the Development of a National Reporting System to Collect ''Outcomes'' Information on the Results of the Services Provided by LSC-funded grantees to Eligible Clients.

ADDRESSES: Two (2) copies of written submissions should be addressed to Wendy Burnette, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250.

DATES: Information must be submitted by 5 p.m., January 17, 2003. This is an extension of submission date of September 28, 2002 included in a previously published notice for this RFI.

FOR FURTHER INFORMATION CONTACT: Randi Youells or Michael Genz, Legal Services Corporation, 750 1st Street NE., Washington, DC 20002–4250.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) is a private, nonprofit corporation established by the Congress of the United States to ensure equal access to justice under the law by providing legal assistance in civil matter to low-income individuals. LSC is headed by an 11-member board of directors, appointed by the President and confirmed by the Senate.

LSC does not itself provide legal services to low-income Americans. The Corporation is authorized by Congress to make grants and contracts to support the provision of civil legal assistance to clients who meet eligibility requirements. LSC develops and administers policy consistent with Congressional mandate, secures and receives federal appropriations and allocates these appropriations to not-for-profit legal services organizations throughout the county; assures that grantees of LSC funds comply with federal law and regulations; and guarantees the delivery of high quality services to eligible low-income people in the United States and its territories. LSC makes grants to organizations that provide legal assistance to indigent persons throughout the United States, Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, and Micronesia. LSC grants federal dollars to independent local programs chosen through a system of competition.

As a delivery system, legal services programs provide a full range of services to eligible clients. While grantees provide many kinds of services to clients, all are reported to LSC as either cases (the CSR reporting system) or matters (the MSR reporting system). However, neither CSR nor MSR statistics give any information on the outcome of a particular case. In fact, the CSR system reveals very little about a case closed by and LSC-funded grantee other than the following:

- That the grantee accepted the case, that is, the case met the eligibility guidelines established by the program's board and by LSC;
- That the case was ''completed'' or closed within the calendar year covered by the CSR submission;
- The manner in which the case was handled, such as 'advice'; and
- The general area of law in which the case falls (*e.g.*, housing law, family law).

This is perceived as problematic for several reasons:

(1) By simply counting closed cases the CSR system reduces the provision of legal services to a number rather than helping us understand what changes grantees have made in the lives of our clients and their communities.

(2) Reducing to a single number (a ''closed case'') the services that a grantee provides to a client makes the work of grantees seem easy and undemanding.

(3) Because the CSR data do not measure performance and outcomes, it does not allow LSC and its grantees to objectively track whether we are expanding access and improving performance quality as required by LSC's five-year Strategic Plan.

(4) CSR data do not allow for comparisons of grantees in terms of the efficiency and effectiveness of grantees' work for clients. Although we are able to extrapolate ''cost-per-case'' from the CSR data, the data do not enable us to identify which grantees are working ineffectively or do not otherwise meet the standards commonly expected of high quality legal services providers. Conversely, we cannot objectively identify our strongest programs so that we can understand what makes them ''best'' in order to replicate them.

(5) The CSR/MSR data do not present information that allows the legal service community to draw reasonable conclusions about what happened to

those clients who were given advice or brief service, or who received assistance through a service classified by LSC as a ''matter'', such as the receipt of community legal education materials.

Request for Information

LSC invites interested parties to submit written information relevant to the development of outcomes measures for legal services programs. Information provided through public submission will be considered by the Legal Services Corporation in developing a strategy to design a data system to supplant or supplement the current CSR and MSR systems.

Materials submitted should be confined to the specific topic of the study. In particular, the LSC is seeking written submissions on the following topics: Outcomes and related performance measurement systems for legal services programs currently in use across the country; optimal ways to assess equity, quality, and efficiency within and across legal services agencies; the types of performance information that can and should be tracked in a viable performance measurement system; performance measurement in relation to other evaluation activities; the performance measurement development process; and optimal ways of assessing the accuracy and usefulness of performance measurement systems.

Information acquired through this Request for Information process is provided voluntarily, will not be compensated, and will not obligate LSC to pursue any particular course of action or strategy.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 02–26160 Filed 10–11–02; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 10 a.m., Thursday, October 17, 2002.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Quarterly Insurance Fund Report.
2. Request from a Federal Credit Union to Expand its Community Charter.
3. Requests from two Federal Credit Unions to Add Underserved Areas to their Fields of Membership.
4. Approval and Funding for the 2003 Computer Replacement Project.
5. *Final Rule:* Part 704 of NCUA's Rules and Regulations, Corporate Credit Unions.
6. Approval of NCUA's Strategic Plan for 2003–2008.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, October 17, 2002.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action Under Part 702 of NCUA's Rules and Regulations. Closed pursuant to Exemptions (8), (9)(A)(ii) and (9)(B).
2. One (1) Personnel Matter. Closed pursuant to Exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone: 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 02–26333 Filed 10–10–02; 2:36 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On June 3, 2002, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on July 26, 2002 to: David Ainley, Permit No. 2003–002; Paul J. Ponganis, Permit No. 2003–003; William R. Fraser, Permit No. 2003–004, 005, 006; and Mark Buckley, Permit No. 2003–007.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 02–26188 Filed 10–11–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: The National Science Foundation published notices in the **Federal Register** of permit applications received. Permits were issued on October 4, 2002 to:

Notice Published

Randall Davis, June 3, 2002, Permit No. 2003–001; Scott Kelley, September 6, 2002, Permit No. 2003–008; Donal Manahan, September 6, 2002, Permit No. 2003–009; Brenda Hall, September 6, 2002, Permit No. 2003–010; Michael Castellini, September 6, 2002, Permit No. 2003–011; and Robert A. Garrott, September 6, 2002, Permit No. 2003–012.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 02–26189 Filed 10–11–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee

Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: October 22, 2002; 8:30 a.m. to 5 p.m. (EST). October 23, 2002; 8:30 a.m. to 2 p.m. (EST).

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Mary Ann Birchett, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8100.

Purpose of Meeting: To provide advice concerning issues related to the oversight,

integrity, development and enhancement of NSF's business operations.

Agenda

October 22, 2002

AM: Introductions and Updates—Office of Budget, Finance, and Award Management and Office of Information and Resource Management activities.

Presentation and Discussion—NSF Business Analysis; NSF Academy.

PM: Presentation and Discussion—Meet with NSF Deputy Director; Office of Management Discussion—Performance Assessment; Integrating Budget, Cost, and Performance; NIH Presentation on Compliance.

PM: Discussion—Planning for next meeting; feedback; other business.

Reason for Late Notice: This notice is late because there were last minute revisions to the agenda.

Dated: October 9, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–26133 Filed 10–11–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources

Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Education and Human Resources (ACEHR) (#1119).

Date and Time: November 6, 8:30 a.m.–6 p.m., November 7, 8:30 a.m.–3 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Jane T. Stutsman, Deputy Assistant Director Directorate for Education and Human Resources, National Science Foundation, 4201 Wilson Boulevard, Room 805, Arlington, VA 22230, 703–292–8601.

Purpose of Meeting: To provide advice and recommendations concerning NSF support for Education and Human Resources.

Agenda: Discussion of FY 2002 programs of the Directorate for Education and Human Resources and planning for future activities.

Dated: October 8, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–26134 Filed 10–11–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Nine Mile Point Nuclear Station, LLC; Nine Mile Point Nuclear Station, Unit No. 2; Exemption

1.0 Background

Nine Mile Point Nuclear Station, LLC (NMPNS, or the licensee) is the holder of Facility Operating License Nos. DPR–63 and NPF–69, which authorize operation of Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP1 and NMP2), respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors (BWRs) located in Oswego County in New York; this exemption addresses only NMP2.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 54, Section 54.17(c) (10 CFR 54.17(c)) stipulates that an application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license currently in effect.

NMPNS, however, requested a schedular exemption from the 20-year restriction specified in 10 CFR 54.17(c) to allow it to submit a renewal application for NMP2 earlier than 20 years before expiration of its operating license. Such an exemption would allow NMPNS to submit one application for renewal of the operating licenses of both NMP1 and NMP2, with the goal of attaining efficiencies for preparation and review of the application. The current operating license for NMP1 (DPR–63) expires on August 22, 2009, and for NMP2 (NPF–69) on October 31, 2026. By the end of 2003, NMP1 will have more than 34 years of operating experience and NMP2 will have more than 17 years of experience.

By application dated January 4, 2002, as supplemented by letter dated June 27, 2002, NMPNS proposed a schedular exemption from the 20-year restriction in 10 CFR 54.17(c) to allow it to submit a renewal application for NMP2 earlier than 20 years before expiration of its operating license.

3.0 Discussion

Pursuant to 10 CFR 54.15, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 54, in accordance with the provisions of 10 CFR 50.12, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The current operating licenses for NMP1 and NMP2 were issued in accordance with the Atomic Energy Act (AEA), as amended, and 10 CFR 50.51, which limit the duration of an operating license to a maximum of 40 years. In accordance with 10 CFR 54.31, the renewed license will be of the same class as the operating license currently in effect and cannot exceed a term of 40 years. Therefore, the term of the renewed licenses for NMP1 and NMP2, are limited both by Federal statute and the Commission's regulations to 40 years. Additionally, Section 54.31(b) of 10 CFR states that:

> A renewed license will be issued for a fixed period of time, which is the sum of the additional amount of time beyond the expiration of the operating license (not to exceed 20 years) that is requested in a renewal application plus the remaining number of years on the operating license currently in effect. The term of any renewed license may not exceed 40 years.

The potential exists, due to NMPNS's decision to apply early for license renewal for NMP2, that the renewed NMP2 license may not have the maximum 20-year period of extended operation permitted by 10 CFR 54.31(b). Any actual reduction from the maximum of 20 years will depend on the date the renewed NMP2 license is issued.

The Commission's basis for establishing the 20-year limit contained in 10 CFR 54.17(c) is discussed in the 1991 Statement of Consideration for 10 CFR part 54 (56 FR 64963). The limit was established to ensure that substantial operating experience was accumulated by a licensee before a renewal application is submitted, such that any plant-specific concerns regarding aging would be disclosed. While amending the rule in 1995, the Commission sought public comment on whether the 20-year limit should be reduced. The Commission determined that sufficient basis did not exist to generically reduce the 20-year limit. However, the Commission indicated in the Statement of Consideration for the amended rule (60 FR 22488), that it was willing to consider plant-specific exemption requests by applicants who believe that sufficient information is available to justify applying for license renewal prior to 20 years from

expiration of the current license. NMPNS's exemption request is consistent with the Commission's intent to consider plant-specific requests and is permitted by 10 CFR 54.15 (regarding specific exemptions to provisions in part 54).

NMPNS stated that the two units have similar operation, maintenance, use of operating experience, and environment, and, as such, NMP1 operating experience is directly applicable to NMP2. Both units employ BWRs with nuclear steam supply systems provided by General Electric Company, and were constructed by Stone & Webster Engineering Corporation. NMPNS reported that materials of construction for systems, structures, and components on both units are typically identical or similar. Moreover, NMPNS stated that many of the maintenance activities and other existing aging management programs are common to both units; thus, the effectiveness of aging management programs is demonstrated by the experience at both units.

NMPNS also stated that many of the procedures that govern site activities are not unit-specific and require the consideration of operating experience at both units. If an item is potentially applicable to both units, the item is addressed in the plant's corrective action process. Nonconforming or degraded equipment on one unit necessitates consideration of the same condition on the other unit because of the similarities between the two units. Further, NMPNS does not divide the plant organizations by unit and typically assigns personnel to work on either unit.

While the units have common operation, maintenance, use of operating experience, and environment, NMP1 and NMP2 are of different BWR design. NMP1 is a BWR/2 design and NMP2 is a BWR/5 design. The containment designs and thermal output of these two designs are significantly different. In a letter dated May 15, 2002, the NRC requested additional information from NMPNS to justify the applicability of NMP1's BWR/2 operating experience as the basis for the schedular exemption request for NMP2, or to discuss how industry-wide BWR/5 operating experience can supplement NMP2's lack of sufficient operating experience.

In its June 27, 2002, letter, NMPNS compared the NMP1 and NMP2 containment structures and components to those in the applicable sections of the Generic Aging Lessons Learned (GALL) Report. NMPNS stated that the operating experience from NMP1 is applicable to NMP2 with regard to identifying containment structure-related aging effects. The NRC staff reviewed the June 27, 2002, letter and determined that, although there are differences in containment design and configurations between NMP1 and NMP2, both units do exhibit similar aging effects, and their aging effects are comparable to those of the GALL Report. The NRC staff also reviewed NMPNS's assertions that (1) NMP2 also has the benefit of industry operating experience, particularly for those BWRs that have Mark II containments; (2) by October 2003, when NMPNS anticipates submitting the license renewal application (LRA) for NMP2, two BWR units (*i.e.*, LaSalle 1 and Susquehanna 1) with Mark II containments will have accumulated at least 20 years of operating experience and two other units (Columbia and LaSalle 2) will have close to 20 years of operating experience; and (3) the NMP2 LRA will also reflect industry experience identified in the GALL Report as well as other industry programs. The NRC staff finds that the justifications provided by NMPNS for these assertions are based on factual information and are reasonable.

NMPNS compared the NMP1 and NMP2 thermal output, which results in differences in neutron flux and fluence to which the reactor vessel internals (RVI) and reactor vessels are exposed. NMPNS indicated that the differences in thermal output do not significantly affect the reactor coolant temperature. In addition, NMPNS stated that the NMP1 and NMP2 reactor vessel operating temperatures are similar and closely match those specified in the GALL Report for the BWR reactor vessel environment. The NRC staff compared the operating temperatures through the reactor vessel integrity database with those in the GALL Report and found NMPNS's justification reasonable.

NMPNS also provided additional information regarding neutron flux. As a result of higher power density, the NMP2 RVI experience greater neutron flux than the NMP1 RVI. However, as a result of reactor vessel geometry (*i.e.*, a larger annulus between the core shroud and the vessel wall), the NMP2 reactor vessel actually experiences a lower flux than the NMP1 reactor vessel, which results in a lower predicted end-of-life fluence.

In addition, NMPNS indicated that the higher core power density and, correspondingly, a higher fluence for NMP2 may result in the emergence of certain aging effects earlier in plant life than would be the case for NMP1. However, NMPNS stated that it noted no unique aging effects for the NMP2 RVI.

NMPNS also stated that, on an industry-wide basis, the BWR Vessel and Internals Project (BWRVIP) addresses RVI. The BWRVIP reviewed the function of each internal BWR component (including the BWR/2 and BWR/5 designs). For those internals that could impact safety, the BWRVIP considered the aging mechanisms that could cause degradation of such components and developed an inspection program that would enable degradation to be detected before component function was adversely affected. Therefore, NMPNS indicated that the operating experience gained from the BWRVIP could be applied to NMP2 in assisting the identification of plant-specific concerns regarding aging. The NRC staff finds this approach acceptable.

An exemption will not be granted unless special circumstances are present, as defined in 10 CFR 50.12(a)(2). Specifically, 10 CFR 50.12(a)(2)(ii) states that a special circumstance exists when ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' As discussed above, the purpose of the time limit specified in 10 CFR 54.17(c) was ''to ensure that substantial operating experience is accumulated by a licensee before it submits a renewal application.'' The 20-year limit was imposed to ensure that sufficient operating experience was accumulated to identify any plant-specific aging concerns. Although the 20-year requirement of 10 CFR 54.17(c) is specifically applicable to the unit applying for a renewed operating license, the operating experience available to a license renewal applicant is not limited solely to the operating experience accumulated by the unit itself. In the supplementary information accompanying the 1991 publication of the rule, the NRC stated: ''* * * both renewal applicants and the NRC will have the benefit of the operational experience from the nuclear industry and are not limited to information developed solely by the utility seeking a renewed license.'' As discussed above, such operational experience aspect has been acceptably addressed by NMPNS. Therefore, sufficient combined operating experience exists to satisfy the intent of 10 CFR 54.17(c), and the application of the regulation in this case is not necessary to achieve the underlying purpose of the rule. The NRC staff concludes that special

circumstances are present in accordance with 10 CFR 50.12(a)(2)(ii).

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants NMPNS a schedular exemption from the requirements of 10 CFR 54.17(c). Specifically, this schedular exemption allows NMPNS to apply for a renewed license for NMP2 earlier than 20 years before the expiration of the operating license currently in effect.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 62503).

This exemption is effective upon issuance.

Dated in Rockville, Maryland, this 8th day of October, 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–26167 Filed 10–11–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–312]

Sacramento Municipal Utility District; Rancho Seco Nuclear Generating Station; Exemption

1.0 Background

The Sacramento Municipal Utility District (the licensee) is the holder of Facility Operating License No. DPR–54, which authorizes possession of the Rancho Seco Nuclear Generating Station (Rancho Seco). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located in Sacramento County in California. The facility is permanently shut down and defueled and the licensee is no longer authorized to operate or place fuel in the reactor.

2.0 Request/Action

Section 50.54(p) of Title 10 of the Code of Federal Regulations states that ''The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of part 73 of this chapter for effecting the actions and decisions contained in the Responsibility Matrix of the Safeguards Contingency Plan.''

Part 73 of Title 10 of the Code of Federal Regulations, ''Physical Protection of Plant and Materials,'' states that ''This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used.'' Section 73.55 of Title 10 of the Code of Federal Regulations, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,'' states that ''The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

On March 17, 1992, the NRC amended the Rancho Seco operating license to Possession-Only status. On March 20, 1995, the NRC issued the Rancho Seco Decommissioning Order. The Order authorized Rancho Seco decommissioning and accepted the Rancho Seco decommissioning funding plan. By letter dated February 20, 2001, the licensee requested exemptions from the security requirements of 10 CFR 50.54(p) and 10 CFR part 73. Sections 50.54(p) and 73.55 provide security requirements to protect the spent fuel while within the boundary of a licensed power reactor site. The requested exemptions from the security requirements for the Rancho Seco Nuclear Generating Staion would be effective after the spent fuel has been removed from the reactor site by the licensee and relocated to the new independent spent fuel storage installation (ISFSI), which is not physically associated with the reactor site. The new ISFSI has been licensed under 10 CFR part 72 for storage facilities not associated with a reactor site and possesses an approved physical security plan, as required by 10 CFR 72.180 and 10 CFR 73.51. The licensee completed the transfer of the spent nuclear fuel from the spent fuel pool to the ISFSI on August 21, 2002.

Subpart H of 10 CFR part 72 establishes requirements for physical protection for the independent storage of spent nuclear fuel and high-level radioactive waste and refers to 10 CFR 73.51 to define the requirements for physical protection of spent nuclear fuel stored under a specific license issued pursuant to 10 CFR part 72. The Rancho Seco ISFSI has an NRC-approved security plan to protect the spent nuclear fuel stored there from radiological sabotage and diversion, as required by 10 CFR part 72, subpart H.

In summary, by letter dated February 20, 2001, the licensee requested exemptions from the security requirements of 10 CFR 50.54(p) and 10 CFR part 73 to eliminate the security requirements at the 10 CFR part 50 licensed site once all the spent nuclear fuel had been moved to the 10 CFR part 72 licensed ISFSI.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule and when compliance would result in costs significantly in excess of those incurred by others similarly situated. Also, pursuant to 10 CFR 73.5, ''Specific exemptions,'' the Commission may grant exemptions from the regulations in this part as it determines are authorized by law and will not endanger life or property, and are otherwise in the public interest.

With the completion of the spent fuel movement into the ISFSI on August 21, 2002, there is no longer any special nuclear material located within the 10 CFR part 50 licensed site. At this time, the potential for radiological sabotage or diversion of special nuclear material at the 10 CFR part 50 licensed site would be eliminated. The security requirements of 10 CFR part 73, as applicable to a 10 CFR part 50 licensed site, presume that the purpose of the facility is to possess and utilize special nuclear material. Therefore, the continued application of the 10 CFR part 73 requirements to the Rancho Seco facility would no longer be necessary to achieve the underlying purpose of the rule. Additionally, with the transfer of the spent nuclear fuel to the ISFSI, the 10 CFR part 50 licensed site would be comparable to a source and byproduct

licensee in terms of the level of security needed to protect the public health and safety. The continued application of 10 CFR part 73 security requirements would cause the licensee to expend significantly more funds for security requirements than other source and byproduct facilities. Therefore, compliance with 10 CFR part 73 would result in costs significantly in excess of those incurred by others similarly situated. Based on the above, the NRC has determined that the removal of all special nuclear material from the 10 CFR part 50 licensed site constitutes special circumstances. The security of the special nuclear material will be maintained following relocation of the spent nuclear fuel to the 10 CFR part 72 licensed ISFSI since new assurance objectives and general performance requirements will be in place to protect the spent fuel by the security requirements in 10 CFR part 72. Therefore, protection of the special nuclear material will continue following relocation of the spent nuclear fuel from the 10 CFR part 50 licensed site.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest based on the continued maintenance of appropriate security requirements for the special nuclear material. Additionally, special circumstances are present based on the relocation of the spent nuclear fuel from the 10 CFR part 50 licensed site to the 10 CFR part 72 site. Therefore, the Commission hereby grants Sacramento Municipal Utility District an exemption from the requirements of 10 CFR 50.54(p) at the Rancho Seco Nuclear Generating Station.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest based on the maintenance of appropriate security requirements for the special nuclear material under the 10 CFR part 72 license. Therefore, the Commission hereby grants Sacramento Municipal Utility District an exemption from the physical protection requirements of 10 CFR part 73 at the Rancho Seco Nuclear Generating Station.

Pursuant to 10 CFR 51.32, ''Finding of no significant impact,'' the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 36017, July 10, 2001).

These exemptions are effective immediately.

Dated in Rockville, Maryland, this 8th day of October, 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–26168 Filed 10–11–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16]

Virginia Electric and Power Company; Notice of Docketing of the Materials License SNM–2507 Amendment Application for the North Anna Independent Spent Fuel Storage Installation

By letter dated May 28, 2002, Virginia Electric and Power Company (Dominion) submitted an application to the U.S. Nuclear Regulatory Commission (NRC or Commission) in accordance with 10 CFR part 72 requesting an amendment of the North Anna independent spent fuel storage installation (ISFSI) license (SNM–2507) for the ISFSI located in Louisa County, Virginia. Dominion is seeking Commission approval to amend its license to change the ISFSI's technical specifications regarding the type of spent fuel authorized for storage. Dominion has requested to change the technical specifications to allow the storage of spent nuclear fuel with higher initial enrichment and burnup than currently specified.

This application was docketed under 10 CFR part 72; the ISFSI Docket No. is 72–16 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

For further details with respect to this application, see the application dated May 28, 2002, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). The NRC maintains 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 email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 4th day of October, 2002.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–26169 Filed 10–11–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION 2002

Nuclear Safety Research Conference

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The 2002 Nuclear Safety Research Conference (NSRC), formerly known as the Water Reactor Safety Meeting, will be held October 28–30, 2002, from 8:30 a.m. to 5 p.m. at the Marriott Hotel at Metro Center, 775 12th Street, NW., Washington, DC.

The NSRC is an international conference focused on regulatory issues, and it attracts researchers, regulators, and utility representatives from the United States and more than twenty other countries. The NSRC continues to be a leading forum in which participants interact with the Nuclear Regulatory Commission (NRC) staff and colleagues and obtain research results and insights from research programs performed in support of the mission of the NRC.

Ashok C. Thadani, Director of the Office of Nuclear Regulatory Research, will open the conference on Monday, October 28, 2002, at 8:30 a.m., and NRC Executive Director for Operations, William D. Travers, will follow as the keynote speaker.

An expert panel on advanced reactors will discuss the regulatory research

needed to support the licensing of advanced reactor designs and focus on the kind of research needed to resolve technical and policy issues. Panel members will include NRC Commissioner Jeffrey S. Merrifield, Salomon Levy (Levy & Associates), Eugene Grecheck (Dominion Energy, Inc.), Andrew Kadak (Massachusetts Institute of Technology), F. Peter Ford (NRC's Advisory Committee on Reactor Safeguards), and Tom Miller (U.S. Department of Energy).

Technical sessions on advanced reactors and the degradation of reactor coolant boundary materials will be held in the afternoon.

On Tuesday, October 29, 2002, NRC Chairman, Richard A. Meserve, will be the guest speaker at 8:30 a.m.; he will be followed by the first of two fuels sessions. An expert panel on formal decision methods and nuclear safety research will discuss research activities for developing the technical basis and enhancing the transparency and objectivity of decisionmaking in the regulatory environment. Panel members include James W. Johnson (NRC), Martin Virgilio (NRC), Theodore Marston (Electric Power Research Institute), Brian Sheron (NRC), and Robert Youngblood (ISL).

Technical sessions on dry cask storage and transportation of spent nuclear fuels as well as fuels research will be held in the afternoon.

On Wednesday, October 30, 2002, NRC Commissioner Greta J. Dicus will be the quest speaker at 8:30 a.m. An expert panel on risk-informed initiatives will communicate recent improvements in how NRC uses risk information in regulatory decisionmaking and how work in the NRC's Office of Nuclear Regulatory Research supports such uses. Panel members include George Apostolakis (Massachusetts Institute of Technology), Jukka Laaksonen (Finnish Radiation and Nuclear Safety Authority (STUK)), Stephen Floyd (Nuclear Energy Institute), David Lochbaum (Union of Concerned Scientists), and Luis Reyes (NRC).

Technical sessions on control of slightly contaminated materials and on probabilistic risk assessment will be held for the remainder of the day.

This conference includes presentations by personnel from the U.S. Government, national laboratories, private contractors, universities, reactor vendors, and a number of foreign organizations.

Those who wish to attend are encouraged to register in advance on the NSRC website (*http://www.bnl.gov/NSRC*) or by contacting Susan Monteleone, Brookhaven National Laboratory, Department of Nuclear Energy, Building 130, Upton, NY 11973, telephone (631) 344–7235; or Sandra Nesmith (301) 415–6437, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 2nd day of October, 2002.

For the Nuclear Regulatory Commission.

Karen M. Fitch,

Deputy Director, Program Management, Policy Development & Analysis Staff, Office of Nuclear Regulatory Research.

[FR Doc. 02–26166 Filed 10–11–02; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from, September 20, 2002, through October 3, 2002. The last biweekly notice was published on October 1, 2002 (67 FR 61674).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 14, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a

petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: August 28, 2002.

Description of amendments request: The proposed change will revise the expiration date of the facility operating licenses for Palo Verde Nuclear Generating Station Units 1, 2, and 3, to recapture low-power testing time.

Basis for proposed no significant hazards consideration determination:

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714 (d), please see 67 FR 20884; April 29, 2002.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because they do not involve a change to design configuration or operation of the facilities. In addition, each PVNGS [Palo Verde Nuclear Generating Station] unit was designed and constructed to ensure a 40-year service life. Design features were incorporated that provide for inspectability of structures, systems and components during the 40-year service life. Surveillance, inspectability and maintenance practices which have been implemented in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code and the unit Technical Specifications provide assurance that any degradation in plant safety-related equipment will be identified and corrected to provide continued safe operation of each unit throughout the duration of the applicable facility operating license.

The largest recapture period requested by the proposed amendment requests is 8 months (Unit 3). This recapture period represents less than 1.7% of the 40-year service life of the respective unit, and is insignificant from an aging effects perspective. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Response: No.

The proposed amendments would revise the expiration of each facility operating license such that the expiration of each facility operating license is based upon issuance of the respective FPOL [full power operating license] and not upon issuance of the respective LPOL [low power operating license]. No physical changes are being made to the design features or operation of the facilities. Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Response: No.

The proposed amendments would revise the expiration of each facility operating license such that the expiration of each facility operating license is based upon issuance of the respective FPOL and not upon issuance of the respective LPOL. No physical changes are being made to the design features or operation of the facilities.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.*, fuel cladding, reactor coolant system pressure boundary and the containment structure) to limit the radiological dose to the public and control room operators in the event of an accident. The proposed amendments to the facility operating licenses are administrative in nature and have no impact on the margin of safety and robustness provided in the design and construction of the facilities. In addition, the proposed amendments will not relax any of the criteria used to establish safety limits, nor will the proposed amendments relax safety system settings or limiting conditions of operation as defined in the Technical Specifications. Therefore, the proposed amendments do not result in a significant reduction in the margin of safety.

Based on the above information, APS [Arizona Public Service Company] concludes that the proposed amendments present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Section Chief: Stephen Dembek.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: June 11, 2002.

Description of amendments request: The proposed amendment revises Technical Specification (TS) 3.7.11, Spent Fuel Pool Exhaust Ventilation System, for Units 1 and 2 to redefine the applicability of the TS to limit the types of fuel assemblies to which it applies. This proposed amendment revises TS 3.7.11 to not require the ventilation be operable or in operation for the movement of fuel assemblies with an appropriate amount of decay time. An evaluation has determined that 32 days is adequate time to allow for sufficient radioactive decay of short lived isotopes resulting in no increase in offsite dose if the ventilation system were not operable. This change is consistent with changes previously approved for the Improved Standard Technical Specifications as described in Technical Specification Task Force—51.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The system affected by this proposed amendment is the spent fuel pool exhaust ventilation system (SFPEVS). This system mitigates the consequences of a Fuel Handling Incident (FHI) by filtering radioactive iodine from the air above the spent fuel pool prior to that air being exhausted to the environment. This limits the offsite dose possible from a[n] FHI. This proposed amendment revises the Technical Specification applicability for the SFPEVS by defining when the ventilation system is required to limit offsite dose due to a[n] FHI. Because this system is used for the mitigation of an accident, it is not an accident initiator. Therefore, the probability of an accident previously evaluated is not increased.

The only design basis accident originating in the spent fuel pool is the FHI. This accident is evaluated in the Updated Final Safety Analysis Report. The analysis assumed credit for the filtration system. However, a more recent evaluation shows that 32 days after a fuel assembly has been removed from the critical reactor core, adequate radioactive decay has occurred which compensates for the filtration of the ventilation system. Thus, no increase in offsite dose occurs under these conditions. Therefore, the consequences of an accident previously evaluated have not increased.

Therefore, the probability or consequences of an accident previously evaluated have not significantly increased.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The SFPEVS is not being altered by this amendment request. No changes are made in the way in which the SFPEVS is operated or in the way fuel is moved in the spent fuel pool. The only change made would allow some irradiated fuel assemblies to be moved in the spent fuel pool without requiring the operation of the ventilation system. Since no changes are being made to the operation of the SFPEVS when it is needed for offsite dose control and the SFPEVS is a[n] accident mitigating system only, changes in when this system is needed to operate cannot create a new type of accident.

Therefore, the possibility of a new or different [kind] of accident from any previously evaluated is not created.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety provided by the SFPEVS is to limit offsite dose due to a[n] FHI to the limits described in the Updated Final Safety Analysis Report. The evaluation performed indicates that radioactive decay can compensate for the filtration system. Thirty-two days after fuel occupied a critical reactor core, enough radioactive decay has occurred that the offsite dose from a[n] FHI assuming no filtration is the same as the dose determined in the Updated Final Safety Analysis Report. Therefore, no reduction in the margin of safety has occurred because the

offsite dose is the same as the previously approved dose limits.

Therefore, the proposed changes do not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Richard J. Laufer.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: July 17, 2002.

Description of amendment request: The proposed amendment would allow the installation of up to four lead fuel assemblies (LFAs) Manufactured by Westinghouse Electric Company (Westinghouse) into the Unit 2 Cycles 15 and 16 cores. Currently, Technical Specification (TS) 4.2.1, Fuel Assemblies, only allows fuel that is clad with either zircaloy or ZIRLO. The Westinghouse LFAs utilizes advance zirconium-based material for cladding. In addition, the statements currently in TS 4.2.1 concerning the lead test assemblies that were allowed to be inserted for Unit 1 Cycles 13, 14, and 15 will be deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Calvert Cliffs Technical Specification 4.2.1, Fuel Assemblies, states that fuel rods are clad with either zircaloy or ZIRLO. This reflects the requirements of 10 CFR 50.44, 50.46, and 10 CFR Part 50, Appendix K, which also restricts fuel rod cladding materials to zircaloy or ZIRLO. Calvert Cliffs Nuclear Power Plant, Inc. proposes to insert up to four Westinghouse fuel assemblies into Calvert Cliffs Unit 2 that have some fuel rods clad in zirconium alloys that do not meet the definition of zircaloy or ZIRLO. An exemption to the regulations has also been requested to allow these fuel assemblies to be inserted into Unit 2. The proposed change to the Calvert Cliffs Technical Specifications will allow the use of cladding materials that are not zircaloy or ZIRLO for two fuel cycles once the exemption is approved. To obtain approval of new cladding materials, 10 CFR 50.12 requires that the applicant show that the proposed exemption is authorized by law, is consistent with common defense and security, will not present an undue risk to the public health and safety, and is accompanied by special circumstances. The proposed change to the Technical Specification is effective only as long as the exemption is effective. In addition, the statements concerning the exemption for Unit 1 Cycles 13, 14, and 15 have been deleted, since Unit 1 Cycle 15 is completed, and therefore the exemption has expired. The addition of what will be an approved temporary exemption for Unit 2 and the deletion of an expired exception to Technical Specification 4.2.1 does not change the probability or consequences of an accident previously evaluated.

Supporting analyses indicate that since the lead fuel assemblies (LFAs) will be placed in non-limiting locations, the placement scheme and the similarity of the advanced alloy to ZIRLO will assure that the behavior of the fuel rods with this alloy are bounded by the fuel performance and safety analyses performed for the ZIRLO clad fuel rods in the Unit 2 Core. Therefore, the addition of these advanced claddings does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed change does not add any new equipment, modify any interfaces with existing equipment, change equipment's function, or change the method of operating the equipment. The proposed change does not affect normal plant operations or configuration. Since the proposed change does not change the design, configuration, or operation, it could not become an accident initiator.

Therefore, the proposed change does not create the possibility of a new or different [kind] of accident from any previously evaluated.

3. Would not involve a significant reduction in [a] margin of safety.

The margin of safety for the fuel cladding is to prevent the release of fission products. Supporting analyses indicate that since the LFAs will be placed in non-limiting locations, the placement scheme and the similarity of the advanced alloy to ZIRLO will assure that the behavior of the fuel rods with these alloys are bounded by the fuel performance and safety analyses performed for the ZIRLO clad fuel rods in the Unit 2 cores. Therefore, the addition of the advanced cladding does not involve a significant reduction in the margin of safety.

The proposed change will add an approved temporary exemption to the Unit 2 Technical Specifications allowing the installation of up to four Westinghouse LFAs. The assemblies use the advanced cladding materials that are not specifically permitted by existing regulations or Calvert Cliffs' Technical Specifications. A temporary exemption to allow the installation of these assemblies has been requested. The addition of an approved temporary exemption to Technical Specification 4.2.1 is simply intended to allow the installation of the LFAs under the provisions of the temporary exemption. The license amendment is effective only as long as the exemption is effective. This amendment does not change the margin of safety since it only adds a reference to an approved, temporary exemption to the Technical Specifications.

In addition, the words concerning the exemption for Unit 1 Cycles 13, 14, and 15 will be deleted since Unit 1 Cycle 15 is completed, and therefore, the exemption has expired. This change does not change the margin of safety since it only deletes a reference to an expired exemption to the Technical Specifications.

Therefore, the proposed change does not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Richard J. Laufer.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: August 6, 2002.

Description of amendments request: The proposed amendment would revise Technical Specification (TS) 3.9, Refueling Operations, to incorporate two changes previously approved in NUREG–1432, Revision 2, ''Combustion Engineering Improved Standard Technical Specifications'' dated April 2001. One change would add a note to Limiting Condition for Operation 3.9.3 allowing penetration flow path(s) that have direct access from containment atmosphere to the outside atmosphere to be unisolated under administrative control. The other change would replace the requirement in TSs 3.9.4 and 3.9.5 to ''[c]lose all containment penetrations providing direct access from the containment atmosphere to outside atmosphere'' with a set of more detailed and less restrictive requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR part 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Closing the containment penetrations is considered to be a mitigator of the radiological consequences of a fuel handling incident and a loss of SDC [Shutdown Cooling], not an initiator. Therefore, allowing containment penetration flow paths to be unisolated and the containment purge valves to be opened during these outage activities does not involve a significant increase in the probability of an accident previously evaluated.

The consequence of a fuel handling incident is the release of radioactivity from Containment. The impact of the proposed change to the calculated offsite dose resulting from a fuel handling incident has been evaluated and determined to be acceptable. The fuel handling incident analysis assumes no containment closure. The amount of radioactivity that could be released as a result of the proposed change is bounded by the current analysis of record. Therefore, having containment penetration flow paths unisolated during core alterations and fuel handling does not involve an increase in the consequences of an accident previously evaluated.

The consequences of a loss of SDC is the potential for release of radioactivity to the atmosphere outside Containment. Closing containment penetrations is a mitigator of that consequence. Administrative controls will be put in place to ensure that in an emergency containment closure can be quickly achieved. The containment purge system isolation valves are closed automatically on a containment high radiation signal and can be shut by remote manual operation. Therefore, the proposed changes do not involve a significant increase in the consequences of a loss of SDC.

Therefore, the proposed Technical Specification changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

This requested change does not involve a significant change in the operation of the plant and no new accident initiation mechanism is created by the proposed changes. Closing containment penetrations is considered to be a mitigator of the radiological consequences of any accident in the Containment, not an initiator. The containment penetration flow paths are currently opened and closed during the course of an outage. The proposed changes allow them to remain open during a period when they are currently required to be closed.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety for containment closure during core alteration/fuel handling is based on the amount of offsite dose resulting from a fuel handling incident. An offsite dose calculation previously approved by the Nuclear Regulatory Commission for a fuel handling incident assumes no containment closure, and any activity released from the Containment is unfiltered. The analysis will apply to the containment penetration flow paths that could be opened under administrative controls and therefore, does not involve a significant reduction in the margin of safety.

The margin of safety for containment closure in the case of a loss of SDC is twofold: (1) The time required to close the Containment to prevent a radioactive release to the atmosphere outside Containment if SDC is lost; and (2) the ability to retain the pressure generated by boiling of reactor coolant as a result of a loss of SDC.

Currently the Technical Specifications are vague and overly restrictive concerning the requirement for containment closure when SDC is lost. The proposed change eliminates unclear requirements and provides a clear way to establish containment closure that meets the Bases description for the Action, which is to prevent fission products from being released from the Containment during a loss of SDC incident. The containment purge isolation valves close rapidly on a high radiation signal or are closed by remote manual operation. The proposed changes do not increase the possibility of a release of radiation following a loss of SDC incident.

Therefore, the ability to provide containment closure is maintained and the margin of safety is not significantly reduce[d] by this proposed activity.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Richard J. Laufer.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: August 28, 2002.

Description of amendment request: The amendment, proposed by Carolina Power & Light Company to the Harris Nuclear Plant (HNP) Technical Specifications (TS), revises TS 6.9.1.6.2 to add analytical methodology references, which are used to determine core operating limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved by the NRC for use in licensing applications. Plant structures, systems, and components will not be operated in a different manner as a result of these proposed changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved by the NRC for use in licensing applications. Plant structures, systems, and components will not be operated in a different manner as a result of these changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not create the possibility of a new or different type of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved by the NRC for use in licensing applications. Plant structures, systems, and components will not be operated in a different manner as a result of these changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Allen G. Howe

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: August 7, 2002.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) related to safety system settings. Specifically, the proposed changes would revise: (1) TS 1.0 ''Definitions;'' (2) TS 2.2.1 ''Limiting Safety System Settings—Reactor Trip System Instrumentation Setpoints;'' (3) TS 3.3.1 ''Reactor Trip System Instrumentation;'' (4) TS 3.3.2 ''Engineered Safety Features Actuation System Instrumentation;'' (5) TS 3.7.7 ''Control Room Emergency Ventilation System;'' (6) TS 3.8.3.1 ''Onsite Power Distribution—Operating.'' In addition, the appropriate TS Bases would be revised to conform with the proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes associated with the operability requirements, surveillance requirements and allowed outage times will improve usability of the facility Technical Specifications. The proposed changes will clearly reflect the existing plant design for the Reactor Trip System (RTS), Engineered Safety Features Actuation System (ESFAS), Control Room, Emergency Ventilation System, and Electrical Power Systems Instrumentation. The proposed changes will also provide consistency within the individual technical specifications tables (*e.g.* Table 2.2–1, Table 3.3–1, and Table 4.3–1). In addition, there are no hardware changes associated with the proposed changes. Therefore, these systems will continue to perform within the bounds of the previously performed accident analyses.

The proposed changes to the operability requirements will not affect the instrumentation's ability to mitigate the design basis accidents. The proposed allowed outage times (*i.e.* the required action times) are reasonable and consistent with industry guidelines to ensure the affected instrumentation will be restored in a timely manner and provide consistency with the existing plant design. The design basis accidents will remain the same postulated events described in the Millstone Unit No. 3 Final Safety Analysis Report (FSAR), and the consequences of these events will not be affected. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. The proposed changes do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will not reduce the margin of safety since they have no impact on any accident analysis assumption. The proposed changes do not decrease the scope of equipment currently required to be operable or subject to surveillance testing, nor do the proposed changes affect any instrument setpoints or equipment safety functions. The effectiveness of Technical Specifications will be maintained since the changes will not alter the operation of any component or system, nor will the proposed changes affect any safety limits or safety system settings which are credited in a facility accident analysis. Therefore, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Section Chief: James W. Andersen, Acting.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 12, 2002.

Description of amendment request: The proposed amendments would temporarily revise Technical Specification (TS) 3.5.2, ''Emergency Core Cooling System (ECCS);'' TS 3.6.6, ''Containment Spray System;'' TS 3.7.5, ''Auxiliary Feedwater (AFW) System;'' TS 3.7.7, ''Component Cooling Water (CCW) System;'' TS 3.7.8, ''Nuclear Service Water System (NSWS);'' and TS 3.8.1, ''AC Sources—Operating'' for Catawba Nuclear Station, Units 1 and 2. The proposed TS changes will allow the ''A'' NSWS header for each unit to be taken out of service for 7 days for pipe replacement. This pipe replacement is scheduled to occur when Units 1 and 2 are at power operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Catawba is currently pursuing a project to replace a portion of the 'A' train of the nuclear service water system (NSWS) piping for both units. This is necessary to maintain the long-term reliability of the NSWS. This project represents a challenge in that it is not possible to isolate, drain, replace, restore and test the NSWS during the current TS action time frame. The purpose of this submittal is to request a temporary change to the existing TS for the systems affected during the project. This will permit an orderly and efficient project implementation during power operation on both units. The specific change is to extend the TS required action time from 72 hours to 168 hours.

The following discussion is a summary of the evaluation of the changes contained in this proposed amendment against the 10 CFR 50.92(c) requirements to demonstrate that all three standards are satisfied. A no significant hazards consideration is indicated if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. Involve a significant reduction in a margin of safety.

First Standard

The pipe replacement project for the NSWS and proposed TS changes have been evaluated to assess their impact on normal operation of the systems affected and to ensure that the design basis safety functions are preserved. During the pipe replacement the other NSWS train will be operable and no major maintenance or testing will be done on the operable train. The operable train will be protected to help ensure it would be available if called upon.

This pipe replacement project will enhance the long term structural integrity in the NSWS system. This will ensure that the 'A' NSWS header maintains its flow margin to ensure its ability to comply with design basis requirements and increase the overall reliability for many years.

The increased NSWS train unavailability as a result of the implementation of this amendment does involve a one time increase in the probability or consequences of an accident previously evaluated during the time frame the NSWS header is out of service for pipe replacement. Considering this small time frame for the 'A' NSWS train outage with the increased reliability and the decrease in unavailability of the NSWS system in the future because of this project, the overall probability or consequences of an accident previously evaluated will decrease.

An evaluation was performed utilizing PRA [probabilistic risk analysis] for

extending the NSWS TS time limit from 72 hours to 168 hours. The [CDF] core damage frequency contribution from the proposed outage extension is judged to be acceptable for a one-time, or rare, evolution. Considering the change in CDF associated with the outage extension in the framework of an average over a five-year period, the average annual contribution is considered a low-to-moderate increase in the CDF for consideration of permanent changes to the licensing basis.

Therefore, because this is a temporary and not a permanent change, the time averaged risk increase is acceptable. The increase in the overall reliability of the NSWS along with the decreased unavailability in the future because of the pipe replacement project will result in an overall increase in the safety of both Catawba units. Therefore, the consequences of an accident previously evaluated remains unaffected and there will be minimal impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed temporary TS changes do not affect the basic operation of the ECCS [emergency core cooling system], containment spray system, NSWS, AFW [auxiliary feedwater], CCW [component cooling water], or EDG [emergency diesel generator] systems. The only change is increasing the required action time frame from 72 hours to 168 hours (ECCS, containment spray system, NSWS, AFW, CCW, and EDG). During the project, contingency measures will be in place to provide additional assurance that the affected systems will be able to complete their design functions. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant, which will introduce any new accident causal mechanisms.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed temporary TS amendment. During the 'A' NSWS train outage, the affected systems will still be capable of performing their required functions and contingency measures will be in place to provide additional assurance that the affected systems will be maintained in a condition to be able to complete their design functions. No safety margins will be impacted.

The probabilistic risk analysis conducted for this proposed amendment demonstrated that the CD[F] associated with the outage extension is judged to be acceptable for a one-time or rare evolution. Therefore, there is not a significant reduction in the margin of safety.

Based upon the preceding discussion, Duke Energy has concluded that the proposed amendment for a temporary one time TS change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: John A. Nakoski.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: September 3, 2002.

Description of amendment request: The proposed changes to the Columbia Generating Station Technical Specifications (TSs) are to: (1) Add depleted uranium to the fuel assembly composition description in TS 4.2.1, (2) revise TS 5.6.5.b to incorporate references to the analytical methods used to determine core operating limits and remove those that are no longer used, and (3) format the revised references as described in Industry/Technical Specification Task Force (TSTF) Traveler, TSTF–363, ''Revised Topical Report References in ITS [Improved Technical Specifications] 5.6.5, COLR [Core Operating Limits Report].''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Assembly and core designs employing depleted uranium are employed in other reactors and are within the FRA–ANP fuel design methods and experience base. There will be no change to the composition of the fuel pellets (*i.e.*, UO_2) containing the depleted uranium except for a slight decrease in the amount of U_{235}. Therefore the use of depleted uranium in the fuel rods does not affect the mechanical performance of the rods. Flux profile measurements performed on these core designs correlate with calculated values in a manner consistent with fuel assembly designs that do not include depleted uranium.

Core operating limits are established to support Technical Specification 3.2, Power Distribution, requirements which ensure that fuel design limits are not exceeded during any conditions of normal operation or in the event of any Anticipated Operational Occurrence (AOO). The methods used to determine the core operating limits for each operating cycle are based on methods previously found acceptable by the NRC and listed in TS section 5.6.5.b. A change to TS section 5.6.5.b is requested to include the FRA–ANP methods in the list of approved methods applicable to Columbia Generating Station. Application of these approved methods will continue to ensure that acceptable operating limits are established to protect the fuel cladding integrity during normal operation and AOOs.

The requested Technical Specification changes do not involve any plant modifications or operational changes that could affect system reliability, performance, or possibility of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident mitigation systems, and do not introduce any new accident initiation mechanisms.

Therefore, these changes do not increase the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Assembly and core designs employing depleted uranium are within the capability of the NRC-approved FRA–ANP fuel design methods. There will be no change to the composition of the fuel pellets (*i.e.*, UO_2) containing the depleted uranium except for a slight decrease in the amount of U_{235}. Therefore the use of depleted uranium in the fuel rods does not affect the mechanical performance of the rods.

Changes to the methodologies listed in the TS are administrative. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The core operating limits will continue to be developed using NRC-approved methods that account for the mixed fuel core design. The proposed methods do not result in any new precursors to an accident.

Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Assembly and core designs employing depleted uranium are within the capability of the NRC-approved FRA–ANP fuel design methods. There will be no change to the composition of the fuel pellets (*i.e.*, UO_2) containing the depleted uranium except for a slight decrease in the amount of U_{235}. Therefore the use of depleted uranium in the fuel rods does not affect the mechanical performance of the rods.

The core operating limits will continue to be determined using methodologies that have been approved by the NRC.

On this basis, the implementation of the changes does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas C. Poindexter, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: September 19, 2002.

Description of amendment request: The proposed amendments would add a new analytical method to Technical Specifications (TS) Section 5.6.5, ''Core Operating Limits Report (COLR).'' The proposed change supports the core design efforts currently in process for the upcoming Unit 2 refueling outage scheduled to begin in January 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to LaSalle County Station, Unit 1 and Unit 2 Technical Specifications (TS), involves reference to a new fuel analytical method in TS Section 5.6.5, ''Core Operating Limits Report (COLR).'' This code package supports the methodology currently being used by Framatome-ANP in the reload design and analysis process.

The proposed change to TS Section 5.6.5 will add to the list of methods used to determine the core operating limits, the fuel analytical method that supports design of the LaSalle County Station Unit 2 Cycle 10 reload that is currently scheduled to startup on February 5, 2003. The addition of the approved method to TS Section 5.6.5 has no effect on any accident initiator or precursor previously evaluated and does not change the manner in which the core is operated. The NRC approved method has been reviewed to ensure that the output accurately models predicted core behavior, has no affect on the type or amount of radiation released, and has no affect on predicted offsite doses in the event of an accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to TS Section 5.6.5 does not affect the performance of any LaSalle County Station structure, system, or component credited with mitigating any accident previously evaluated. The use of a new analytical method, which has been reviewed and approved by the NRC for the design of a core reload, will not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. The proposed change does not introduce any new modes of system operation or failure mechanisms.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to TS Section 5.6.5 adds the current analytical method for design and analysis of core reloads to the list of methods used to determine the core operating limits. The NRC has approved for use by licensees the analytical method being added. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated, and does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, Exelon Generation Company concludes that the proposed amendment presents a no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: August 7, 2002.

Description of amendment request: The proposed amendments would: (1) Revise the surveillance frequency for air or smoke flow testing of containment spray nozzles, as specified in surveillance requirements (SRs) 4.6.2.1.d and 4.6.2.2.f, from once per 10 years to following maintenance which results in the potential for nozzle blockage and allows the use of a visual examination in lieu of an air or smoke flow test; (2) eliminate the SR 4.6.2.2.e.3 criteria for the river water flow rate through the Recirculation Spray System heat exchangers; and (3) make minor clarifying changes to the text in Technical Specification 3.3.1.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes to the containment spray system nozzle surveillance frequency, the manner in which the nozzles are verified to be unobstructed, and the elimination of the associated Recirculation Spray System (RSS) flow rate requirement does not introduce an initiator of any design basis accident or event. The proposed changes do not adversely affect accident initiators or precursors nor alter the configuration of the facility or the manner in which the plant is maintained. The river/service water system monitoring program ensures that the river/service water flow through the RSS heat exchangers will be maintained. The proposed changes to provide alternate wording for the P–13 function in the Reactor Protection System solely for clarification of the current criteria does not adversely affect accident initiators or precursors. Thus, the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. Introduction of foreign materials into the containment spray system from the exterior is unlikely due to the location of the spray headers, the passive nature of the nozzles, station foreign material controls, and the fact that the containment spray headers are maintained dry above the water level maintained in the Recirculation Water Storage Tank which inhibits active degradation mechanisms such as corrosion. The proposed amendment to eliminate the associated RSS flow rate requirements and the text clarification for the P–13 function do not introduce an initiator of any design basis accident or event. The proposed changes are consistent with the safety analysis assumptions and resultant consequences. Accident analyses potentially affected by the proposed change have been reviewed and none are adversely affected. Thus, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes to the containment spray nozzle surveillance frequency, the manner in which the nozzles are verified to be unobstructed, the elimination of the associated RSS flow rate requirement, and the text clarifications for the P–13 function do not involve any physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed), subsequently no new or different failure modes or limiting single failures are created. The plant will not be operated in a different manner due to the proposed change. All SSCs will continue to function as currently designed. Thus, the proposed change does not create any new or different accident scenarios.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed changes to the containment spray system nozzle surveillance frequency, the manner in which the nozzles are verified to be unobstructed, the elimination of the associated RSS flow rate requirement, and the text clarifications for the P–13 function do not involve revisions to any safety limits or safety system settings that would adversely impact plant safety. No current setpoints are altered by this change. The proposed amendment does not alter the functional capabilities assumed in a safety analysis for any SSCs important to the mitigation and control of design bases accident conditions within the facility. The river/service water system monitoring program ensures that the river/service water flow through the RSS heat exchangers will be maintained.

All of the applicable acceptance criteria for each of the analyses affected by the proposed change continue to be met. The conclusions of the [Updated Final Safety Analysis Report] remain valid. Thus, since the operating parameters and system performance will remain within design requirements and safety analysis, safety margin is maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Richard J. Laufer.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: August 23, 2002.

Description of amendment requests: The proposed amendments would revise Facility Operating Licenses (OLs) DPR–58 and DPR–74, for Unit 1 and Unit 2, respectively, and Technical Specifications (TS) for Unit 1 and Unit 2. The licensee proposes to delete obsolete and/or expired license conditions from the Unit 1 and Unit 2 OLs, and make editorial changes to the Unit 1 and Unit 2 OLs. Administrative changes to specific TS for Unit 1 and Unit 2 are also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The proposed deletion of obsolete and/or expired license conditions from the Unit 1 and Unit 2 OLs is administrative in nature. The deletion of these license conditions has no impact on plant operations since these requirements are no longer applicable. The proposed TS changes, the renumbering of the Unit 2 OL pages, and the correction of a typographical error in the Unit 1 OL are also administrative in nature and do not impact CNP's current design and licensing basis. Since the proposed changes are administrative and do not impact plant operations or design, the changes do not involve any significant increase in the probability or the consequences of any accident or malfunction of equipment important to safety previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed deletion of obsolete and/or expired license conditions from the Unit 1 and Unit 2 OLs is administrative in nature. The proposed TS changes, the renumbering of the Unit 2 OL pages, and the correction of a typographical error in the Unit 1 OL are also administrative in nature. These proposed changes do not impact plant operations or plant equipment in any manner or involve a physical alteration to the plant, nor a change in the methods used to respond to plant transients that has not been previously analyzed. No new or different equipment is being installed and no installed equipment is being removed or operated in a different manner. Consequently, no new failure modes are introduced and the proposed administrative changes to the Unit 1 and Unit 2 OL do not create the possibility of a new or different kind of accident or malfunction of equipment important to safety from any previously evaluated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed deletion of obsolete and/or expired license conditions from the Unit 1 and Unit 2 OLs does not affect alarm or trip setpoints. The proposed TS changes, the renumbering of the Unit 2 OL pages, and the correction of a typographical error in the Unit 1 OL are administrative in nature and do not impact the condition, design, or performance of any plant structure, system or component. Thus, the results of the accident analyses will not be affected as any input assumptions are protected. The format changes improve readability and appearance and do not alter any requirements. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

In summary, based upon the above evaluation, [Indiana Michigan Power Company] I&M has concluded that the proposed changes involve no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: L. Raghavan.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: August 30, 2002.

Description of amendment requests: The proposed amendments would revise the reactor trip system (RTS) and engineered safety features actuation system (ESFAS) Technical Specification (TS) Surveillance Requirements in TS 3/4.3.1 and TS 3/4.3.2, respectively, by increasing (1) the channel operational test surveillance intervals for analog channels, logic cabinets, and reactor trip breakers (RTBs), and (2) the completion time (CT) and bypass time (BT) for the RTBs in accordance with the evaluation and justifications presented in the referenced document, WCAP–15376, Revision 0, ''Risk-Informed Assessment of the RTS and ESFAS Surveillance Test Intervals and Reactor Trip Breaker Test and Completion Times,'' dated October 2000. Additionally, the proposed amendments would remove Mode 2 applicability for the RTS low pressurizer pressure and high pressurizer water level trips and to add a note to TS Table 4.3–1 clarifying that channel functional testing requirements for the reactor trip bypass breakers are only applicable when they are racked in

and closed for bypassing an RTB. The proposed amendments would also make format and capitalization changes to the affected TS pages that improve the appearance of the TS pages, but do not affect any requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the STIs [surveillance test intervals] and RTB CT and BT reduce the potential for inadvertent reactor trips and spurious actuations, and therefore do not increase the probability of any accident previously evaluated. The proposed changes do not change the response of the plant to any accidents and have an insignificant impact on the reliability of the RTS and ESFAS signals. These changes satisfy the acceptance criteria specified in the NRC's regulatory guidance for evaluating risk-informed changes in RG 1.174 [''An Approach for Using Probabilistic Risk Assessment In Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' dated July 1998] and RG 1.177 [''An Approach for Plant-Specific Risk-Informed Decisionmaking: Technical Specifications,'' dated August 1998]. The RTS and ESFAS will continue to perform their functions with high reliability as originally assumed in the safety analysis, and the increase in risk is within the acceptance criteria of existing regulatory guidance; therefore, there will not be a significant increase in the consequences of any accidents.

The RTS and ESFAS are not accident initiators or precursors in the safety analysis. No new initiators are created by this activity. The proposed changes do not change any RTS or ESFAS setpoints, nor do they alter the accident mitigation function of any system, structure or component, design assumptions, conditions or configuration of the facility, or the manner in which the plant is operated and maintained. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

No new system interfaces or interactions are created. The proposed changes do not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed changes do not result in a change in the manner in which the RTS and ESFAS provide plant protection. The RTS and ESFAS will continue to have the same setpoints after the proposed changes are implemented. The proposed changes to STI, CT, and BT do not change any existing accident scenarios, do not alter assumptions made in the safety analysis, nor create any new or different accident scenarios.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. Redundant RTS and ESFAS trains are maintained, and diversity with regard to the signals that provide reactor trip and engineered safety features actuation is also maintained. All signals credited as primary or secondary, and all operator actions credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in RG 1.174 and RG 1.177.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: L. Raghavan.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 1, 2002.

Description of amendment request: The proposed amendment would revise the containment spray nozzle inspection frequency contained in Technical Specification Surveillance Requirement (SR) 3.6.6.9. Specifically, the inspection frequency would be conducted ''[f]ollowing maintenance which could result in nozzle blockage,'' rather than at the currently specified 10-year frequency. Maintenance which could result in nozzle blockage is controlled by procedures which establish foreign material exclusion (FME) controls. The FME controls require post-maintenance verification of system cleanliness and freedom from foreign materials.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following evaluation supports the finding that operation of the facility in accordance with the proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the surveillance frequency for containment spray nozzle inspections from every ten years to following maintenance which could result in nozzle blockage. Analyzed events are initiated by the failure of plant structures, systems or components. The containment spray system is not considered as an initiator of any analyzed event. The proposed change does not have a detrimental impact on the integrity of any plant structure, system or component that initiates an analyzed event. The proposed change will not alter the operation of, or otherwise increase the failure probability of any plant equipment that initiates an analyzed accident. As a result, the probability of any accident previously evaluated, is not significantly increased.

This change does not affect the plant design. Due to the plant design, the spray headers are maintained dry at the level of the nozzles. Formation of corrosion products is unlikely due to the corrosion resistant materials used in spray header construction. Due to their location at the top of the containment, introduction of foreign material from sources external to the spray nozzles is unlikely. Since loss of foreign material control when working within the affected boundary is the most likely cause for obstruction, testing or inspection following such an occurrence would verify nozzle condition, and the system would be capable of performing its safety function. As a result, the consequences of any accident previously evaluated are not significantly affected.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant or a change in the methods governing normal plant operation. No new or different type of equipment will be installed. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The margin of safety for this system is based on the capacity of the spray headers. Since the system is not susceptible to corrosion induced obstruction or obstruction

from sources external to the spray nozzles, and performance of maintenance on the system would require evaluation of the potential for nozzle blockage and the possible need for a test or inspection, the likelihood that the spray nozzles might be blocked would not be affected by the reduction in surveillance frequency. Therefore, the capacity of the system would remain unaffected. Hence, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: L. Raghavan.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: July 31, 2002.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS). The proposed amendments represent a full implementation of an alternative source term (AST) for the Units 1, 2, and 3 operating licenses. The amendments adopt the AST methodology by revising the current accident source term and replacing it with an accident source term as prescribed in 10 CFR 50.67.

The AST analyses were performed using the guidance provided by Regulatory Guide 1.183, ''Alternative Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' dated July 2000, and Standard Review Plan Section 15.0.1, ''Radiological Consequences Analyses Using Alternative Source Terms.'' The four limiting design basis accidents (DBAs) considered were the Control Rod Drop Accident, the Refueling Accident, the Loss of Coolant Accident, and the Main Steam Line Break Accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The AST and those plant systems affected by implementing AST do not initiate DBAs. The AST does not affect the design or operation of the facility; rather, once the occurrence of an accident has been postulated, the new source term is an input to evaluate the consequences. The implementation of the AST has been evaluated in the analyses for the limiting DBAs at BFN. The equipment affected by the proposed change is mitigative in nature and relied upon following an accident. The proposed changes to the TS do revise certain performance requirements. However, these changes will not involve a revision to the parameters or conditions that could contribute to the initiation of a design basis accident discussed in Chapter 14 of the BFN Updated Final Safety Analysis Report.

Plant specific radiological analyses have been performed and, based on the results of these analyses, it has been demonstrated that the dose consequences of the limiting events considered in the analyses are within the regulatory guidance provided by the NRC for use with the AST. This guidance is presented in 10 CFR 50.67, Regulatory Guide 1.183, and Standard Review Plan Section 15.0.1. Therefore, the proposed amendment does not result in a significant increase in the consequences or a significant increase in the probability of any previously evaluated accident.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of AST does not alter any design basis accident initiators. These changes do not affect the design function or mode of operations of systems, structures, or components in the facility prior to a postulated accident. Since systems, structures, and components are operated essentially no differently after the AST implementation, no new failure modes are created by this proposed change. Therefore, the proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The changes proposed are associated with a revision to the licensing basis for BFN. The results of accident analyses revised in support of the proposed change are subject to the acceptance criteria in 10 CFR 50.67. The analyzed events have been carefully selected, and the analyses supporting this submittal have been performed using approved methodologies. The dose consequences of these limiting events are within the acceptance criteria provided by the regulatory guidance as presented in 10 CFR 50.67, Regulatory Guide 1.183, and SRP 15.0.1.

Therefore, because the proposed changes continue to result in dose consequences within the applicable regulatory limits, the changes are considered to not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and based on this review, it appears that the three standards are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: August 1, 2002.

Description of amendment request: The proposed amendment would revise the Browns Ferry design and licensing basis as described in section 14.5.2.8 of the Updated Final Safety Analysis Report (UFSAR) to eliminate consideration of a pressure regulator downscale failure event as an abnormal operational transient.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment involves a change in transient analysis assumptions and does not change the plant or the manner in which it is operated. Therefore, the amendment has no affect on the probability of an accident. The proposed amendment is based upon upgrades and reliability improvements made to the main turbine generator electro-hydraulic control system, which render the analysis of a Pressure Regulator Downscale Failure event and consideration of the associated consequences unnecessary. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment involves a change in transient analysis assumptions and does not change the plant or the manner in which it is operated. The only event affected, the Pressure Regulator Failure Downscale transient, is of a type already considered. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment eliminates the consideration of the Pressure Regulator Downscale Failure event as an abnormal

operational transient based on the low likelihood of occurrence of such an event due to improvements in the system design of the main turbine electro-hydraulic control system. Other abnormal operational pressurization transients as described in the UFSAR will continue to be analyzed and ensure required margins of safety to fuel thermal limits are maintained. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety. In conclusion, the proposed amendment does not adversely affect the public health and safety, and does not involve any significant safety hazards.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 7902.

NRC Section Chief: Allen G. Howe.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: September 3, 2002.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC in its application dated September 3, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of amendment request: August 20, 2002.

Description of amendment request: The proposed amendment would revise Technical specifications (TSs) Table 3.3.6.1–1, Function 5.a, Reactor Water Cleanup (RWCU) System Isolation, Main Steam Valve Vault Area Temperature—High, to extend the frequency of the channel calibration Surveillance Requirement (SR) from 122 days to 24 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment changes the channel calibration surveillance frequency from 122 days to 24 months. Under certain circumstances, TS SR would allow a maximum surveillance interval of 30 months for the SR. An instrumentation calculation in

accordance with the guidelines of Generic Letter 91–04 has shown that the reliability of protective instrumentation will be preserved for the maximum allowable surveillance interval. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of new or different kind of accident from any accident previously evaluated?

No. The proposed change simply extends the channel calibration interval of instrumentation from 122 days to 24 months and does not affect plant modes of operation. Hence, the change does not create the possibility of any new failure mechanisms. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

No. The proposed amendment changes the instrument channel calibration surveillance interval from 122 days to 24 months. An instrumentation calculation in accordance with the guidelines of Generic Letter 91–04 has shown safety margins are preserved with the extended surveillance interval and that the TS allowable values are not changed. Therefore, it is concluded that the proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment changes the instrument channel calibration surveillance internal from 122 days to 24 months. An instrumentation calculation in accordance with the guidelines of Generic Letter 91–04 has shown safety margins are preserved with the extended surveillance interval and that the TS allowable values are changed. Therefore, it is concluded that the Proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: September 3, 2002.

Description of amendment request: The proposed amendment would revise technical specifications Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period would be extended from the current limit of up to 24 hours, or up to the limit of the surveillance frequency interval, whichever is ''less,'' to up to 24 hours, or up to the limit of the surveillance frequency interval, whichever is ''greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). TVA reviewed the following proposed NSHC determination published in the **Federal Register** as part of the Consolidated Line Item Improvement Process for Technical Specification Task Force item 358, and concluded in its application of September 3, 2002, that the proposed NSHC determination applied to Watts Bar.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Nuclear Management Company, LLC, Docket No. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Manitowoc County, Wisconsin

Date of amendment request: April 30, 2002.

Brief description of amendment request: The proposed amendment would increase the licensed reactor core power level by 1.4 percent from 1518.5 MWt to 1540 MWt.

*Date of publication of individual notice in **Federal Register:*** September 11, 2002 (67 FR 57630).

Expiration date of individual notice: October 11, 2002.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: August 1, 2001, and as supplemented by letters dated June 19 and September 9, 2002.

Brief description of amendment: The amendment revises technical specification requirements that have been superseded based on the licensed operator training program being accredited by the Institute of Nuclear Power Operations, promulgation of the revised 10 CFR Part 55, and adoption of a systems approach to training as required by 10 CFR 50.120.

Date of issuance: September 24, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 154.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** October 31, 2001 (66 FR 55009). The supplemental letters dated June 19 and September 9, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 2002.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 26, 2002, as supplemented on August 1, 2002.

Brief description of amendment: The amendment revised the safety limit minimum critical power ratio values for Cycle 19 in Section 2.1.A of the Technical Specifications, and made several editorial or administrative corrections.

Date of Issuance: September 26, 2002.

Effective date: September 26, 2002, and shall be implemented before Cycle 19 startup.

Amendment No.: 233.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** August 6, 2002 (67 FR 50949). The August 1, 2002, letter provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 26, 2002.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: August 1, 2001 as supplemented by letters dated June 19, July 19, and September 9, 2002.

Brief description of amendment: The amendment revised, clarified, and deleted, as appropriate, requirements regarding Facility Staff Qualifications and licensed operator and non-licensed personnel training programs. The changes revised requirements that have been superseded based on licensed operator training programs being accredited by the Institute for Nuclear Power Operations, promulgation of the revised 10 CFR Part 55, ''Operator's Licenses,'' which became effective on May 26, 1987, and adoption of a systems

approach to training as required by 10 CFR 50.120, ''Training and qualification of nuclear power plant personnel.''

Date of issuance: September 23, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 241.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55009). Exelon's June 19, July 19, and September 9, 2002, letters provided clarifying information within the scope of the original application and did not change the NRC staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 2002.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: May 23, 2002, as supplemented July 16, 2002.

Brief description of amendment: The amendment eliminates the requirement to perform response time testing for two reactor protection system functions and two primary containment isolation functions.

Date of issuance: October 2, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 151.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 25, 2002 (67 FR 42818). The July 16, 2002, supplemental letter provided additional clarifying information that was within the scope of the original application and did not change the Nuclear Regulatory Commission staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–245, 50–336, and 50–423 Millstone Power Station, Unit Nos. 1, 2, and 3 New London County, Connecticut

Date of application for amendment: November 8, 2001, as supplemented August 14, 2002.

Brief description of amendment: The amendments incorporate administrative and editorial changes into the Millstone Unit No. 1 Permanently Defueled Technical Specifications (PDTS) and the Millstone Unit Nos. 2 and 3 Technical Specifications (TSs).

Date of issuance: September 17, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 111, 270 and 212.

Facility Operating License Nos. DPR–21, DPR–65, and NPF–49: This amendment revises the Unit No. 1 PDTS and the Units 2 and 3 TSs.

Date of initial notice in ***Federal Register:*** December 12, 2001 (66 FR 64290). The August 14, 2002, letter provided clarifying information that did not change the scope of the proposed action or the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 17, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: October 7, 2001, as supplemented by letter dated August 7, 2002.

Brief description of amendments: The amendments revised the Technical Specifications 5.6.5.a by adding a few parameter limits currently included in the Core Operating Limits Report.

Date of issuance: October 1, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 202 and 195.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 23, 2002 (67 FR 54680). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: October 7, 2001, as supplemented by letter dated August 7, 2002.

Brief description of amendments: The amendments revised the Technical Specifications 5.6.5.a by adding a few parameter limits currently included in the Core Operating Limits Report.

Date of issuance: October 1, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 208 & 189.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 23, 2002 (67 FR 54680). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 2002.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: January 10, 2002.

Brief description of amendment: The amendment revised the technical specifications to extend the surveillance test interval of certain instrument channels from the current 18 months to 24 months.

Date of issuance: September 20, 2002.

Effective date: September 20, 2002, to be implemented within 30 days from the date of issuance.

Amendment No.: 179.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 6, 2002 (67 FR 50951). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2002.

No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: September 24, 2001, as supplemented by letters dated April 22 and July 29, 2002.

Brief description of amendment: The amendment extends the allowed outage time for a Division I or Division II

Emergency Diesel Generator (EDG) from 72 hours to 14 days. The changes are intended to provide flexibility in scheduling EDG maintenance activities, reduce refueling outage duration, and improve EDG availability during plant shutdowns.

Date of issuance: September 25, 2002.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 125.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 12, 2001 (66 FR 64292). The April 22 and July 29, 2002, supplemental letters provided clarifying information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: January 31, 2002, as supplemented by letter dated September 9, 2002.

Brief description of amendment: The amendment changed administrative Technical Specification 5.5.16 regarding the Containment Integrated Leak Rate Testing (ILRT) to allow a one-time extension of the interval (to 15 years) for performance of the next ILRT.

Date of issuance: September 24, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 219.

Renewed Facility Operating License No. DPR–51: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 19, 2002 (67 FR 7417). The September 09, 2002, supplemental letter provided clarifying information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: August 1, 2001, as supplemented by letters dated June 19 and September 9, 2002.

Brief description of amendments: The amendments would revise requirements that have been superseded based on licensed operator training programs being accredited by the Institute for Nuclear Power Operations, promulgation of the revised 10 CFR Part 55, ''Operators'' Licenses,'' which became effective on May 26, 1987, and adoption of a systems approach to training as required by 10 CFR 50.120, ''Training and qualification of nuclear power plant personnel.''

Date of issuance: September 24, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 130 and 125.

Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** October 31, 2001 (66 FR 55018). The supplements dated June 19 and September 09, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 24, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: April 15, 2002, as supplemented July 8, 2002.

Brief description of amendments: The amendments change Technical Specification surveillance requirements and allowable values for reactor vessel steam dome pressure—high instrumentation to reflect replacement of pressure switches with analog units.

Date of issuance: October 2, 2002.

Effective date: As of the date of issuance and shall be implemented within 90 days for Unit 3 and prior to startup from the next refueling outage for Unit 2.

Amendment Nos.: 195 & 188.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** May 28, 2002 (67 FR 36930). The supplement dated July 8, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: May 14, 2002, as supplemented by letter dated September 5, 2002.

Brief description of amendments: These amendments revised technical specification (TS) Surveillance Requirement (SR) 4.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. A TS Bases Control Program is added to the TSs. Additionally, two administrative changes affecting TS Section 6.2.2, ''Unit Staff,'' and Section 6.5.1.2, ''Composition,'' were incorporated.

Date of issuance: October 2, 2002.

Effective date: As of date of issuance and shall be implemented within 60 days.

Amendment Nos.: 162 and 124.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** August 27, 2002 (67 FR 55041). The supplement dated September 5, 2002, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on August 27, 2002 (67 FR 55041).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket No. 50–277, Peach Bottom Atomic Power Station, Unit 2, York County, Pennsylvania

Date of application for amendment: June 10, 2002, as supplemented August 2, 2002.

Brief description of amendment: This amendment revises the Technical Specifications (TSs) for the safety limit for the minimum critical power ratio from its current value of 1.09 to 1.07 for two recirculation-loop operation, and from 1.10 to 1.09 for single recirculation-loop operation.

Date of issuance: September 23, 2002.

Effective date: As of the date of issuance, to be implemented prior to startup for cycle 15 operations, scheduled for September 2002.

Amendment No.: 246.

Facility Operating License No. DPR–44: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 6, 2002 (67 FR 50953). The August 2, 2002, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the application beyond the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 23, 2002.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 21, 2002.

Brief description of amendment: The amendment modifies the Technical Specification Surveillance Requirement 3.7.3.1 to improve consistency with Cooper Nuclear Station (CNS) Amendment No. 185, approved on March 13, 2001, and eliminate unnecessary restrictions regarding how the reactor equipment cooling system surge tank level is monitored.

Date of issuance: September 18, 2002.

Effective date: September 18, 2002.

Amendment No.: 194

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 2, 2002 (67 FR 15624). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: June 24, 2002.

Brief description of amendment: The amendment revised Surveillance Requirement 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period was extended from the current limit of ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * *up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement was added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of issuance: October 2, 2002.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 107.

Facility Operating License No. NPF–69: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 20, 2002 (67 FR 53987). The staff's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: December 19, 2001, as supplemented April 19, 2002.

Brief description of amendment: The amendment extends the time for completing required action A.1 of TS 3.8.4, ''Electrical Power Systems—DC Sources—Operating,'' for restoring the 125 volt direct current (VDC) electrical power subsystem to operable status. The change, in effect, provides for replacement of 125 VDC batteries 1D1 and 1D2 while the plant is at power. The time is extended on a one-time basis, and for each battery division separately, from 8 hours to 10 days. The one-time change also requires that required features be declared inoperable when the associated 125 VDC source is inoperable and the redundant required features are also inoperable for at least 4 hours.

Date of issuance: October 1, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 247.

Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5329). The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: February 8, 2002, as supplemented June 21, 2002.

Brief description of amendment: Amendment changes Technical Specification 5.0 to be consistent with Technical Specifications Task Force Change No. 258, Revision 4, ''Changes to Section 5.0, Administrative Controls.''

Date of issuance: October 2, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 248.

Facility Operating License No. DPR–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 2, 2002 (67 FR 15625). The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: June 7, 2002, as supplemented August 20 and 29, 2002.

Brief description of amendment: The amendment would revise the Kewaunee Nuclear Power Plant Technical Specification (TS) Sections for administrative changes:

(1) Section 1–''Definitions,'' (2) Section 2–''Safety Limits and Limiting Safety System Settings,'' (3) Section 5–''Design Features,'' and (4) Section 6–''Administrative Controls.''

The administrative changes include capitalizing defined words, formatting section titles, renumbering pages and correcting miscellaneous grammar and punctuation errors.

Date of issuance: September 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 162.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 23, 2002 (67 FR 48220). The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 7, 2002, as supplemented July 19 and September 11, 2002.

Brief description of amendment: The amendment revised the Kewaunee Nuclear Power Plant technical specification (TS) requirements for meeting surveillances in TS 4.0.a, TS requirements for missed surveillances in TS 4.0.c, and TS requirements for a Bases control program consistent with TS Bases Control Program described in Section 5.5 of NUREG–1431, Standard TS for Westinghouse Plants, Revision 2.

Date of issuance: September 24, 2002.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment No.: 163.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 25, 2002 (67 FR 42829). The supplements dated July 19 and September 11, 2002, provided clarifying information that did not change the scope of the May 7, 2002, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 24, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: December 21, 2001, as supplemented April 26, 2002.

Brief description of amendment: The amendment revises Technical Specifiction (TS) Sections 3.7/4.7, ''Containment Systems,'' to (1) clarify existing requirements, (2) make editorial changes, (3) revise limiting conditions for operation (LCOs) and surveillance requirements, and (4) add certain LCOs.

Date of issuance: September 23, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 130.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 14, 2002 (67 FR 34490). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: October 17, 2001, as supplemented June 25, 2002.

Brief description of amendment: The amendment revises the multiplier values for the single-loop operation average planar linear heat generation rate to account for the use of General Electric (GE)14 fuel.

Date of issuance: October 2, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 131.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57122). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2002.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: September 13, 2001, as supplemented by letter dated February 27, 2002.

Brief description of amendments: The amendment revises Technical Specification (TS) 3.7.16, ''Spent Fuel Pool Boron Concentration''; TS 3.7.17, ''Spent Fuel Assembly Storage—Region 1/Region 2''; and TS 4.3, ''Fuel Storage,'' for Diablo Canyon Nuclear Power Plant Units 1 and 2, to allow the use of credit for soluble boron in the spent fuel pool criticality analysis.

Date of issuance: September 25, 2002.

Effective date: September 25, 2002, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–154; Unit 2–154.

Facility Operating License Nos. DPR–80 and DPR–82: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55020). The February 27, 2002, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit 1, Houston County, Alabama

Date of amendment request: March 4, 2002, as supplemented by letter dated July 11, 2002.

Brief Description of amendment: The proposed amendment revises Technical Specifications (TS) 5.5.9.3.a, ''Steam Generator Tube Surveillance Program, Inspection Frequencies.'' Specifically, the proposed changes revise the Farley Nuclear Plant, Unit 1 TS to allow a 40-month inspection interval after its first (post-replacement) inservice inspection, rather than after two consecutive inspections resulting in C–1 classification.

Date of issuance: September 20, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 157.

Facility Operating License No. NPF–2: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 20, 2002 (67 FR 53991). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: September 20, 2001, as supplemented by letters dated January 24, April 25, July 3, and July 16, 2002.

Brief description of amendments: The amendments revise the Technical Specifications to support extension of certain surveillance requirements from ''92 days'' to ''92 days on an alternate test basis.''

Date of issuance: September 26, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 234 and 176.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 28, 2001 (66 FR 59514). The supplements dated January 24, April 25, July 3, and July 16, 2002, provided clarifying information that did not change the scope of the September 20, 2001, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 26, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 2, 2001, as supplemented by letters dated March 6, April 2, and June 25, 2002. The supplemental information provided clarification that did not change the scope or the initial no significant hazards consideration determination.

Brief description of amendments: The amendments revise the Technical Specification permitting a one time extension of Title 10 of the *Code of Federal Regulations,* Part 50, Appendix J, Option B, Performance-Based Leakage-Test Requirements.

Date of issuance: September 17, 2002.

Effective date: September 17, 2002.

Amendment Nos.: Unit 1–143; Unit 2–131.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 6, 2002 (67 FR 50959). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 17, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: March 4, 2002 (TSC 00–04).

Description of amendment request: The amendments relocated certain Technical Specification (TS) surveillance requirements to the Sequoyah Technical Requirements Manual.

Date of issuance: September 5, 2002.

Effective date: September 5, 2002.

Amendment Nos: 277 and 268.

Facility Operating License No. DPR–79: Amendments revise the TSs.

Date of initial notice in ***Federal Register:***April 16, 2002 (67 FR 18648). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 5, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 21, 2001, as supplemented by letters dated June 11, July 19, August 9 and 30, and September 5 and 12, 2002 (TS 00–06).

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to allow irradiation of up to 2256 tritium-producing burnable absorber rods.

Date of issuance: September 30, 2002.

Effective date: As of the date of issuance and shall be implemented prior to irradition of TPBARs.

Amendment Nos.: Unit 1–278, Unit 2–269.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** December 17, 2001 (66 FR 65000). The supplemental letters provided clarifying information that did not expand the application beyond the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated September 23, 2002 (67 FR 59581) and in a Safety Evaluation dated September 30, 2002.

No significant hazards consideration comments received: Comments were received in response to the staff's proposed no significant hazards consideration determination that was published in the December 17, 2001, **Federal Register**, from Dr. Kenneth D. Bergeron and The Blue Ridge Environmental Defense League (BREDL). BREDL's comments incorporated Mr. Bergeron's comments by reference. These comments were addressed by the staff in a letter from Dr. Brian Sheron to Mr. Bergeron dated September 6, 2002, with a copy to BREDL (Accession No. ML022410310).

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 12, 2001, as supplemented September 17, 2002 (TS 01–04).

Brief description of amendments: The proposed amendments would change the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specification (TS) 3/4 6.5.1 and associated Bases to reflect an increase in the ice condenser basket weight from 1071 pounds to 1145 pounds and the total ice condenser ice weight from 2,082,024 pounds to 2,225,880 pounds. This change is being made in response to a reanalysis by Westinghouse Electric Company that identified a modeling input error used in the original analysis.

Date of issuance: September 30, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 279 & 270.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 934). The September 17, 2002, supplement contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: August 20, 2001, as supplemented by letters of October 29, November 14, November 21, December 7, December 19, 2001, and January 14, February 19, February 21, May 21, May 23, and July 30, 2002.

Brief description of amendment: The amendment allows Watts Bar Nuclear Plant, Unit 1, to irradiate up to 2304 tritium-producing burnable absorber rods in the reactor core each fuel cycle.

Date of issuance: September 23, 2002.

Effective date: As of the date of issuance and shall be implemented prior to starting up from the outage where TVA inserts tritium-producing burnable absorber rods in the core.

Amendment No.: 40.

Facility Operating License No. NPF–90: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register****:* December 17, 2001 (66 FR 65005). The supplemental letters provided clarifying information that was within the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated August 20, 2002 (ADAMS Accession No. ML022320905) and in a Safety Evaluation dated September 23, 2002.

No significant hazards consideration comments received: Comments were received in response to the staff's proposed no significant hazards consideration determination (66 FR 65005) from Dr. Kenneth D. Bergeron and The Blue Ridge Environmental Defense League (BREDL). BREDL's comments incorporated Dr. Bergeron's comments by reference. These comments were addressed by the staff in a letter from Dr. Brian Sheron to Dr. Bergeron dated September 6, 2002, with a copy to BREDL (Accession No. ML022410310). The staff made a final determination that the amendment involves no significant hazards consideration, which is contained in the Safety Evaluation dated September 23, 2002.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: October 23, 2001, as supplemented by letters dated July 23, August 29, and September 6, 2002.

Brief description of amendments: The amendments revise TS 5.5.9, ''Steam Generator Tube Inspection Report,'' to permit installation of leak-tight sleeves in the Comanche Peak Steam Electric Station, Unit 1, steam generators as an alternative to plugging defective steam generator tubes.

Date of issuance: September 25, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 101.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* December 26, 2001 (66 FR 66473). The July 23, August 29, and September 6, 2002, supplemental letters provided clarifying information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2002.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: June 17, 2002.

Brief description of amendment: The amendment revises Limiting Conditions for Operation (LCOs), Required Actions for LCOs, Surveillance Requirements, and Tables specifying requirements on instrumentation in the following Technical Specifications: (1) TS 3.3.6, ''Containment Purge Isolation Instrumentation''; (2) TS 3.3.7, ''Control Room Emergency Ventilation System (CREVS) Instrumentation''; (3) TS 3.3.8, ''Emergency Exhaust System (EES) Actuation Instrumentation''; and (4) TS 3.9.4, ''Containment Penetrations.'' The revisions allow the equipment hatch and the emergency air lock to be open in refueling outages during core alterations and/or movement of irradiated fuel within containment.

Date of issuance: September 9, 2002.

Effective date: September 9, 2002, and shall be implemented, including the incorporation of the changes to the Bases of the Technical Specifications and to the Final Safety Analysis Report for Callaway, as described in the licensee's letter of June 17, 2002, prior to entry into Mode 6 during Refueling Outage 12 that is scheduled for the Fall of 2002.

Amendment No.: 152.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* July 23, 2002 (67 FR 48222). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 2002.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: February 26, 2002, as supplemented by letter dated July 15, 2002.

Brief description of amendment: These amendments revise the surveillance frequency of the quench and recirculation spray system nozzles, from a time period of every 10 years to whenever maintenance is conducted that could contribute to nozzle blockage.

Date of issuance: October 1, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 233 and 215.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register****:* April 30, 2002 (67 FR 21296). The supplemental letter dated July 15, 2002, provided clarifying information that did not change the scope of the February 26, 2002, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 2002.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 4th day of October 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–25990 Filed 10–11–02; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in October 2002. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in November 2002. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the fourth quarter (October through December) of 2002.

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

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. The required interest rate is the ''applicable percentage'' (currently 100 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). (Although the Treasury Department has ceased issuing 30-year securities, the Internal Revenue Service announces a surrogate yield figure each month—based on the 30-year Treasury bond maturing in February 2031—which the PBGC uses to determine the required interest rate.)

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in October 2002 is 4.76 percent.

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between November 2001 and October 2002.

For premium payment years beginning in:	The required interest rate is:
November 2001	4.52
December 2001	4.35
January 2002	5.48
February 2002	5.45
March 2002	5.40
April 2002	5.71
May 2002	5.68
June 2002	5.65
July 2002	5.52
August 2002	5.39
September 2002	5.08
October 2002	4.76

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-Employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the fourth quarter (October through December) of 2002, as announced by the IRS, is 6 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From—	Through—	Interest rate (percent)
7/1/96	3/31/98	9
4/1/98	12/31/98	8
1/1/99	3/31/99	7
4/1/99	3/31/00	8
4/1/00	3/31/01	9
4/1/01	6/30/01	8
7/1/01	12/31/01	7
1/1/02	12/31/02	6

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the fourth quarter (October through December) of 2002 (*i.e.*, the rate reported for September 16, 2002) is 4.75 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Interest rate (percent)
4/1/96	6/30/97	8.25
7/1/97	12/31/98	8.50
1/1/99	9/30/99	7.75
10/1/99	12/31/99	8.25
1/1/00	3/31/00	8.50
4/1/00	6/30/00	8.75
7/1/00	3/31/01	9.50
4/1/01	6/30/01	8.50
7/1/01	9/30/01	7.00
10/1/01	12/31/01	6.50
1/1/02	12/31/02	4.75

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in

November 2002 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of October, 2002.

Joseph H. Grant,

Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 02–26112 Filed 10–11–02; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25766; File No. 812–12742]

Minnesota Life Insurance Company, et al.; Notice of Application

October 8, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of an offer of exchange.

APPLICANTS: Minnesota Life Insurance Company (''Minnesota Life''), Minnesota Life Variable Life Account (the ''Variable Life Account''), and Securian Financial Services, Inc. (''Securian Financial,'' collectively with Minnesota Life and the Variable Life Account, the ''Applicants'').

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 11(a) of the Act approving the terms of a proposed offer of exchange of new variable adjustable life insurance policies issued by Minnesota Life and made available through the Variable Life Account (the ''New Policies'') for certain outstanding variable adjustable life insurance policies issued by Minnesota Life and made available through the Variable Life Account (''VAL ''87'' or ''VAL ''95,'' collectively, the ''Old Policies;'' collectively with the New Policies, the ''Policies'').

FILING DATE: The Application was filed on December 31, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 1, 2002, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Anna Marie Ettel, Esq., Minnesota Life, 400 Robert Street North, St. Paul, MN 55101–2098; copies to W. Randolph Thompson, Esq., Of Counsel, Jones & Blouch L.L.P., 1025 Thomas Jefferson Street, NW., Suite 410E, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Martha Atkins, Senior Counsel, or Lorna J. MacLeod, Branch Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 ((202) 942–8090).

Applicants' Representations

1. Minnesota Life is a life insurance company organized under the laws of Minnesota. Minnesota Life was formerly known as The Minnesota Mutual Life Insurance Company, a mutual life insurance company organized in 1880 under the laws of Minnesota. Effective October 1, 1998, The Minnesota Mutual Life Insurance Company reorganized by forming a mutual insurance holding company named ''Minnesota Mutual Companies, Inc.'' The Minnesota Mutual Life Insurance Company continued its corporate existence following conversion to a Minnesota stock life insurance company. All of the shares of the voting stock of Minnesota Life are owned by a second tier intermediate stock holding company named ''Securian Financial Group, Inc.,'' which is a wholly-owned subsidiary of a first tier intermediate stock holding company named ''Securian Holding Company,'' which in turn is a wholly-owned subsidiary of the ultimate parent, Minnesota Mutual Companies, Inc.

2. The Variable Life Account was established on October 21, 1985, by the Minnesota Life Board of Trustees in accordance with certain provisions of Minnesota insurance law. Minnesota Life is the legal owner of the assets in the Variable Life Account. The obligations to Policy owners and beneficiaries arising under the Policies are general corporate obligations of Minnesota Life and thus Minnesota Life's general assets back the Policies. The Minnesota law under which the Variable Life Account was established provides that the assets of the Variable Life Account shall not be chargeable with liabilities arising out of any other business which Minnesota Life may conduct, but shall be held and applied exclusively to the benefit of the holders of those variable life insurance policies for which the separate account was established. The investment performance of the Variable Life Account is entirely independent of both the investment performance of Minnesota Life's General Account and of any other separate account which Minnesota Life may have established or may later establish. The Variable Life Account is organized and registered under the Act as a unit investment trust (File No. 811–4585) and is a ''separate account'' as defined in section 2(a)(37) of the Act.

3. Securian Financial is registered with the Commission as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. Securian Financial is the principal underwriter for the Policies. Securian Financial is a wholly-owned subsidiary of Advantus Capital Management, Inc., which in turn is a wholly-owned subsidiary of Minnesota Life.

The New Policies

4. The New Policies are offered pursuant to a registration statement under the Securities Act of 1933 (the ''1933 Act'') filed on February 8, 2000 (File No. 333–96383).

5. The New Policies are variable adjustable life insurance policies that permit the Policy owner to determine the amount of life insurance protection he or she requires and the amount of money the Policy owner can afford to pay. Based on the Policy owner's selection of the premium, face amount and death benefit option, Minnesota Life will calculate the guaranteed plan of insurance. Subject to certain minimums, maximums, and Minnesota Life's underwriting standards, a Policy owner may choose any level of premium or death benefit he or she wishes. This flexibility results in a broad range of plans of insurance.

6. The New Policies have a level premium for a specified number of years, for the life of the insured, or until the Policy becomes paid up.

7. Policy values of the Old and New Policies may be invested in the Variable

Life Account or in the general account option. The Variable Life Account currently has 25 sub-accounts to which a Policy owner may allocate premiums (the ''Sub-Accounts''). Each Sub-Account invests in shares of a corresponding portfolio of the underlying mutual funds (''Underlying Funds''). Following is a list of the Underlying Funds: Advantus Series Fund, Inc.: Growth Portfolio, Bond Portfolio, Money Market Portfolio, Asset Allocation Portfolio, Mortgage Securities Portfolio, Index 500 Portfolio, Capital Appreciation Portfolio, International Stock Portfolio, Small Company Growth Portfolio, Value Stock Portfolio, Small Company Value Portfolio, Global Bond Portfolio, Index 400 Mid-Cap Portfolio, Macro-Cap Value Portfolio, Micro-Cap Growth Portfolio, Real Estate Securities Portfolio; Franklin Templeton Variable Insurance Products Trust: Templeton Developing Markets Securities Fund—Class 2 Shares, Templeton Asset Strategy Fund—Class 2 Shares, Franklin Small Cap Fund—Class 2 Shares; Fidelity Variable Insurance Products Funds: Mid Cap Portfolio—Service Class Shares, Contrafund® Portfolio—Service Class 2 Shares, Equity-Income Portfolio—Service Class 2 Shares; and Janus Aspen Series: Capital Appreciation Portfolio—Service Shares, International Growth Portfolio—Service Shares. Amounts invested in the Sub-Accounts are subject to the management fees paid and other expenses incurred by the Underlying Funds.

8. Policy values may also be accumulated on a guaranteed basis by allocation to Minnesota Life's general account (the ''Guaranteed Principal Account''). Guaranteed Principal Account interest is guaranteed to be credited at a rate of at least 4% on an annual basis.

9. Actual cash value may be transferred between the Guaranteed Principal Account and the Variable Life Account or among the Sub-Accounts of the Variable Life Account. A Policy owner may request a transfer at any time while the Policy remains in force, or the Policy owner may arrange in advance for systematic transfers. A transfer is subject to a transaction charge, not to exceed $10, for each transfer of actual cash value among the Sub-Accounts and the Guaranteed Principal Account. Currently, there is a charge only for non-systematic transfers in excess of four per year.

10. Policy values under the New Policies may be accessed by means of partial surrenders, policy loans or total surrender. Interest payable on policy loans will not be more than that permitted in the state in which the Policy is delivered; interest credited on loan accounts established in connection with outstanding loans will be at a rate which is not less than the policy loan interest rate minus 1% per year. If the Policy has been in force for ten years or more, the loan is credited at a rate equal to the policy loan rate minus 0.5% per year.

11. The New Policies offer a choice of two death benefit options: a level death benefit equal to the New Policy's face amount (the ''Cash Option'') or a death benefit equal to the face amount plus policy value (the ''Protection Option''). In either case, the death benefit may be greater if necessary for a New Policy to continue to comply with the tax law definition of life insurance.

12. The minimum face amount of a New Policy is $25,000 if the insured is greater than age 15, and $10,000 if the insured is age 0 to 15.

13. From base premiums, Minnesota Life deducts a Sales Charge, an Additional Face Amount Charge, and a Premium Charge. Premium Charges vary depending on whether the premium is a scheduled premium or a non-repeating premium.

(a) The Sales Charge consists of a deduction from each premium of up to 44% and applies only to base premiums scheduled to be paid in the 12-month period following the policy date, or any policy adjustment involving an increase in base premium or any policy adjustment occurring during a period when a Sales Charge is being assessed. It will also apply only to that portion of an annual base premium necessary for an original issue whole life plan of insurance under the Cash Option. In other words, the amount of any base premium in excess of this amount will not be subject to the Sales Charge. The Sales Charge is designed to compensate Minnesota Life for distribution expenses incurred with respect to the Policies. Only adjustments that involve an increase in base premium will result in an additional Sales Charge being assessed on that increase in premium.

(b) The Additional Face Amount Charge is an amount not to exceed $5 per $1,000 of face amount of insurance. This amount may vary by the age of the insured and the premium level for a given amount of insurance. This charge is made ratably from premiums scheduled to be paid during the first policy year and during the 12 months following certain policy adjustments. The Additional Face Amount Charge is designed to compensate Minnesota Life for the administrative costs associated with issuance or adjustment of the Policies, including the cost of processing applications, conducting medical exams, classifying risks, determining insurability and risk class, and establishing policy records.

(c) The Premium Charge of 6% is deducted from each base premium, approximately 2.5% of which is attributable to state and local premium tax obligations of Minnesota Life in connection with receipt of premiums under the New Policies. This charge is designed to cover the expenses related to premiums, including but not limited to administration, sales load, and taxes.

14. Non-repeating premiums are currently subject to a Premium Charge of 3%. Minnesota Life does not assess a Sales Charge or an Additional Face Amount Charge against non-repeating premiums.

15. In addition to deductions from premiums and non-repeating premiums, Minnesota Life assesses from actual cash value of a Policy, a Monthly Policy Charge, a Cost of Insurance Charge, and certain transaction charges.

(a) The Monthly Policy Charge is $8 plus $0.02 per $1,000 of face amount. The maximum Monthly Policy Charge will never exceed $10 plus $0.03 per $1,000 of face amount. The Monthly Policy Charge is designed to cover certain administrative expenses, including those attributable to a Policy owner's records created and maintained by Minnesota Life.

(b) The Cost of Insurance Charge compensates Minnesota Life for providing the death benefit under a Policy and is calculated based on rates that cannot exceed the maximum charges for mortality derived from the 1980 Commissioners Standard Ordinary Mortality Tables.

(c) Transaction charges consist of up to a $25 charge for each policy adjustment, which compensates Minnesota Life for expenses associated with processing transactions. If the only policy adjustment is a partial surrender, the transaction charge will be the lesser of $25 or 2% of the amount surrendered. Minnesota Life also reserves the right to make a charge, not to exceed $25, for each transfer of actual cash value among the Guaranteed Principal Account and the Sub-Accounts of the Variable Life Account. Currently, there is a $10 charge only for non-systematic transfers in excess of four per year.

16. From the assets held in the Variable Life Account, Minnesota Life assesses a Mortality and Expense Risk charge, deducted on each valuation date at an annual rate of 0.50% of the average daily net assets of the Variable Life Account. Although Minnesota Life reserves the right to charge or make provision for any taxes payable by

Minnesota Life with respect to the Variable Life Account or the Policies by a charge or adjustment to such assets, no such charge or provision is made at the present time. The Mortality and Expense Risk Charge compensates Minnesota Life for assuming the risks that cost of insurance charges will be insufficient to cover actual mortality experience and that the other charges will not cover Minnesota Life's expenses in connection with the Policy.

17. Additional Benefits are offered by Minnesota Life as riders to the New Policies, subject to underwriting approval. These Additional Benefits may require the payment of additional premium. The Additional Benefits include a Waiver of Premium Agreement, an Inflation Agreement, a Business Continuation Agreement, a Family Term Rider, an Exchange of Insureds Agreement, and an Accelerated Benefits Agreement.

The Old Policies

18. The Old Policies are offered pursuant to registration statements under the Securities Act of 1933 (File Nos. 333–03233 and 333–64395).

19. The Old Policies are variable adjustable life insurance policies that permit the Policy owner to select any two of the three components of a Policy—face amount, premium and plan of insurance—and Minnesota Life will then calculate the third. Subject to certain minimums, maximums and Minnesota Life's underwriting standards, a Policy owner may choose any level of premium or face amount that he or she wishes.

20. The Old Policies have a level premium for a specified number of years, for the life of the insured, or until the Policy becomes paid up. If, however, the Policy owner selects a premium amount which is less than the premium required for a whole life plan of insurance (or, in other words, if the Policy owner selects a ''protection plan'' of insurance, described below), premiums will be payable for the life of the insured or to age 100, but the guaranteed face amount of insurance provided by the Policy will not be level during the life of the insured.

21. Whole life insurance plans provide life insurance in an amount at least equal to the initial face amount at the death of the insured whenever that occurs. Premiums may be payable for a specified number of years or for the life of the insured. Whole life insurance plans assume an eventual tabular cash value accumulation, at or before the insured's age 100, equal to the net single premium required for that face amount of insurance.

22. ''Protection plans'' of insurance provide life insurance in an amount at least equal to the initial face amount for a specified period. After the initial protection period, there is insurance coverage in a reduced amount on the life of the insured. ''Protection plans'' of insurance assume the exhaustion of the tabular cash value at the end of the initial protection period, except for the cash value associated with the reduced amount of insurance coverage at the end of the initial protection period.

23. The highest premium amount permitted at the time of issue, or the maximum plan of insurance, for a specific face amount is one which will provide a fully paid-up Policy after the payment of ten annual premium payments. Whole life plans become paid up upon the payment of a designated number of annual premiums or at a designated age of the insured. If the Policy owner selects a premium amount which is less than the premium required for a whole life plan of insurance, premiums will be payable for the life of the insured or to age 100, but the guaranteed face amount of insurance provided by the Policy will not be level during the life of the insured. The initial face amount will be in effect until the Policy's tabular cash value, *i.e.*, the cash value which is assumed in designing the Policy and which would be guaranteed in a conventional fixed-benefit is exhausted. At that time a lower amount of insurance will become effective. This reduced face amount is calculated on the basis of the continued payment of the scheduled premiums and a whole life plan of insurance. The result is that the Policy, on issue, will have an initial guaranteed death benefit extending to a stated date; after that date, a lower death benefit is guaranteed for the life of the insured.

24. Policy values of the Old Policies may be invested in the Variable Life Account or in the general account option. The Variable Life Account currently has the same 25 Sub-Accounts as the New Policies have, to which a Policy owner may allocate premiums. Amounts invested in the Sub-Accounts are subject to the management fees paid and other expenses incurred by the Underlying Funds.

25. Policy values may also be accumulated on a guaranteed basis by allocation to the Guaranteed Principal Account. Guaranteed Principal Account interest is guaranteed to be credited at a rate of at least 4% on an annual basis.

26. Actual cash value may be transferred between the Guaranteed Principal Account and the Variable Life Account or among the Sub-Accounts of the Variable Life Account. A Policy owner may request a transfer at any time while the Policy remains in force, or the Policy owner may arrange in advance for systematic transfers, subject to a maximum of 20 accounts. A transfer is subject to a transaction charge, not to exceed $10, for each transfer of actual cash value among the Sub-Accounts and the Guaranteed Principal Account. Currently, there is a charge only for non-systematic transfers in excess of four per year.

27. Policy values under the Old Policies may be accessed by means of partial surrenders, policy loans or total surrender. Interest payable on policy loans will not be more than that permitted in the state in which the Policy is delivered; interest credited on loan accounts established in connection with outstanding loans will be at a rate which is not less than the policy loan interest rate minus 2% per year. If certain conditions are met, the loan is credited at a rate equal to the policy loan rate minus 0.75% per year.

28. The Old Policies offer a choice of two death benefit options: the Cash Option or the Protection Option. Under the Cash Option, the death benefit will be the current face amount at the time of the insured's death. The death benefit will not vary unless the policy value exceeds the net single premium for the then-current face amount. At that time, the death benefit will be the greater of the face amount of the Policy or the amount of insurance which could be purchased at the date of the insured's death by using the policy value as a net single premium. Under the Protection Option for VAL '87, the death benefit is the current face amount or, if the policy value is greater than the tabular cash value at the date of the insured's death, the current face amount plus an additional amount of insurance which could be purchased by using that difference between values as a net single premium. Under the Protection Option for VAL '95 and Amended VAL '95, before the policy anniversary nearest the insured's age 70, the amount of the death benefit is the policy value plus the larger of: (a) the then current face amount; and (b) the amount of insurance which could be purchased using the policy value as a net single premium. At the policy anniversary nearest the insured's age 70, Minnesota Life will automatically adjust the face amount of the policy to equal the death benefit immediately preceding the adjustment. The Protection Option of VAL '95 is only available until the policy anniversary nearest the insured's age 70, at which time Minnesota Life converts the death benefit option to the cash option.

29. With the Amended VAL '95 Protection Option, after the policy anniversary nearest the insured's age 70, the amount of the death benefit is equal to the current face amount or, if the policy value is greater than the tabular cash value at the date of the insured's death, the current face amount plus an additional amount of insurance which could be purchased by using that difference between values as a net single premium.

30. The minimum face amount of an Old Policy is $50,000.

31. From base premiums, Minnesota Life deducts a Sales Load, an Underwriting Charge, a Premium Tax Charge and a Face Amount Guarantee Charge. The base premium excludes any charge deducted from the premium to provide for any additional benefits provided by rider and, in the case of VAL '95, any charge deducted for sub-standard risks.

(a) The Sales Load consists of a deduction from each premium of 7% and it may also include a first year sales load deduction not to exceed 23%. The first year sales load applies only to base premiums, scheduled to be paid in the 12-month period following the policy date, or any policy adjustment involving an increase in base premium or any policy adjustment occurring during a period when a first year sales load is being assessed. The Sales Load will also apply only to that portion of an annual base premium necessary for an original issue whole life plan of insurance. The Sales Load is designed to compensate Minnesota Life for distribution expenses incurred with respect to the Policies.

(b) The Underwriting Charge currently is an amount not to exceed $5 per $1,000 of face amount of insurance. This amount may vary by the age of the insured and the premium level for a given amount of insurance. This charge is made ratably from premiums scheduled to be paid during the first policy year and during the twelve months following certain policy adjustments. The Underwriting Charge is designed to compensate Minnesota Life for the administrative costs associated with issuance or adjustment of the Policies, including the cost of processing applications, conducting medical exams, classifying risks, determining insurability and risk class and establishing policy records.

(c) The Premium Tax Charge of 2.5% is deducted from each base premium. This charge is designed to cover the aggregate premium taxes Minnesota Life pays to state and local governments for this class of policies.

(d) The Face Amount Guarantee Charge of 1.5% is deducted from each base premium. This charge is designed to compensate Minnesota Life for its guarantee that the death benefit will always be at least equal to the current face amount in effect at the time of death regardless of the investment performance of the sub-accounts in which net premiums have been invested.

32. Non-repeating premiums are currently subject to the 2.5% Premium Tax Charge, but not to a Sales Load Charge. Minnesota Life does not assess a Face Amount Guarantee Charge or an Underwriting Charge against non-repeating premiums.

33. In addition to deductions from premiums and non-repeating premiums, Minnesota Life assesses from the actual cash value of a Policy, an Administration Charge, the Cost of Insurance Charge and certain transaction charges (and in the case of a VAL '87 Policy, any charge for sub-standard risks).

(a) The Administration Charge is designed to cover certain of Minnesota Life's administrative expenses, including those attributable to the records maintained for the Policies. The Administration Charge is $60 for each policy year.

(b) The Cost of Insurance Charge compensates Minnesota Life for providing the death benefit under a Policy. The charge is calculated by multiplying the net amount at risk under the Policy by a rate that varies with the insured's age, sex, risk class, the level of scheduled premiums for a given amount of insurance, duration of the Policy, and the tobacco use of the insured. The rate is guaranteed not to exceed the maximum charges for mortality derived from the 1980 Commissioners Standard Ordinary Mortality Tables.

(c) Transaction charges are for expenses associated with processing transactions. There is a charge of up to $25 for each policy adjustment. If the only policy adjustment is a partial surrender, the transaction charge will be the lesser of $25 or 2% of the amount surrendered. Minnesota Life also reserves the right to make a charge, not to exceed $25, for each transfer of actual cash value among the Guaranteed Principal Account and the sub-accounts of the Variable Life Account. Currently there is a $10 charge only for non-systematic transfers in excess of four per year.

34. From the assets held in the Variable Life Account, Minnesota Life assesses a Mortality and Expense Risk charge, deducted on each valuation date at an annual rate of 0.50% of the average daily net assets of the Variable Life Account. Although Minnesota Life reserves the right to charge or make provision for any taxes payable by Minnesota Life with respect to the Variable Life Account or the Policies by a charge or adjustment to such assets, no such charge or provision is made at the present time. The Mortality and Expense Risk Charge compensates Minnesota Life for assuming the risks that cost of insurance charges will be insufficient to cover actual mortality experience and that the other charges will not cover Minnesota Life's expenses in connection with the Policy.

35. Additional Benefits are offered by Minnesota Life as riders to the Old Policies, subject to underwriting approval. These Additional Benefits may require the payment of additional premium. The Additional Benefits include a Waiver of Premium Agreement, a Policy Enhancement Agreement and Cost of Living Agreement, a Face Amount Increase Agreement, a Survivorship Life Agreement, a Family Term Rider, an Exchange of Insurance Agreement, an Accelerated Benefits Agreement, and a Short Term Agreement.

The Exchange Offer

36. The exchange offer will be made only to Policy owners who have held their Old Policy for at least two years from the original issue date of the Old Policy and at least one year from their most recent policy adjustment on the Old Policy.

37. Eligible owners of Old Policies will be advised of the exchange offer in a notice accompanying the annual report. The notice will contain an overview of the offer and will instruct the Policy owner to contact his or her agent if the Policy owner is interested in the offer. Policy owners who express an interest will be provided two personalized illustrations and two prospectuses, accompanied by a letter explaining the offer and the administration fees associated with the offer, as well as a piece of sales literature that compares the two Policies.

38. The description of the proposed exchange offer in letters to Old Policy owners and in the New Policy's prospectus will provide full disclosure of the material differences in the two Policies. Each Old Policy owner will be provided, at no charge, personalized hypothetical illustrations that compare the Old and New Policies. The New Policies should be less expensive than the Old Policies for most Policy owners. The disclosure and illustrations provided give Old Policy owners

sufficient information to determine which Policy is best for them.

39. The exchange offer will provide that, upon acceptance of the offer, a New Policy will be issued with the same face amount as the Old Policy surrendered in the exchange, and with a policy value adjusted to reflect a $200 processing charge (see below). The Policy owner and the insured must be the same person(s) under the New Policy acquired as under the exchanged Old Policy.

40. The risk class for a New Policy acquired by exchange will be the one most similar to the risk class for the exchanged Old Policy. New evidence of insurability will not be required as a condition of the exchange.

41. No premium charges will be deducted upon the acquisition of a New Policy in connection with an exchange, except that a one-time $200 charge for the costs of processing the exchange will be imposed. Applicants represent that this charge will not exceed their costs of processing the exchange.

42. No additional sales load will be imposed at the time of the exchange. The first-year Sales Charge of the New Policies will apply only if the Policy owner chooses to make a policy adjustment that will increase the base premium of the policy. The additional Sales Charge would not exceed 44% of the increase in the base premium.

43. Optional Additional Benefits attached to an Old Policy surrendered in an exchange will carry over to the New Policy acquired in the exchange only if that additional benefit (or a substantially equivalent additional benefit) is available under the New Policies. Optional insurance additional benefits available under the New Policies but not the Old Policies may be acquired at the time of the exchange, but, as noted above, may occasion the need for new evidence of insurability. Optional additional benefits available under the Old Policies but not the New Policies and their related charges, if any, will not be carried over to the New Policies.

44. Loans under an Old Policy must be repaid in cash or by means of a partial surrender (in the amount of the unpaid loan and interest thereon) prior to the exchange. In the event a loan is repaid by taking a partial surrender, the face amount of the Old Policy will be reduced, as with any partial surrender, and the face amount of the New Policy received will be the face amount of the Old Policy after that partial surrender. Any letters to Old Policy owners describing the exchange offer will include the fact that loans must be repaid prior to the exchange and disclosure that repayment of a loan by means of a partial surrender could have adverse tax consequences to the Old Policy owner. Minnesota Life will waive the transaction charge that would otherwise be applicable to a partial surrender made in connection with accepting the exchange offer and that is used solely to pay off an outstanding loan.

45. To accept the exchange offer, an Old Policy owner must return his or her Old Policy (or else submit a lost policy statement) and must submit a supplemental application that indicates how Policy values are to be allocated among the investment options of the New Policy. Payments submitted with the supplemental application requesting the exchange will be assumed to be payments under the New Policy as of the date of issue of the New Policy.

46. The suicide clause time period(s), incontestability time period(s), and free look time period(s) of the Old Policy will apply to the New Policy acquired in an exchange.

Applicants' Legal Analysis

47. Section 11(a) of the Act makes it unlawful for any registered open-end investment company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange that security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules adopted under section 11.

48. Section 11(c) of the Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company be approved by the Commission or satisfy applicable rules adopted under section 11, regardless of the basis of the exchange.

49. The Account is registered under the Act as a unit investment trust. Accordingly, the proposed exchange offer constitutes an offer of exchange of two securities, each of which is offered by a registered unit investment trust. Thus, unless the terms of the exchange offer are consistent with those permitted by Commission rule, Applicants may make the proposed exchange offer only after the Commission has approved the terms of the offer by an order pursuant to section 11(a) of the Act.

50. As noted by the Commission when proposing Rule 11a–3 under the Act, the purpose of section 11 of the Act is to prevent ''switching,'' the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company ''solely for the purpose of exacting additional selling charges.'' That type of practice was found by Congress to be widespread in the 1930's prior to adoption of the Act.

51. Section 11(c) of the Act requires Commission approval (by order or by rule) of any exchange, regardless of its basis, involving securities issued by a unit investment trust, because investors in unit investment trusts were found by Congress to be particularly vulnerable to switching operations.

52. Applicants assert that the legislative history of section 11 makes it clear that the potential for harm to investors perceived in switching was its use to extract additional sales charges from those investors. Applications under section 11(a) and orders granting those applications appropriately have focused on sales loads or sales load differentials and administrative fees to be imposed for effecting a proposed exchange and have ignored other fees and charges, such as relative advisory fee charges of the exchanged and acquired securities.

53. Rule 11a–2, adopted in 1983 under section 11 of the Act, by its express terms, provides blanket Commission approval of certain types of offers of exchange of one variable annuity contract for another or of one variable life insurance contract for another. However, there is Commission language in the release adopting Rule 11a–2 that suggests that the rule may have been intended to permit exchanges of funding options within a single variable life insurance policy but not the exchange of one such policy for another. Variable annuity exchanges are permitted by Rule 11a–2 provided that the only variance from a relative net asset value exchange is an administrative fee disclosed in the offering account's registration statement and a sales load or sales load differential calculated according to methods prescribed in the rule. Variable life insurance exchanges may vary from relative net asset exchanges only by reason of disclosed administrative fees; no sales loads or sales load differentials are permitted under the rule for such exchanges. Applicants believe that the exchange of the Old Policies for the New Policies would satisfy Rule 11a–2, if Rule 11a–2 applied.

54. Adoption of Rule 11a–3, which takes a similar approach to that of Rule 11a–2, represents the most recent Commission action under Section 11 of

the Act. As with Rule 11a–2, the focus of Rule 11a–3 is primarily on sales or administrative charges that would be incurred by investors for effecting exchanges. Applicants assert that the terms of the proposed offer are consistent with the Commission's recent substantive approach in Rule 11a–3, because no additional sales charges will be incurred as a result of the exchange and no administrative fees will be charged to effect the exchange. However, because the investment company involved in the proposed exchange offer is a separate account and because it is organized as a unit investment trust rather than as a management investment company, Applicants may not rely upon Rule 11a–3 despite the fact that their proposal would satisfy its substantive provisions.

55. Applicants assert that the terms of the proposed exchange offer do not present the abuses against which Section 11 was intended to protect. No additional sales load will be imposed at the time of exchange. No charge will be imposed at that time, other than a $200 exchange fee to reimburse Minnesota Life for all or a portion of its administrative costs associated with the exchange. No new evidence of insurability will be required for the exchange.

56. The policy value and death benefit of a New Policy acquired in the proposed exchange will be precisely the same immediately after the exchange as that of the Old Policy exchanged immediately prior to the exchange. Accordingly, the exchanges, in effect, will be relative net asset value exchanges that would be permitted under Section 11(a) if the Account were registered as a management investment company rather than as a unit investment trust.

57. Policy owners will receive sufficient information to determine which Policy is best for them.

Conclusion

For the reasons summarized above, Applicants represent that the Exchange Offer is consistent with the protections provided by Section 11 of the Act and does not involve any of the switching abuses that led to the adoption of Section 11. Permitting Policy owners to evaluate the relative merits of the Old and New Policies and to select the one that best suits their circumstances and preferences fosters competition and is consistent with the public interest and the protection of investors. Approval of the terms of the Exchange Offer is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to the delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26154 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 14, 2002: an Open Meeting will be held on Wednesday, October 16, 2002 at 10 a.m., and a Closed Meeting will be held on Thursday, October 17, 2002, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Open Meeting scheduled for Wednesday, October 16, 2002 will be:

1. The Commission will consider publication of acknowledgements of receipt of Forms 1–N from the Chicago Mercantile Exchange Inc., OneChicago, LLC and Nasdaq LIFFE Markets, LLC to trade security futures.

The Commission will also consider whether to delegate authority to the Director of the Division of Market Regulation to publish in the **Federal Register** acknowledgements of receipt of Forms 1–N filed pursuant to Section 6(g) of the Securities Exchange Act of 1934.

2. The Commission will consider whether to propose rules relating to Sections 404, 406 and 407 of the Sarbanes-Oxley Act of 2002. The proposed rules would require companies to include in their Exchange Act filings: (1) an annual internal control report, (2) disclosure regarding whether a company has adopted a code of ethics that applies to certain senior officers, and (3) disclosure regarding whether a company has a financial expert on its audit committee.

3. The Commission will consider whether to propose amendments to implement Section 303 of the Sarbanes-Oxley Act of 2002. Section 303(a) prohibits an issuer's officers, directors, and persons acting under the direction of an officer or director, from taking any action to fraudulently influence, coerce, manipulate or mislead the auditor of the issuer's financial statements for the purpose of rendering those financial statements materially misleading.

The subject matter of the Closed Meeting scheduled for Thursday, October 17, 2002 will be:

Formal orders of investigation;
Institution and settlement of injunctive actions; and
Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: October 9, 2002.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–26221 Filed 10–9–02; 4:34 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 62997, October 9, 2002.]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, October 10, 2002 at 2:30 p.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the Closed Meeting scheduled for Thursday, October 10, 2002 at 2:30 p.m.: regulatory matter.

Commissioner Goldschmid, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted

or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: October 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26267 Filed 10–10–02; 11:33 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46618; File No. SR–Amex–2002–79]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC To Extend a Suspension of Transaction Charges for Certain Exchange Traded Funds

October 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On October 2, 2002, the Amex amended the proposed rule change.[3] The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until October 31, 2002, the suspension of Amex transaction charges for the Lehman 1–3 year Treasury Bond Fund; iShares Lehman 7–10 year Treasury Bond Fund; Lehman 20+ year Treasury Bond Fund; and iShares GS $ InvesTop Corporate Bond Fund for specialist, Registered Trader, and broker-dealer orders. The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex has suspended transaction charges for transactions in the iShares Lehman 1–3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7–10 year Treasury Bond Fund (Symbol: IEF); iShares Lehman 20+ year Treasury Bond Fund (Symbol: TLT); and iShares GS $ InvesTop Corporate Bond Fund (Symbol: LQD)(''Funds'') (collectively, ''Securities'') for (1) customer orders and (2) until September 30, 2002, specialist, Registered Trader, and broker-dealer orders.[7] With this proposed rule change, the Amex is extending until October 31, 2002, the suspension of transaction charges for specialist, Registered Trader, and broker-dealer orders. No other changes are proposed with this filing, and this filing has no bearing on the suspension of transaction charges as they pertain to customer orders.

The Exchange believes a suspension of fees for the Securities is appropriate to enhance the competitiveness of executions in the Securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file any modification to the fee suspension with the Commission.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4)[9] in particular in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among the Amex's members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Amex has requested that the Commission waive the 5-day pre-filing notice requirement and the 30-day operative delay. The Commission believes waiving the 5-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the notice requirement and acceleration of the operative date will permit the Amex to suspend these fees immediately. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* September 30, 2002 letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaces and supersedes the original filing. The Commission considers the 60-day abrogation period to have commenced on October 2, 2002, the date the Amex filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] The Exchange asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[7] *See* Securities Exchange Act Release No. 46486 (September 10, 2002), 67 FR (September 17, 2002)(SR–Amex–2002–71).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 Amex. All submissions should refer to file number SR–Amex–2002–79 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26156 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46610; File No. SR–Amex–2002–72]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Extend the eQPriority Pilot Until October 11, 2002

October 7, 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 September 13, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. Amex has designed the proposed rule change as ''non-controversial'' under Rule 19b–4(f)(6),[3] thus rendering it immediately effective. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through October 11, 2002, Commentary .03 to Amex Rule 126 to continue a pilot program for processing electronically transmitted orders for the common stock of business corporations admitted to dealings on the Exchange (''eQPriority[sm]''). The text of the proposed rule change is available at the Office of the Secretary of the Exchange and from the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 12, 2000, the Commission approved Amex's eQPriority initiative on a six-month pilot basis.[4] The pilot program was extended for six-month periods in each of March 2001,[5] August 2001,[6] and March 2002.[7] Amex now seeks to extend the pilot through October 11, 2002.

eQPriority is intended to encourage persons to route marketable electronic orders to the Exchange by assuring them that orders sent to the specialist electronically will be filled either: (i) At the Amex Published Quote (''APQ'') up to the displayed size at the time the order is announced, or (ii) at an improved price.[8] Amex believes that the program provides orders for stocks sent to the floor electronically with the optimal combination of speed, certainty of execution, and price improvement opportunities. eQPriority applies only to orders for common stock admitted to dealings; it is not available for orders for options, Exchange Traded Funds, or other Amex-listed securities. It also does not apply to openings and reopenings and to block trades executed at a ''clean-up'' price pursuant to Amex Rule 155.

eQPriority works in the following manner. Once the specialist announces the electronic order, members may not withdraw or modify bids and offers incorporated into the APQ on the opposite side of the market from the incoming order *except* to provide price improvement. When an eQPriority order is executed in part at an improved price, the remainder of the order is executed at the APQ up to the number of shares then available (*i.e.*, the size of the APQ at the time the order was announced, less any shares that provided price improvement). The eQPriority order does not have to match with any other trading interest on the same side of the market. In the event that an eQPriority order is larger than the APQ at the time the order is announced, the order is filled up to the size of the APQ according to the eQPriority procedures, and the unexecuted balance is filled according to the Exchange's customary auction market processes.

The purpose of eQPriority is to provide incoming electronic orders with an execution at the displayed offer (or lower) in the case of an electronic buy order, or at the displayed bid (or higher) in the case of an electronic sell order. eQPriority is not intended to allow an incoming electronic order to obtain priority over orders that already have established priority in the market. Thus, an eQPriority order does not have priority over bids and offers that were announced prior to the time that the eQPriority order is represented. This arises only in situations where the market is quoted at the minimum fractional variation and is best

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efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 43284 (September 12, 2000), 65 FR 57410 (September 22, 2000).

[5] *See* Securities Exchange Act Release No. 44049 (March 7, 2001), 66 FR 14947 (March 14, 2001).

[6] *See* Securities Exchange Act Release No. 44702 (August 15, 2001), 66 FR 43925 (August 21, 2001).

[7] *See* Securities Exchange Act Release No. 45536 (March 11, 2002), 67 FR 12065 (March 18, 2002).

[8] Amex records both the time and the quoted market at the time the electronic orders are received by the specialist's limit order book. The Exchange has an exception report that identifies situations where an electronic limit order is executed at a price that is inferior to the quoted market at the time that it is received by the limit order book. Amex has represented that the Exchange's regulatory staff reviews any situation identified by this exception report to determine if the specialist's actions were consistent with the Commission's Firm Quote Rule, 17 CFR 240.11Ac1–1, and the Exchange's eQPriority rule.

illustrated by an example provided by the Exchange:

Assume the market is quoted 20.00 to 20.01, 5,000 x 5,000, and the bid represents a limit order on the book. Further assume that the specialist announces an eQPriority order to buy 1,000 and that a broker in the crowd is willing to sell 1,000 at 20.00. In this example, the limit order to buy on the book had established a bid of 20.00 prior to the representation of the eQPriority order. The booked limit order, consequently, would buy the 1,000 shares sold by the broker at 20.00, and the eQPriority order would be filled at 20.01.

2. Statutory Basis

Amex believes that the proposed rule change is consistent with section 6(b) of the Act [9] in general and furthers the objectives of section 6(b)(5) [10] in particular in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Amex also believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex has stated that the proposed rule change would impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Amex has stated that, because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), it has become effective pursuant to section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

Amex has requested that the Commission waive the 30-day pre-operative period under Rule 19b–4(f)(6)(iii). Under that rule, the Commission may designate that the rule will become effective in less than 30 days if such action is consistent with the protection of investors and the public interest.[13] Acceleration of the operative date will allow the pilot program to continue without disruption to market participants. Therefore, the Commission finds that waiving the 30-day pre-operative period meets these criteria, and the proposed rule change may become operative immediately.[14]

Rule 19b–4(f)(6) also requires the self-regulatory organization to provide the Commission written notice of its intent to file the proposed rule change at least five business days before doing so (or such shorter time as designated by the Commission). Amex also has requested that the Commission waive this five-day pre-filing requirement. The Commission hereby waives the five-day pre-filing period.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2002–72 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26157 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *See id.*

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46619; File No. SR–BSE–2002–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Boston Stock Exchange, Inc. To Amend Its Transaction Fee Schedule To Revise the Monthly Transaction Related Revenue It Must Generate Before Sharing Excess Revenue With Eligible Firms

October 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2002, the Boston Stock Exchange, Incorporated (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the BSE under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to amend its Transaction Fee Schedule to revise the monthly transaction related revenue the BSE must generate before it shares excess revenue with eligible firms. The text of the proposed rule change is available at the BSE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Revenue Sharing Program that is currently part of the BSE's Transaction Fee Schedule. Currently, the minimum amount of monthly transaction related revenue the BSE must generate before it shares excess revenue with eligible member firms is $1,700,000. The BSE proposes to revise this amount to $1,900,000, to meet the budgeted costs of operating the Exchange in the upcoming fiscal year.[4]

The Exchange is seeking to amend only its existing revenue sharing program, and only in the area of the amount of revenue the Exchange must generate before sharing excess revenue. No changes are being sought to the fundamental structure of the existing program.

The BSE is seeking to make this change operative only until the Commission acts on SR–BSE–2002–10. Upon such Commission action, the BSE will either implement the proposed revenue sharing program detailed in SR–BSE–2002–10, and the accompanying changes to the Transaction Fee Schedule that have been approved in SR–BSE–2002–11, or reevaluate its revenue sharing program and accompanying fee schedule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(4) of the Act,[6] in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the BSE's members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 Exchange. All submissions 2 should refer to file number SR–BSE–2002–17, and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26153 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

[4] The Exchange notes that this revision would apply to the Transaction Fee Schedule currently in place for the BSE. On September 11, 2002, the Commission approved a proposed rule change that amended the BSE's Floor Operations and Transactions Fees Schedules. *See* Securities Exchange Act Release No. 46488 (September 11, 2002), (SR–BSE–2002–11). Normally, such changes are sought to run concurrent with the BSE's fiscal year, which begins on October 1. However, as part of the changes to its overall fee structure, the BSE sought to replace its current revenue sharing program with two new programs. The amendments to the BSE's revenue sharing program were the subject of a separate, but related, rule proposal, which has been published for notice and public comment. *See* Securities Exchange Act Release No. 46496 (September 19, 2002), (SR–BSE–2002–10). In seeking the changes to its Transaction Fee Schedule sought in SR–BSE–2002–11, which have been approved by the Commission, the Exchange stated that it would implement such changes only upon approval of its new revenue sharing programs, which were the basis of SR–BSE–2002–10. Since SR–BSE–2002–10 is still pending with the Commission, the BSE will not amend its Transaction Fee Schedule on October 1, 2002. Thus, the existing Transaction Fee Schedule (the one that was operative for the BSE's fiscal year that ends on September 30, 2002) will remain in effect, until such time as it is amended in response to Commission action on SR–BSE–2002–10.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46607; File No. SR–CBOE–2002–51]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated Relating to a Safe Harbor From the Unbundling Rule

October 7, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on September 6, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On September 27, 2002, CBOE submitted to the Commission Amendment No. 1 to the proposed rule change.[3] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 217 CFR 240.19b–4.

[3] Amendment No. 1 revised the text of the proposed rule change to clarify that the safe-harbor from the unbundling rule applies to orders entered *outside of* any 15-second period. *See* letter from Steve Youhn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 26, 2002.

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 CBOE seeks to adopt a safe-harbor provision from its unbundling rule, Rule 6.8(c)(vii). Below is the text of the proposed rule change. Proposed deletions are in brackets; proposed new language is *italicized*.

* * * * *

Rule 6.8 RAES Operations

(a)–(b) No change.

(c)(i)–(vi) No change.

(c)(vii) For purposes of determining whether an order meets the maximum size requirement set forth in sub-paragraph (c)(v), a customer's order cannot be split up (*i.e., unbundled*) such that its parts are eligible for entry into RAES. *Orders entered in compliance with CBOE Rule 6.8(e)(iii) (i.e., outside of any 15-second period) will not be considered to have been unbundled.*

(d) No change.

(e)(i)–(ii) No change.

(e)(iii) Neither enter nor permit the entry of multiple orders *on the same side of the market* in [a call class and/or a put class for the same] *an* option issue within any 15-second period for an account or accounts of the same beneficial owner.

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 CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE 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

CBOE Rule 6.8(c)(vii) states ''for purposes of determining whether an order meets the maximum [RAES] size requirement, a customer's order cannot be split up such that its parts are eligible for entry into RAES.'' This ''unbundling'' provision is designed to prevent customers from splitting up non-RAES eligible orders into smaller RAES-eligible orders. Additionally, CBOE Rule 6.8(e)(iii) requires order-entry firms to prevent the entry of multiple orders in a call class and/or put class for the same option issue within any 15-second period for an account or accounts of the same beneficial owner. This ''15-second'' rule essentially prevents users from sending through RAES multiple orders in the same class within any 15-second period.

The purpose of this rule filing is to amend Rule 6.8(c)(vii) to create a ''safe harbor'' from the unbundling provision by referencing the 15-second rule.[4] In this respect, customers will not be deemed to have unbundled an order provided they comply with the 15-second rule (*i.e.*, they do not enter multiple orders within 15 seconds of each other).[5] Orders entered in compliance with the 15-second rule will not be deemed to have been unbundled. The Exchange believes the proposed rule change will provide more certainty to order-entry firms and customers alike by creating an objective, bright-line test as to activity that does not constitute unbundling.[6] Previously, a customer could enter orders more than 15 seconds apart in the same class; however, the order entry firm might not be able to determine if the orders had been unbundled. This rule change will eliminate the need to make this determination. The Exchange represents that this proposed rule change is virtually identical to existing Pacific Exchange Rule 6.87(d)(2).

The Exchange also proposes to restrict applicability of the 15-second rule by clarifying that it will only apply to orders on the same side of the market in a particular class. Currently, the rule applies to orders on either side of the market, which would prevent a customer from submitting two orders on opposite sides of the market within 15 seconds. The Exchange represents that this interpretation may hinder the ability of investors to engage in legitimate trading strategies through RAES (*e.g.*, legging into a spread). The changes proposed to Rule 6.8(e)(iii) will now allow customers to send in orders on the opposite side of the market within 15 seconds without violating the rule.

2. Statutory Basis

This proposal provides a safe harbor from the unbundling rule by creating an objective test, which the Exchange believes will aid customers and firms alike in determining what constitutes unbundling. The proposal also limits applicability of the 15-second rule by clarifying that it will apply only to orders submitted on the same side of the market within a particular class. Accordingly, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will 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

No written comments were solicited or received with respect to the proposed rule change.

[4] CBOE has represented that this proposed rule change supersedes the effectiveness of its Regulatory Circular 00–27 and that it will advise its members accordingly. Telephone conversation between Nancy Sanow, Assistant Director, Division of Market Regulation, Commission and Steve Youhn, Legal Division, CBOE, October 4, 2002.

[5] Under Rule 6.8(e)(iii), if two orders on the same side of the market are entered exactly 15 seconds apart, entry of the second order would violate the rule and the safe-harbor would *not* be available. However, if the two orders are entered more than 15 seconds apart, entry of the second order would not violate the rule and the safe-harbor *would* be available. For example, if the first order is entered at 11:00:00 a.m. and the second order is entered at 11:00:15 a.m., entry of the second order would violate the rule. However, if the first order is entered at 11:00:00 a.m. and the second order is entered at 11:00:16 a.m., entry of the second order would *not* violate the rule. Telephone conversation between Steve Youhn, Legal Division, CBOE and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission (September 25, 2002). Amendment No. 1 clarifies this point.

[6] The Exchange notes that the 15-second rule speaks to member firms (*i.e.*, ''Order Entry Firms shall * * * neither enter nor permit the entry of multiple orders * * * within any 15-second period * * *'') As such, disciplinary action for violations is against the Order Entry Firm that allows the orders to be transmitted and NOT against the customer that submitted the orders. In this regard, member firms have an obligation to have reasonable procedures in place to ensure that the rule is complied with.

[7] 15 U.S.C. 78(f)(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change [8] has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6)[10] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–CBOE–2002–51 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[8] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46616; File No. SR–CHX–2002–33]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Chicago Stock Exchange, Incorporated Relating to Execution of Limit Orders Following Exempted ITS Trade-Through

October 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 3, 2002, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been substantively prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend, for a period of 30 days, an existing pilot rule change that amends certain provisions of CHX Article XX, Rule 37, which governs, among other things, execution of limit orders in a CHX specialist's book following a trade-through in the primary market. Specifically, the CHX seeks to render voluntary a CHX specialist's obligation to fill limit orders in the specialist's book following a primary market trade-through, if such trade-through constitutes an Exempted Trade-Through (as defined below). The text of the proposed rule change, which would be in effect for a pilot period of 30 days, is available at the Commission and at the CHX.

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 28, 2002, the Commission issued an order granting a *de minimis* exemption (the ''Exemption'') for transactions in certain exchange-traded funds (''ETFs'') from the trade-through provisions of the Intermarket Trading System (''ITS'') Plan.[3] The Exemption was proposed by Commission staff to permit rapid execution of orders in certain ETFs at prices that may trade through the quotations of other markets, including the NBBO price. Because Exempted Trade-Throughs will, by definition, be exempt from ITS restrictions, a market participant that reports execution of an Exempted Trade-Through will not be required to satisfy an administrative request from any ITS participant for satisfaction following the Exempted Trade-Through.[4]

Article XX, Rules 37(a)(3) and 37(b)(6) of the CHX Rules, which govern execution of limit orders in a CHX specialist's book, provide for execution

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 46428, 67 FR 56607 (September 4, 2002). At present, the Exemption extends to transactions in three designated ETFs—the Nasdaq-100 Index (''QQQ''), the Dow Jones Industrial Average (''DIAMONDs'') and the Standard & Poor's 500 Index (''SPDRs'')—when the transactions are ''executed at a price that is no more than three cents lower than the highest bid displayed in CQS and no more than three cents higher than the lowest offer displayed in CQS'' (each, an ''Exempted Trade-Through''). The Exemption is effective as of September 4, 2002.

[4] Under current ITS rules and practice, if an ITS participant trades through the quotation of another ITS participant, thereby violating the ITS trade-through prohibition, the non-violating participant is entitled to send an administrative message noting the trade-through and the violating participant is required to respond with a commitment to trade at the price and size quoted by the non-violating participant.

of such orders at the limit price when certain conditions occur in the primary market. Specifically, these provisions obligate a CHX specialist to fill limit orders in his book if there is a trade-through of the limit price in the primary market. These rule provisions were enacted as a means of attracting order flow to the CHX by guaranteeing that a limit order resident in a CHX specialist's book would receive a fill if the primary market traded through the limit price. The CHX specialist is willing to provide this ''trade-through protection'' to its customer limit orders because the CHX specialist can seek relief via ITS in the event of a trade-through.

Now that the Exemption has become effective, however, certain primary market trade-throughs in ETFs that will trigger a CHX specialist's obligation to provide trade-through protection will now constitute Exempt Trade-Throughs, and will leave the CHX specialist without recourse to seek satisfaction from the primary market. While the CHX believes that certain CHX specialists may still wish to provide trade-through protection to their limit orders for business and marketing reasons, the CHX believes that trade-through protection should no longer be mandated in the case of Exempted Trade-Throughs. The proposed rule change would permit, but would not require, a CHX specialist firm to fill limit orders in his book when an Exempted Trade-Through occurs in the primary market.

On September 4, 2002, the CHX filed an identical proposed rule change with the Commission; the rule change was effective upon filing, for a period of 30 days.[5] The CHX also filed the rule change seeking permanent approval thereof following notice and comment pursuant to Section 19(b)(2) of the Act, but the comment period following publication of the proposal in the **Federal Register** has not yet expired.[6] Accordingly, the CHX is filing this submission to extend the existing pilot for an additional period of 30 days, until November 3, 2002, during which time the CHX hopes to obtain the Commission's permanent approval of the proposed rule change.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[7] The CHX believes the proposal is consistent with Section 6(b)(5) of the Act[8] in that it is designed to promote just and equitable principles of trade, to remove impediments, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[9] and subparagraph (f)(1) of Rule 19b–4 thereunder.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 CHX. All submissions should refer to File No. SR–CHX–2002–33 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26152 Filed 10–11–02; 8:45 am]

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[5] *See* Securities Exchange Act Release No. 46557 (September 26, 2002), 67 FR 61941 (October 2, 2002).

[6] *See* Securities Exchange Act Release No. 46556 (September 26, 2002), 67 FR 61940 (October 2, 2002).

[7] 15 U.S.C. 78(f)(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46605; File No. SR–PCX–2002–60]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Joint Accounts

October 4, 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 September 23, 2002, the Pacific Exchange, Inc. (''PCX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which the PCX has prepared. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend PCX Rule 6.84 in order to allow a market maker to participate in more than two joint accounts. The text of the proposed rule change is below. The deleted text is in brackets.

Text of the Proposed Rule Change

Rule 6.84(a). No Market Maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any option contract or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

related security unless (1) each participant in such joint account is a member or member organization of the Exchange, and (2) such joint account agreement is filed with (in a form approved by the Exchange) and approved by the Exchange. [No Market Maker shall, directly or indirectly, concurrently hold any interest or participate in more than two joint accounts.]

(b)–(h)—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of those statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PCX rules allow market makers to participate in joint accounts. Under PCX Rule 6.84, a market maker may not participate or hold an interest in more than two joint accounts. This limitation was incorporated into the PCX's rules in 1990.[3] The PCX believes that the joint account limitation may have been imposed originally for the administrative ease of the PCX, but that it does not currently provide any administrative benefit. Furthermore, the PCX believes that the limitation was never intended to create, and does not currently provide, any regulatory safeguards. For instance, the PCX notes that it may track a market maker's activity within a joint account by reference to the badge number associated with a given transaction, regardless of the number of joint accounts in which the market maker participates.

From time to time, market makers have found it necessary, for logistical reasons, to participate in more than two joint accounts. Because the PCX believes that there is no benefit to the investing public in limiting the number of joint accounts in which a market maker participates, the PCX now seeks to remove that limitation and allow market makers to enter into as many joint accounts as their business requires. The PCX believes that the proposed change is consistent with the joint account rules of other options exchanges that do not limit the number of joint accounts in which their market makers or specialists may enter.[4]

2. Basis

The PCX believes that the proposed rule change is consistent with Section 6(b) of the Act[5] and furthers the objectives of Section 6(b)(5) of the Act[6] in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The PCX neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PCX submitted a draft of this filing, including the proposed new rule text, to the Commission on September 11, 2002 in fulfillment of the five-day draft notice period of Rule 19b–4(f)(6).[7] The PCX has further designated that the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designated if consistent with the protection of investors and the public interest. Therefore, the proposed rule change has become effective immediately upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b-4(f)(6) thereunder.[9] At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

A proposed rule change filed under Rule 19b–4(f)(6)[10] does not become operative until 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The PCX has requested that the Commission accelerate the implementation of this proposed rule change so that it may take effect before the 30-day period specified in Rule 19b–4(f)(6)(iii).[11] The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day period and to designate that the proposed rule change has become operative as of September 23, 2002, the date the PCX filed the proposal with the Commission.[12]

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 the filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No.

[3] *See* Securities Exchange Act Release No. 28134 (June 19, 1990), 55 FR 26320 (June 27, 1990).

[4] The PCX notes, for example, that current PCX Rule 6.84(a) is virtually identical to Chicago Board Options Exchange (''CBOE'') Rule 8.9(c), except that the CBOE rule does not restrict the number of joint accounts in which a market maker may participate.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] *Id.*

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] The Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation for the sole purpose of accelerating the operative date of the proposed rule change. 15 U.S.C. 78c(f).

SR–PCX–2002–60 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26058 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46617; File No. SR–PCX–2002–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. To Amend the Definition of ''Primary Only Order''

October 8, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 16, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. PCX filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary PCX Equities, Inc. (''PCXE''), proposes to amend its rules governing the Archipelago Exchange, the equities trading facility of PCXE, by amending the definition of ''Primary Only Order'' (''PO Order'') to permit ETP Holders and Sponsored Participants[5] on the Archipelago Exchange to enter such orders at times other than just prior to the primary market opening. Under the proposal, PO Orders may be entered until a cut-off time determined from time to time by the PCXE. Below is the text of the proposed rule change. New text is in *italics*, while deletions appear in [brackets].

* * * * *

PCX Equities, Inc.

Rule 7

Equities Trading

Orders and Modifiers

Rule 7.31(a)–(w)—No change.

(x) Primary Only Order (PO Order). For exchange-listed securities only, a market order that is to be routed as a market[-on-open] order to the primary market [for participation in the primary market opening or re-opening process]. *Such PO Orders may be entered until a cut-off time as determined from time to time by the Corporation.*

(1)–(2)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Archipelago Exchange (''ArcaEx'') commenced operations on March 22, 2002, replacing the PCXE's traditional trading floor facilities. As part of its continuing review of the system's functionality and rules, the Exchange proposes to amend the definition of a PO Order to permit ETP Holders and Sponsored Participants (collectively ''Users'') on ArcaEx to enter such orders at times other than just prior to the primary market opening. Under the proposal, PO Orders may be entered until a cut-off time determined from time to time by the Exchange.

As defined in Rule 7.31(x), a PO Order is a market order, for exchange-listed securities only, that is to be routed as a market-on-open order to the designated primary market for participation in the primary market opening or re-opening process. A PO Order bypasses the order execution processes of the ArcaEx Book and is routed directly to the designated primary market. Currently, a PO Order entered for participation in the primary market opening must be entered before 6:28 a.m. (Pacific Time). The Exchange proposes to modify the definition of a PO Order so they may be entered at times other than just prior to the primary market opening.

The proposed rule change is intended to provide Users with more flexibility as to when they may route PO Orders to the designated primary market. The Exchange believes that by expanding the time during which PO Orders may be entered, Users will have the ability to use other markets other than ArcaEx as an alternative order destination when it suits the User's investment needs. Accordingly, the Exchange believes that the proposed rule change promotes a more efficient and effective market operation, and enhances the investment choices available to Users in the handling of their orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[6] of the Act, in general, and furthers the objectives of section 6(b)(5),[7] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the foregoing rule change as effecting a change that: (1) Does not significantly

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] A ''Sponsored Participant'' means ''a person which has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to [PCXE] Rule 7.29.'' *See* PCXE Rule 1.1(tt).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days from the date of filing. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. Accordingly, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

PCX has also requested that the Commission waive the 30-day waiting period so that the proposed rule change may become operative immediately. The proposed Primary Only Order, as amended, promotes a more efficient and effective market operation, and enhances the investment choices available to Users in the handling of their orders. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day waiting period.[10] For these reasons, the Commission designates the proposal as operative immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. PCX–2002–58 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26155 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46615; File No. SR–Phlx–2002–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to a Thirty Day Extension of Interpretation of PACE Guarantees in Securities Subject to ITS Plan Exemption

October 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to continue to exempt transactions in certain exchange-traded fund (''ETF'') shares from Supplementary Material Section .10(a)(iii) of Exchange Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (''PACE'') beginning October 4, 2002, for a period of 30 days ending on November 3, 2002.[3] The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend a current limited exemption from Phlx Rule 229.10(a)(iii), with such extension beginning October 4, 2002 and ending on November 3, 2002. The exemption applies to the ETFs tracking the Nasdaq-100 Index (''QQQs''), the Dow Jones Industrial Average (''DIAMONDs''), and the Standard & Poor's 500 Index (''SPDRs'').[4] The exemption would correlate with a recent exemption from the ITS Plan issued by the Commission (the ''ITS Exemption'').[5]

As discussed in the Exchange's earlier proposed rule change to temporarily adopt the exemption until October 4,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PACE is the Exchange's Automated Communication and Execution System. PACE provides a system for the automatic execution of orders on the Exchange equity floor under predetermined conditions.

[4] The Exchange does not currently trade DIAMONDs or SPDRs but may determine to do so in the future. The Exchange does trade QQQs. The Nasdaq-100®, Nasdaq-100 Index®, Nasdaq®, The Nasdaq Stock Market®, Nasdaq-100 Shares℠, Nasdaq-100 Trust℠, Nasdaq-100 Index Tracking Stock℠, and QQQ℠ are trademarks or service marks of The Nasdaq Stock Market, Inc. (''Nasdaq'') and have been licensed for use for certain purposes by the Philadelphia Stock Exchange pursuant to a License Agreement with Nasdaq. The Nasdaq-100 Index® (the ''Index'') is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 Trust℠, or the beneficial owners of Nasdaq-100 Shares℠. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

[5] *See* Securities Exchange Act Release No. 46428 (August 28, 2002), 67 FR 56607 (September 4, 2002)(Order Pursuant to Section 11A of the Securities Exchange Act of 1934 and Rule 11Aa3–2(f) thereunder Granting a De Minimis Exemption for Transactions in Certain Exchange-Traded Funds from the Trade-Through Provisions of the Intermarket Trading System.).

2002,[6] Section .10(a)(iii) provides generally that if 100 or more shares print through the limit price on any exchange(s) eligible to compose the PACE Quote[7] after the time of entry of any such order into PACE, the specialist shall execute all such orders at the limit price without waiting for an accumulation of 1000 shares to print at the limit price on the New York market.[8] The Exchange's earlier proposed rule change provided a limited exemption from this requirement. The limited exemption by its terms expires on October 4, 2002. The Exchange is now proposing to extend the effectiveness of the exemption until November 3, 2002.

Phlx Rule 229.10(a)(iii) requires a Phlx specialist to execute certain orders that are traded-through by another market center. Prior to the Commission's issuance of the ITS Exemption, although the specialist had this obligation the specialist was, in turn, entitled to ''satisfaction'' of those orders pursuant to Section 8(d) of the ITS Plan. Now, where trading through is no longer prohibited by the ITS Plan, as enumerated in the ITS Exemption, the specialist does not have recourse to seek ''satisfaction'' for these orders and is alone responsible for those executions. Thus, the Phlx believes that its provision guaranteeing an execution no longer makes sense. Moreover, the provision now unduly burdens the specialist by requiring the specialist to execute orders in situations where the specialist does not have access to trading at that price.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5)[10] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. By adopting the proposed exemption, the Exchange avoids burdening specialists with the obligation to fill an order in circumstances where an external event triggered the execution obligation and the specialist could not access trading at that price.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[11] and subparagraph (f)(1) of Rule 19b–4 thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–58 and should be submitted by November 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–26151 Filed 10–11–02; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Securities Exchange Act Release No. 46481 (September 10, 2002), 67 FR 58669 (September 17, 2002) (File No. SR–Phlx–2002–48).

[7] PACE Quote is defined in Rule 229 as the best bid/ask quote among the American, Boston, Cincinnati, Chicago, New York, Pacific or Philadelphia Stock Exchange, or the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES'') quote, as appropriate.

[8] To be understood, Section .10(a)(iii) must be read in conjunction with the preceding Section of the PACE Rule. Supplementary Material Section .10(a)(ii) provides as follows:

Non-Marketable Limit Orders—Unless the member organization entering orders otherwise elects, round-lot limit orders up to 500 shares and the round-lot portion of PRL limit orders up to 599 shares which are entered at a price different than the PACE Quote will be executed in sequence at the limit price when an accumulative volume of 1000 shares of the security named in the order prints at the limit price or better on the New York market after the time of entry of any such order into PACE. For each accumulation of 1000 shares which have been executed at the limit price on the New York market, the specialist shall execute a single limit order of a participant up to a maximum of 500 shares for each round-lot limit order up to 500 shares or the round-lot portion of a PRL limit order up to 599 shares.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(i).

[12] 17 CFR 240.19b-4(f)(1).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3452]

State of Louisiana

As a result of the President's major disaster declaration on October 3, 2002, I find that Acadia, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne and Vermillion Parishes in the State of Louisiana constitute a disaster area due to damages caused by Hurricane Lili occurring on October 1, 2002, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 2, 2002 and for economic injury until the close of business on July 3, 2003 at the address

listed below or other locally announced locations:

Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous parishes and counties may be filed until the specified date at the above location: Allen, Catahoula, Concordia, East Baton Rouge, East Feliciana, La Salle, Pointe Coupee, Rapides, St. Helena, Vernon, Washington, West Baton Rouge and West Feliciana in the State of Louisiana; Amite, Hancock, Pearl River and Pike counties in the State of Mississippi; and Jefferson, Newton and Orange counties in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 345208. For economic injury the number is 9R9100 for Louisiana; 9R9200 for Mississippi; and 9R9300 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 4, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–26073 Filed 10–11–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3448]

State of Texas; (Amendment #2)

In accordance with a notice received from the Federal Emergency Management Agency, dated October 4, 2002, the above numbered declaration is hereby amended to include Jim Wells County in the State of Texas as a disaster area due to damages caused by Tropical Storm Fay beginning on September 6, 2002, and continuing through September 30, 2002.

In addition, applications for economic injury loans from small businesses located Brooks County may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 25, 2002, and for economic injury the deadline is June 26, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 8, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–26187 Filed 10–11–02; 8:45 am]

BILLING CODE 8025–05–P

DEPARTMENT OF STATE

[Public Notice 4161]

30-Day Notice of Proposed Information Collection: Form DS–86, Statement of Non-Receipt of Passport (Formerly Form DSP–86); OMB Control Number 47–R0178

AGENCY: Department of State; Bureau of Consular Affairs, Passport Services.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Statement of Non-Receipt of a Passport.

Frequency: On Occasion.

Form Number: DS–86 (formerly DSP–86).

Respondents: Individuals or Households.

Estimated Number of Respondents: 20,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 1,667 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: September 30, 2002.

Florence G. Fultz,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 02–26158 Filed 10–11–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 4, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1997–2946.

Date Filed: October 1, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 22, 2002.

Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41102 and 41108, and Subpart B, requesting renewal of its certificate authority to engage in scheduled foreign air transportation of persons, property, and mail between New York and Boston, on the one hand, and Nairobi, Kenya, on the other hand.

Docket Number: OST–2002–13495.

Date Filed: October 2, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 2002.

Description: Application of BBJ Charter, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting a certificate of public convenience and necessity to engage in foreign air transportation of persons, property, and mail on a world wide basis.

Docket Number: OST–2002–13496.

Date Filed: October 2, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 2002.

Description: Application of BBJ Charters, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart B, requesting a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property, and mail.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 02–26125 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Section 211.41, and 49 U.S.C. 20103, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being sought.

Hillsborough Area Regional Transit

[Docket Number FRA–2002–13398]

Hillsborough Area Regional Transit (Hartline) seeks a permanent waiver of compliance from Title 49 of the CFR for operation of a new light rail line at a ''limited connection'' with CSX Transportation (CSXT). In this regard, Hartline has constructed the ''TECO Line Streetcar System,'' which intersects with the CSXT Tampa Terminal Subdivision at a rail crossing located in the City of Tampa, Florida.

Hartline seeks relief from all applicable FRA rules based on the safety precautions already in place at the crossing. Specifically, CSXT is subject to FRA's regulations and maintains and operates the rail crossing for the proposed project, and the TECO Line Streetcar System is a light rail transit operation except for the minor crossing connection. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment,* 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems,* 65 FR 42626 (July 10, 2000).

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with the request for a waiver of certain regulatory provisions. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA–2002–13398) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket, including Hartline's detailed waiver request, are also available for inspection and copying on the Internet at the docket facility's Web site at *http:\\dms.dot.gov.*

Issued in Washington, DC, on October 3, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–26127 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–13239]

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the interlocking protection, on the single main track, Harvey Canal Drawbridge, milepost 4.3, on the Livonia Subdivision, at Harvey, Louisiana. The proposed changes consist of the discontinuance and removal of controlled signals 3 and 11 and the associated power-operated derails, and installation of stop signs on both approaches to the drawbridge.

The reasons given for the proposed changes are that signals are no longer required due to removal of one track and reduction in traffic to one local train in each direction daily over the bridge, and there is a 10 mph speed restriction governing movements over the bridge.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW.,

Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on October 3, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–26128 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations CFR part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number: FRA–2002–13241.

Applicant: CSX Transportation, Incorporated, Mr. Eric G. Peterson, Assistant Chief Engineer, Signal Design and Construction, 4901 Belfort Road, Suite 130 (S/C J–370), Jacksonville, Florida 32256.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system at South End Erie Siding, milepost BE127.00, at Lima, Ohio, on the Toledo Subdivision, Louisville Service Lane, consisting of the discontinuance and removal of the derail and associated electric lock at the location.

The reason given for the proposed changes is the elimination of equipment no longer needed for present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on October 3, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 02–26129 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2002–13325

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

Union Pacific Railroad Company seeks approval of the proposed reduction to the limits of the automatic block signal (ABS) system, from milepost 349.3 to 347.4, at South St. Paul, Minnesota, on the Albert Lea Subdivision. The proposed changes consist of the discontinuance and removal of southbound automatic signal 3493, relocation of End ABS and Begin ABS signs from milepost 349.3 to 347.4, and conversion of the northbound signal leaving the ABS territory from yellow to stationary lunar.

The reason given for the proposed changes is that the application area is within yard limits and the signal system is no longer required, as it presently inhibits switching operations.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on October 3, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–26126 Filed 10–11–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 187X)]

Union Pacific Railroad Company—Abandonment Exemption—in Boone and Dallas Counties, IA

On September 25, 2002, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 12.2-mile line of railroad known as the Ankeny Subdivision, between milepost 341.1 near Slater and milepost 353.5 near Woodward (Equation 346.4=346.6) in Boone and Dallas Counties, Iowa. The line traverses United States Postal Service Zip Codes 50156 and 50276, and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 13, 2003.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 4, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 187X) and must be sent to: (1) Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the petition are due on or before November 4, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: October 7, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–26159 Filed 10–11–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 955]

Appointment of Individuals To Serve as Members of the Performance Review Board (PRB); Senior Executive Service

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Performance Review Board for the Bureau of Alcohol, Tobacco and Firearms (ATF) for the rating period beginning October 1, 2001, and ending September 30, 2002. This notice effects changes in the membership of the ATF PRB previously appointed October 18, 2001 (66 FR 52972).

The names and titles of the ATF PRB members are as follows:

(1) John J. Manfreda, Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury;

(2) John Dooher, Director, Washington Office, Federal Law Enforcement Training Center, Department of the Treasury;

(3) James L. Dunlap, Deputy Assistant Director, Office of Investigations, United States Secret Service, Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Dennis Snyder, Personnel Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–8610.

Signed: October 4, 2002.

Bradley A. Buckles,

Director.

[FR Doc. 02–25998 Filed 10–11–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Release of Non-Public Information—12 CFR 4.''

DATES: You should submit comments by December 16, 2002.

ADDRESSES: You should direct comments to the Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0200, 250 E Street, SW., Washington, DC 20219. Due to disruptions in the OCC's mail service since September 11, 2001, commenters are encouraged to submit comments by fax or e-mail. Comments

may be sent by fax to (202) 874–4448, or by e-mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

A copy of the comments should also be sent to the OMB Desk Officer for the OCC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or by e-mail to *jlackeyj@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You can request additional information from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Release of Non-Public Information.

OMB Number: 1557–0200.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

The information collection requirements contained in 12 CFR part 4 are as follows:

Section 4.33 requires a person seeking non-public OCC information to submit a request in writing to the OCC.

Section 4.35(b)(3) requires a third party to submit to the OCC a separate request for information beyond the scope of a previous request for testimony.

Section 4.37(a)(2) requires current and former OCC employees subpoenaed or otherwise requested to provide information to notify the OCC.

Section 4.37(b)(1)(i) requires any person, national bank, or other entity to seek OCC approval before disclosing non-public OCC information.

Section 4.37(b)(3) requires any person, national bank, or other entity served with a request, subpoena, order, motion to compel, or other judicial or administrative process to provide non-public OCC information to notify the OCC.

Section 4.38(a) and (b) requires may a condition a decision to release non-public OCC information on a written agreement of confidentiality or agreement of the parties to appropriate limitations.

Section 4.39 requires requesters who require authenticated records or certificates to request certifications from the OCC.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 110.

Estimated Total Annual Responses: 170.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 467 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 8, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 02–26040 Filed 10–11–02; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Customs Service

List Of Foreign Entities Violating Textile Transshipment And Country of Origin Rules

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act of 1930, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting October 1, 2002, and ending March 30, 2003.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Gregory Olsavsky, Fines, Penalties and Forfeitures Branch, Office of Field Operations, (202) 927–3119. For information regarding any of the legal aspects, contact Willem A. Daman, Office of Chief Counsel, (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act (URAA) (Public Law 103–465, 108 Stat. 4809) (signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above

violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition or supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by sections 171.2 and 171.61, Customs Regulations (19 CFR 171.2, 171.61) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 60 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

(1) Has the importer had a prior relationship with the named party?

(2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

(3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

(4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

(5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

(6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

(7) What is the history of this country regarding this commodity?

(8) Have you asked questions of your supplier regarding the origin of the product?

(9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On March 20, 2002, Customs published a Notice in the **Federal Register** (67 FR 13044) which identified 10 (ten) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending September 30, 2002, Customs has identified 3 (three) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects no new entities and seven removals to the 10 entities named on the list published on March 20, 2002. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 3 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 3 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Everlite Manufacturing Company, P.O. Box 90936, Tsimshatsui, Kowloon, Hong Kong (3/01).

Fairfield Line (HK) Co. Ltd., 60–66 Wing Tai Commer., Bldg. 1/F, Sheung Wan, Hong Kong (3/01).

G.P. Wedding Service Centre, Lee Hing Industrial Building, 10 Cheung Yue Street 11th Floor, Cheung Sha Wan, Kowloon, Hong Kong. (10/00)

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Additional Foreign Entities

In the March 20, 2002, **Federal Register** notice, Customs also solicited information regarding the whereabouts of 3 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 3 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

In this document, a new list is being published which contains the name and last known address of one entity. This reflects the removal of two entities from the list of 3 entities published on March 20, 2002.

Customs is soliciting information regarding the whereabouts of the following one foreign entity concerning alleged violations of section 592. Its name and last known address are listed below (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Lai Cheong Gloves Factory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 101, 1–F, Yuen Long, New Territories, Hong Kong. (3/00)

If you have any information as to a correct mailing address for the above-named firm, please send that information to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Dated: October 9, 2002.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 02–26123 Filed 10–11–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2290

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2290, Heavy Highway Vehicle Use Tax Return.

DATES: Written comments should be received on or before December 16, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P, Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*carol.a.savage@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Heavy Highway Vehicle Use Tax Return.

OMB Number: 1545–0143.

Form Number: 2290.

Abstract: Form 2290 is used to compute and report the tax imposed by Internal Revenue Code section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 440,000.

Estimated Time Per Respondent: 39 hours, 38 minutes.

Estimated Total Annual Burden Hours: 17,443,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 7, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–26192 Filed 10–11–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 56

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 56, Notice Concerning Fiduciary Relationship.

DATES: Written comments should be received on or before December 16, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, or through the internal (*Larnice.Mack@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice Concerning Fiduciary Relationship.

OMB Number: 1545–0013.

Form Number: 56.

Abstract: Form 56 is used to inform the IRS that a person is acting for another person in a fiduciary capacity so that the IRS may mail tax notices to the fiduciary concerning the person for whom he/she is acting. The data is used to ensure that the fiduciary relationship is established or terminated and to mail or discontinue mailing designated tax notices to the fiduciary.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 11 hr. 43 min.

Estimated Total Annual Burden Hours: 292,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 7, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–26193 Filed 10–11–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4810

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4810, Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

DATES: Written comments should be received on or before December 16, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*carol.a.savage@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

OMB Number: 1545–0430.

Form Number: 4810.

Abstract: Fiduciaries representing a dissolving corporation or a decedent's estate may request a prompt assessment of tax under Internal Revenue Code section 6501(d). Form 4810 is used to help locate the return and expedite the processing of the taxpayer's request.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, farms, and the Federal government.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 8, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–26194 Filed 10–11–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 673

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 673, Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

DATES: Written comments should be received on or before December 16, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet (*carol.a.savage@irs.gov.*), Internal

Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

OMB Number: 1545–0666.

Form Numbers: 673.

Abstract: Under section 911 of the Internal Revenue Code certain income earned abroad is excludable from gross income. Form 673 is completed by a citizen of the United States and is furnished to his or her employer in order to exclude from income tax withholding all or part of the wages paid the citizen for services performed outside the United States.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 8, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–26195 Filed 10–11–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Commissioner of Internal Revenue; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Friday October 18, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Wilds, National Public Liaison, CL:NPL:PAC, Room 7567 IR, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–622–6440 (not a toll-free number). E-mail address: *public_liaison;@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRSAC will be held on Friday, October 18, 2002, from 9 a.m. to 4 p.m. in Room 2140, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed include: offers-in-compromise, k–1 matching program, compliance, competent authority, abusive tax shelters, transfer-pricing. Reports from the three IRSAC sub-groups, Wage & Investment, Small Business/Self-Employed, and Large and Mid-size Business will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRSAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Lorenza Wilds to confirm your attendance. Ms. Wilds can be reached at 202–622–6440. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building. Should you wish to the IRSAC to consider a written statement, please call (202) 622–6440, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:PAC, 1111 Constitution Avenue, NW., Room 7567 IR, Washington, DC 20224 or e-mail: *public_liaison@irs.gov.*

Dated: October 7, 2002.

Nancy A. Thoma,

Designated Federal Official, Branch Chief, Planning & Advisory Councils.

[FR Doc. 02–26191 Filed 10–11–02; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0205]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information used to notify contractors of available work, solicit and evaluate bids, and monitor work in progress.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 16, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@hq.med.va.gov.* Please refer to ''OMB Control No. 2900–0205'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff at (202) 273–8310 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 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. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Titles

a. VA Form 10–2850, Application for Physicians, Dentists, Podiatrists and Optometrists.

b. VA Form 10–2850a, Application for Nurses and Nurse Anesthetists.

c. VA Form 10–2850b, Application for Residents.

d. VA Form 10–2850c, Application for Associated Health Occupations.

e. VA Form FL 10–341a, Appraisal of Applicant.

OMB Control Number: 2900–0205.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 10–2850 and 10–2850a through c are applications designed specifically to elicit appropriate information about each candidate's qualifications for employment with VA. VHA officials use the information to evaluate education, professional experience and credentials and to determine suitability and grade level of applications of physicians, dentists, podiatrists, optometrists, nurses and nurse anesthetists, residents, and associated health occupations, and appraisal of applicants. The forms require disclosure of details about all licenses ever held, Drug Enforcement Administration certification, board certification, clinical privileges, revoked certification or registrations, liability insurance history, and involvement in malpractice proceedings. Form Letter 10–341a is a pre employment reference form used to elicit information concerning the prior education and/or performance of the Title 38 applicant.

Affected Public: Individuals or Households, Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Annual Burden: 68,610 hours.

a. VA Form 10–2850, Application for Physicians, Dentists, Podiatrists and Optometrists—6,450 hours.

b. VA Form 10–2850a, Application for Nurses and Nurse Anesthetists—25,800 hours.

c. VA Form 10–2850b, Application for Residents—13,760 hours.

d. VA Form 10–2850c, Application for Associated Health Occupations—8,600 hours.

e. VA Form FL 10–341a, Appraisal of Applicant—14,000 hours.

Estimated Average Burden Per Respondent: 27 minutes.

a. VA Form 10–2850, Application for Physicians, Dentists, Podiatrists and Optometrists—30 minutes.

b. VA Form 10–2850a, Application for Nurses and Nurse Anesthetists—30 minutes.

c. VA Form 10–2850b, Application for Residents—30 minutes.

d. VA Form 10–2850c, Application for Associated Health Occupations—30 minutes.

e. VA Form FL 10–341a, Appraisal of Applicant—20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 151,220.

a. VA Form 10–2850, Application for Physicians, Dentists, Podiatrists and Optometrists—12,900.

b. VA Form 10–2850a, Application for Nurses and Nurse Anesthetists—51,600.

c. VA Form 10–2850b, Application for Residents—27,520.

d. VA Form 10–2850c, Application for Associated Health Occupations—17,200.

e. VA Form FL 10–341a, Appraisal of Applicant—42,000.

Dated: October 2, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–26120 Filed 10–11–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0208]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information used to notify contractors of available work, solicit and evaluate bids, and monitor work in progress.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 16, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *ann.bickoff@hq.med.va.gov.* Please refer to ''OMB Control No. 2900–0208'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff at (202) 273–8310 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 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. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Titles

a. VA Form 10–6131, Daily Log—Formal Contract

b. VA Form 10–6298, Architect—Engineer Fee Proposal

c. VA Form 10–6299, Supplement to SF 129, Solicitation Mailing List Application

OMB Control Number: 2900–0208.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Form 10–6131 is used by contractors to furnish daily reports verifying work progression and assures proper contract compliance.

b. VA Form 10–6298 is used by architect-engineering firms to submit a fee proposal on the scope and complexity of an individual project.

c. VA Form 10–6299 is mailed with SF 129, Solicitation Mailing List Application, is used to compile a list of potential bidders and by potential contractors who are afforded advance notification of projects.

Affected Public: Business or other for-profit, State, Local or Tribal Government.

Estimated Annual Burden: 7,400 hours.

Estimated Average Burden Per Respondent

a. VA Form 10–6131—12 minutes.

b. VA Form 10–6298—4 hours.

c. VA Form 10–6299—6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents

a. VA Form 10–6131—18,000.

b. VA Form 10–6298—200.

c. VA Form 10–6299—3,000.

Dated: October 2, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–26121 Filed 10–11–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0609]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine an accurate projection of VA's ability to serve veterans who are seeking VA services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 16, 2002.

ADDRESSES: Submit written comments on the collection of information to Ann W. Bickoff (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *ann.bickoff@hq.med.va.gov.* Please refer to ''OMB Control No. 2900–0609'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann W. Bickoff at (202) 273–8310 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 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. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Title: Veterans Enrollees' Heath and Reliance Upon VA, VA Form 10–21034g.

OMB Control Number: 2900–0609.

Type of Review: Revision of a currently approved collection.

Abstract: Public Law 104–262, The Veterans Health Care Eligibility Reform Act of 1996, mandated VA to implement eligibility reforms with an annual enrollment. VA must enroll veterans by specified priorities as far down the priorities as the available resources permit. There is no valid, recent information available in administrative databases on all enrollees' health status, income, and their reliance upon the VA system. The magnitude of changes each year in enrollees, their characteristics, and system policies make annual surveys necessary to capture this critical information for input into VHA's Health Care Services Demand Model.

Affected Public: Individuals or Households.

Estimated Annual Burden: 9,375 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 37,500.

Dated: October 1, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–26122 Filed 10–11–02; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
October 15, 2002

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determinations of Prudency for Two Mammal and Four Bird Species in Guam and the Commonwealth of the Northern Mariana Islands and Proposed Designations of Critical Habitat for One Mammal and Two Bird Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AI25

Endangered and Threatened Wildlife and Plants; Determinations of Prudency for Two Mammal and Four Bird Species in Guam and the Commonwealth of the Northern Mariana Islands and Proposed Designations of Critical Habitat for One Mammal and Two Bird Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have reconsidered whether designating critical habitat for the Mariana fruit bat (*Pteropus mariannus mariannus*), little Mariana fruit bat (*Pteropus tokudae*), Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*), Mariana crow (*Corvus kubaryi*), Guam broadbill (*Myiagra freycineti*), and Guam subspecies of bridled white-eye (*Zosterops conspicillatus conspicillatus*) would be prudent. We propose designation of critical habitat for the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow pursuant to the Endangered Species Act of 1973, as amended (Act). We propose designating approximately 10,037 hectares (ha) (24,803 acres (ac)) on the island of Guam for the Mariana fruit bat and the Guam Micronesian kingfisher. For the Mariana crow, we propose designating approximately 9,309 ha (23,004 ac) on the island of Guam and approximately 2,462 ha (6,084 ac) on the island of Rota in the Commonwealth of the Northern Mariana Islands (CNMI). On Guam, the Mariana fruit bat and Guam Micronesian kingfisher proposed critical habitat unit boundaries are identical and the boundaries of the proposed critical habitat for the Mariana crow is contained within these identical boundaries. On Rota, critical habitat is proposed only for the Mariana crow.

We have determined that designation of critical habitat would not be prudent for the little Mariana fruit bat, Guam broadbill, and bridled white-eye because all three species likely are extinct. These species inhabited native forests similar to those required by the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow, and the designation of critical habitat for these species on Guam will provide some insurance in the event that any of the species presumed extinct are rediscovered.

We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: *Comments:* Comments from all interested parties must be received by December 16, 2002.

Public Hearings: A public hearing will be held on Rota from 6 to 8 p.m. on Wednesday, November 6, 2002. A public hearing will also be held on Guam from 6 to 8 p.m., Thursday, November 7, 2002. Prior to each public hearing, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. We also will be available for questions after each of the hearings.

ADDRESSES: The Rota public hearing will be held at the Rota Resort, 2600 Bishop Drive, As Puladan. The Guam public hearing will be held at the Outrigger Guam Resort, 1255 Pale San Vitores Road, Tumon Bay.

Anyone wishing to make oral comments for the record at the public hearing is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than 1 week before the hearing date.

You may submit your comments and materials concerning this proposal by any one of the following methods:

You may submit comments and information on this proposed rule to Paul Henson, Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850.

You may hand-deliver written comments to our Pacific Islands Office at the address given above.

You may send comments by electronic mail (e-mail) to: *Mariana_CritHab@r1.fws.gov. See* the Public Comments Solicited section below for file format and other information about electronic filing.

Availability of Documents: Supporting documentation and references used in the preparation of this proposed rule and all comments and materials received will be available for public inspection, by appointment, during normal business hours in the Pacific Islands Fish and Wildlife Office in Honolulu at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, or Fred Amidon, Fish and Wildlife Biologist, Pacific Islands Fish and Wildlife Office, at the above address (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

The Territory of Guam (Guam) is the largest and southernmost of the 16 islands in the Mariana Archipelago. Guam is located at 13o 30' N and 145o E and is approximately 49 kilometers (km) (30 miles (mi)) long and 7 to 15 km (4 to 9 mi) wide. The northern half of Guam is an upraised limestone plateau and the southern half is primarily of volcanic origin with a mountainous topography. The major habitat types found on Guam include limestone forest, grassland, swamp forest (including mangroves), ravine forest, secondary forest, agricultural forest (including coconut plantations), coastal forest, open ground (including pastures and cultivated areas), urban vegetation, and marshland (Fosberg 1960, Mueller-Dombois and Fosberg 1998). The majority of Northern Guam is secondary forest, with large areas cleared for military facilities and business and residential development. Southern Guam is a mosaic of grassland and patches of ravine, limestone, swamp, and secondary forests.

Rota is the fourth largest island in the Mariana Archipelago, and is located 49 km (30 mi) north of Guam at 14°10′ N and 145° E. The island is approximately 18 km (11 mi) long and 4 to 7 km (2.5 to 4 mi) wide. The western half of the island is dominated by an uplifted plateau, the Sabana, which supports a combination of limestone forest, grassland, and agricultural land. The Sabana encompasses 12 km^2 (5 mi^2) at an elevation of 450 meters (m) (1,476 feet (ft)). Steep cliffs border the Sabana on all but the northeast side, where the plateau slopes down to the eastern part of the island, which supports a combination of secondary forest and residential and agricultural lands. Because access is difficult, the cliffs surrounding the Sabana support primary limestone forest. Although approximately 60 percent of Rota is now forested (Falanruw *et al.* 1989), and the native vegetation on Rota is less disturbed than on Guam, much of the forest on Rota is of medium stature and

is degraded by development activities, introduced plants and animals, logging, and the effects of warfare from WWII (Fosberg 1960, Engbring *et al.* 1986, NRC 1997, Mueller-Dombois and Fosberg 1998). Prior to human colonization, both Guam and Rota likely were covered with forest and had similar vegetation and habitat types.

Taxonomy, Life History, Distribution, and Habitat

Mariana fruit bat—This species is a medium-sized fruit bat weighing from 330 to 577 grams (g) (12 to 20 ounces (oz)) with a wingspan of 860 to 1,065 millimeters (mm) (34 to 42 inches (in)) (Perez 1972). The abdomen, wings, and head are dark brown, while the back and sides of the neck are golden or pale brown. This species is a member of the Old World fruit bat family Pteropodidae, which is distributed throughout the Old World tropics. The Mariana fruit bat historically inhabited all of the major islands in the Mariana archipelago. This species typically roosts diurnally in colonies in undisturbed native forests and forages widely at night on nectar, fruit, and leaves of at least 22 plant species (Wiles 1983). The Mariana fruit bat is polygynous; colonies usually consist of harems of 2 to 15 females attended by one male and bachelor groups (Wiles 1982a, 1983). Females typically produce a single offspring per year; mating and nursing young have been observed throughout the year (Perez 1972, Wiles 1983, Wiles *et al.* 1995).

During the day, Mariana fruit bats roost in native and non-native trees alone or in groups or colonies of a few to over 800 animals (Wiles 1987, Pierson and Rainey 1992, Worthington and Taisacan 1995). Roosting bats sleep during much of the day but also perform other activities, such as grooming, breeding, and defending roosting territories within the colony (USFWS 1990a). Several hours after sunset, bats depart their roost sites to forage for fruit and other native and non-native plant materials such as leaves and nectar (USFWS 1990a). Little is known about their nightly movements, but fruit bats have been observed foraging as far as 12 km (7 mi) from known roosting sites on Guam (Wiles *et al.* 1995). Radio tracking of the Tongan or white-necked fruit bat (*Pteropus tonganus*) in Samoa indicates that individual animals may travel as far as 15 to 20 km (9 to 12 mi) from their roosts during a night's foraging (Suzanne Nelson, University of Florida, pers. comm., 2002). Similar to the Mariana fruit bat, this species roosts colonially during the day and forages widely at night, feeding on the fruit, nectar, and leaves of a range of native and non-native plants (Trail 1994, Banack 1998).

At present, only the Guam population of Mariana fruit bat is listed as endangered. A proposed rule to reclassify the Guam population of the species as threatened and also list the population in the CNMI as threatened was published on March 26, 1998 (63 FR 14641).

On Guam, the Mariana fruit bat was historically found throughout native forests. In 1958, Woodside (1958) estimated the population on Guam to number approximately 3,000 fruit bats. By 1995, the island population had been reduced to between 300 and 500 and was restricted primarily to forest on the northern tip of the island (Wiles *et al.* 1995), although there are occasional reports of bats from southern Guam around the Fena Reservoir (Morton and Wiles, in press). Illegal hunting is believed to be one of the major causes of decline in this species, but predation by the brown treesnake *(Boiga irregularis)* also may be an important limiting factor (Wiles 1987). The Mariana fruit bat forages and roosts primarily in native limestone forest, but coconut plantations and coastal forest are occasionally used as well (Wiles 1987, Worthington and Taisacan 1996). Most other species of Pacific fruit bats generally use a variety of forest types, including agricultural forest in close proximity to residential areas (Falunruw 1988, Wiles and Engbring 1992, Banack 1998). On Guam, however, residential areas generally are not used by the Mariana fruit bat, probably because they do not provide adequate protection from poaching (USFWS 1990a). Forested areas protected from human intrusion are necessary for conservation of the Mariana fruit bat on Guam.

Little Mariana fruit bat—This species is a small fruit bat weighing approximately 152 g (5 oz) with a wingspan of 650 to 709 mm (25 to 28 in) (Tate 1934, Perez 1972). The abdomen and wings of the little Mariana fruit bat are dark brown while the mantle and sides of the neck are golden or brown. The top of the head is grayish to yellowish brown while the throat is dark brown. This species was a member of the Old World fruit bat family Pteropodidae. It was first described in 1931 (Tate 1934), and is believed to have been endemic to the island of Guam. Only three specimens of this species have been collected, and virtually nothing is known of its life history or distribution. This species typically has been described as ''rare'' (Baker 1948, Perez 1972). It was last recorded in 1968, when one female was shot by hunters in mature limestone forest at Tarague Point in Northern Guam (Perez 1972). The little Mariana fruit bat likely is extinct (USFWS 1990a).

Guam Micronesian kingfisher—The Halcyon kingfishers are widespread in the Pacific, Australia, and Southeast Asia. The subspecies *Halcyon cinnamomina cinnamomina* is endemic to Guam. Other subspecies are endemic to Palau and Pohnpei. The Guam Micronesian kingfisher weighs approximately 56 to 76 g (2 to 3 oz) and is sexually dimorphic (Baker 1951). Males have a rusty brown head, neck, upper back, and underparts and a blue tail and wings. Females look similar to the male but the chin, throat, and underparts are white. The Guam Micronesian kingfisher preys on insects and small vertebrates such as skinks and geckoes, which it typically captures on the ground by ambush from exposed perches (Jenkins 1983). This species nests in cavities excavated in soft, rotten wood, and thus requires mature forest harboring relatively large-diameter, mature trees (Marshall 1989). Nesting activity in the wild on Guam was documented to occur primarily between December and July, and the average clutch size was two eggs (Jenkins 1983).

The Guam subspecies was common throughout Guam as recently as 1945 (Marshall 1949), and was found throughout most forest types (Jenkins 1983). Up to 3,000 birds were recorded in 1981 (Engbring and Ramsey 1984), but the kingfisher declined rapidly, and now is extinct in the wild. However, a captive population of 63 birds has been established and is maintained at 11 zoos in North America including the Bronx, Philadelphia, and National Zoos (B. Bahner, National Zoological Association, in litt. 2002), and the Guam Division of Marine and Aquatic Resources is initiating a captive translocation program on Guam. Once the brown tree snake is controlled or eradicated, progeny produced by this captive flock can be reintroduced to Guam. Adequate forest habitat containing large trees suitable for nesting is essential to the successful reintroduction of kingfishers to the wild.

Mariana crow—This species is endemic to Guam and Rota, and is one of the few members of the worldwide family Corvidae to inhabit oceanic islands. The Mariana crow is a small, black crow weighing approximately 205 to 270 g (7 to 10 oz) (Baker 1951). Most of the information about the life history of the Mariana crow comes from Rota, where the species is more abundant than on Guam, though still rare (Wiles

1998, Morton *et al.* 1999). The Mariana crow is omnivorous and forages on a wide range of invertebrates, small vertebrates, fruit, seeds, foliage, and bark (USFWS in prep.). Crows forage at all heights in the forest as well as on the ground. The Mariana crow associates in family groups, and pairs defend territories of a size dependent upon the distribution of resources (Morton *et al.* 1999). Prior to population declines on Guam (see below), aggregations of up to 66 birds were often observed prior to the breeding season (Wiles 1998). On Rota, nesting is concentrated between August and February, but active nests have been found in every month but June (Morton *et al.* 1999). Nests are built an average of 7 m (23 ft) off the ground, with nest trees averaging 17 centimeter (cm) (7 in) in diameter (Morton *et al.* 1999). In a 3-year period on Rota, an average of 44 percent of Mariana crow pairs successfully fledged young and averaged 1.2 fledglings per successful nest (Morton *et al.* 1999). On Guam, nest predation and low egg viability seem to account for a much shorter breeding season (Morton 1996).

On Guam, the crow historically was widely distributed in forest habitats, but densities were highest in limestone forests and lowest in grasslands and areas with human settlement (Jenkins 1983, Michael 1987). Similar to other Guam forest birds, the crow disappeared from most of the island with the spread of the brown treesnake, and was restricted to the northern cliff forests by the mid 1970s. The population on Guam now numbers 12 birds, 10 of which were translocated from Rota or mainland zoos (Aguon 2002). This wild population experiences little or no reproductive success, and captive propagation efforts on Guam and in mainland zoos since 1984 have produced few juvenile birds for release (USFWS in prep.).

On Rota, Mariana crows were considered relatively common and widely distributed in 1976 (Pratt *et al.* 1979). The first island-wide survey of crows on Rota in 1982 estimated a population of 1,318 individuals (Engbring *et al.* 1986). Crows still are distributed widely on Rota (Morton *et al.* 1999), but results of several surveys indicate that the crow population has declined since the early 1980s. Differences in survey methods and seasonal variation among surveys has generated debate over the rate of decline in this 20-year period. Surveys using the variable circular plot method have been conducted regularly since 1992, however, and these indicate that the current estimate of 343 to 654 crows represents a decline of roughly 38 percent in the Rota population in the last decade (Fancy *et al.*1999; Morton *et al.* 1999; USFWS in prep.).

The best information on the biology and current population size of the Mariana crows on Rota comes from a detailed study of six areas by Morton *et al.* from 1995 to 1999. Morton *et al.* (1999) mapped the locations of all known breeding pairs (n = 85 pairs) on Rota, and estimated the number of additional pairs inhabiting six non-surveyed areas by comparing the habitat in these areas to the surveyed habitats (n = 25 pairs), for a total of 110 breeding pairs on Rota. There likely are additional, nonbreeding crows on Rota, but it is difficult to estimate how many there may be (Morton *et al.* 1999).

Compared to other forest birds of Guam and Rota, Mariana crows have large territories and require relatively large tracts of limestone forest that have low levels of human activity or disturbance (Morton 1996, Morton *et al.* 1999). More forest is necessary to maintain a genetically viable population of crows than for other forest birds on Guam because each pair of crows requires more space than do smaller species. Research on Guam and Rota also indicates that human disturbance can affect nesting success and placement of nest sites (Morton 1996, Morton *et al.*1999).

Although human persecution of crows has occurred on Rota (National Research Council (NRC) 1997, USFWS in prep.), we believe the threat to the species will not be increased by the designation of critical habitat. The small crow population on Guam is located on refuge lands that overlie military lands where access is highly restricted. On Rota, the proposed critical habitat is occupied by crows, and critical habitat designation thus will not place additional regulatory burdens on the local community that might generate increased persecution of crows. However, we are seeking public input on this important question.

Guam broadbill—This flycatcher was a member of the family Monarchidae. Most of the eight or nine genera in this family are widespread in the tropical Pacific, and many species are endemic to a single island or archipelago (Pratt *et al.* 1987). The Guam broadbill was closely related to congeners in Palau *(Myiagra erythrops),* Chuuk *(M. oceanica),* and Pohnpei *(M. pluto).* The Guam broadbill weighed approximately 12 g (0.4 oz) and had a bluish head, neck, back, wings, and tail and a white throat and light cinnamon breast (Baker 1951). Similar to other monarch flycatchers, the Guam broadbill was insectivorous and fed both by gleaning prey from twigs and foliage and by hawking insects from the air (Jenkins 1983). This species nested year-round, and nests usually were placed in a fork of branches in understory trees or shrubs (Jenkins 1983). Both sexes incubated eggs and brooded young (Jenkins 1983).

Although once widespread in all but grassland habitats, by 1979 the Guam broadbill was restricted primarily to mature limestone forests along the north end of the island (Jenkins 1983). In 1983, the population was restricted to the Pajon Basin, a small area on the north coast, and was estimated at less than 100 individuals (Beck 1984). The last sightings of this species took place in 1984, one in March in Northwest Field and one in August adjacent to the Navy golf course in Barrigada (52 FR 2239). Since 1984, spring bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles *et al.* 1995). The primary cause of decline likely was predation by the introduced brown treesnake (Savidge 1986, 1987). The Guam broadbill likely is extinct, and the proposed rule to remove this species from the Endangered Species list was published in the **Federal Register** on January 25, 2002 (67 FR 3675).

Bridled white-eye—The white-eye family Zosteropidae is widespread in the Old World tropics and occurs in the tropical Pacific as far east as Samoa. The Guam subspecies of bridled white-eye, *Zosterops conspicillatus conspicillatus,* was endemic to Guam (Baker 1951), and was one of two subspecies in the Mariana Islands (Slikas *et al.* 2000). The bridled white-eye weighed approximately 10.0 g (0.3 oz) and had a white eye ring, greenish yellow back, wings, and tail, and a yellow throat, breast, and abdomen (Baker 1951). Although white-eyes are known to feed on fruit and nectar as well as insects, this subspecies was primarily insectivorous (Jenkins 1983). Similar to other white-eyes, the bridled white-eye on Guam was a flocking bird that displayed little territoriality, even while nesting (Jenkins 1983). Little is known of its nesting habitats on Guam.

The bridled white-eye was recorded historically in virtually all habitats at all elevations on Guam (Jenkins 1983). By the mid 1940s, however, the subspecies had dwindled in southern Guam (Stophet 1946), and in central Guam it was last observed in the early 1960s (Jenkins 1983). By 1983 the population was restricted to northern Guam and was thought to have dropped below 50 individuals (Beck 1984). The last family group, including a fledgling, was

observed in the Pajon Basin in 1982, and the last individual was observed at this site in 1983 (Beck 1984). Since this sighting in 1983, spring bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles *et al.* 1995). The primary cause of decline most likely was predation by the brown tree snake (Savidge 1986, 1987). The Guam subspecies of bridled white-eye likely is extinct.

Threats

The primary factor in the decline and disappearance of native bird and bat species on Guam certainly has been predation by non-native species, including the brown treesnake (on Guam), three species of rat *(Rattus rattus, R. norvegicus,* and *R. exulans),* and the mangrove monitor lizard *(Varanus indicus)* (Savidge 1986, 1987). The effects of these predators likely have been most severe on birds, and the brown treesnake in particular has played a major role in the precipitous decline in Guam's native birds (Savidge 1987). Predation by the brown treesnake on juvenile Mariana fruit bats also is associated with the decline of this species on Guam (Wiles *et al.* 1995). On Rota, rats in particular are thought to be a major nest predator of the Mariana crow (Morton *et al.* 1999).

Habitat loss and degradation also have contributed to the decline of native species in the Marianas archipelago. Large areas of Guam were cleared of native vegetation during and immediately after World War II (Fosberg 1960), and the encroachment of weedy non-native plants, especially *Leucaena leucocephala* (tangentangen), has increased since 1945. Over the last five decades, the clearing of land for agricultural, housing, and private development (*e.g.*, golf courses and hotels) continued throughout Guam as tourism and the human population increased. Little development has occurred on military lands since they were first developed after the war. However, recently an area of approximately 100 ha (247 ac) on Andersen Air Force Base was cleared for military training purposes (USAF 2001). Significant areas of native forest and other vegetation types still remain, (Mueller-Dombois and Fosberg 1998).

On both Guam and Rota, some closed canopy forests have been degraded by a combination of human development and road building, alien weeds that flourish in disturbed areas, suppression of forest regrowth by introduced ungulates such as deer *(Cervus mariannus),* pigs *(Sus scrofa),* and, on Guam, carabao *(Bubalus bubalis),* and invasive vines that cover regenerating forest. Between 1945 and 1976 there was approximately a 10 percent increase in forest coverage on Rota (Plentovich *et al.* unpubl. data), but between 1982 and 1995, 5 to 10 percent of closed-canopy forest habitat was lost again to development.

Typhoons are a common occurrence in the Mariana Islands. Guam, for example, has been affected by typhoons in 74 percent of the last 50 years (based on records compiled by U.S. Navy, Joint Typhoon Warning Center). Major typhoons hit Guam in 1961 and 1976 and Rota in 1988 and 1997, causing significant habitat destruction and probably direct mortality of bats and birds. The islands of Tinian and Saipan (CNMI), however, also have sustained major habitat losses and typhoon damage, but have retained their avian communities to a greater degree than has Guam, although some species survive in precariously low numbers (Engbring *et al.* 1986). Habitat loss and damage from typhoons has influenced the abundance of native birds and bats in the Marianas, but these species have evolved in an environment where typhoons have always been a natural occurrence. The habitat alteration caused by these storms has become a serious threat to these species only recently as their populations and distributions have declined for other reasons.

Direct human impacts (*e.g.*, hunting, persecution) do not appear to be a major factor in the decline of forest birds on Guam, although some evidence exists of killing and harassment of crows on Rota (NRC 1997; N. Johnson, CNMI Division of Fish and Wildlife, pers. comm., 2000). The harvest of native birds has been outlawed on Guam since the turn of the century (Executive Order No. 61, Naval Governor of Guam, 1903). In contrast, hunting has had a significant impact on the Mariana fruit bat and little Mariana fruit bat. Fruit bats were hunted extensively for human consumption in the early 1900s (Coultas 1931, Baker 1948), and although this hunting was outlawed in 1966, poaching of fruit bats has continued (USFWS 1990a).

Pesticides, disease, and competition with non-native species all have been examined to assess their role in the declines of native forest vertebrates in the Mariana Islands, but none of these variables has been found to have had a major impact on the six species treated in this document (Maben 1982; Grue 1985; Savidge 1986; USFWS 1990a, 1990b).

The likely extinctions of the little Mariana fruit bat, the Guam broadbill, and the bridled white-eye on Guam probably are attributable to a combination of predation by non-native animals, habitat loss, severe storms, and, in the case of the little Mariana fruit bat, hunting (USFWS 1990a, 1990b). The importance of these factors likely varied among the three species, but the lack of life history information and long-term monitoring data for these three species make it difficult to assess the exact degree of threat in each case.

All six species have been listed under the Federal Endangered Species Act since 1984 and receive protection through section 7 (interagency consultation) and section 9 (take prohibitions). However, the populations of all six species are extremely low or do not occur in the landscape. ESA sections 7 and 9 provide limited protection for unoccupied habitat. On Guam, approximately 9,106 ha (22,500 ac) of military land are included as refuge overlay lands that are managed under cooperative agreements between the Service and the U.S. Navy (Navy) and U.S. Air Force (Air Force) (U.S. Navy and USFWS 1994, and U.S. Air Force and USFWS 1994). However, these overlay lands are managed primarily for the military mission and secondarily for conservation purposes. Approximately 1,700 ha (4,200 ac) of Government of Guam land are zoned as conservation areas under the jurisdiction of the Chamorro Land Trust Commission. However, the Chamorro Land Trust Commission has the authority to change the status of these lands at any time, and we were unable to obtain information about what conservation activities take place on these lands.

On Rota, the critical habitat unit proposed for the Mariana crow includes a small portion of the Sabana Protected Area and most of the Afatung Wildlife Management Area and Ichenchon Bird Sanctuary. The conservation rules in the draft management plan for the Sabana Protected Area (SPAMC 1996) do not specifically address conservation of the Mariana crow, nor do they prohibit activities that have the potential to affect crows or crow habitat, such as forest clearing and hunting of non-protected bird species. Furthermore, this draft plan has not been finalized or implemented. No management documents exist for the Afatung Wildlife Management Area or the Ichenchon Bird Sanctuary.

Previous Federal Action

The six species treated here were listed as endangered along with three other vertebrate species in a final rule published in the **Federal Register** on

August 27, 1984 (49 FR 33881). A review of the status of 12 Guam and CNMI vertebrate species was published on May 18, 1979 (44 FR 29128). This review, which led to the listing of nine species in 1984, resulted from three separate petitions to the Service filed by three Governors or Acting Governors of Guam in 1978, 1979, and 1981, and a fourth petition filed by the International Council for Bird Preservation in 1980. In the Service's Review of Vertebrate Wildlife published December 30, 1981 (47 FR 58454), five of the six species treated in the present proposed rule were included in Category 1. Category 1 candidate species were taxa for which we had sufficient information on biological vulnerability and threats to support preparation of listing proposals. The little Mariana fruit bat was classified as Category 2. Category 2 candidates were taxa for which data in our possession indicated listing was possibly appropriate but for which substantial information on biological vulnerability and threats were not known or on file to support preparation of proposed rules. In a proposed rule published on November 29, 1983 (48 FR 53729), the Service determined endangered status for nine of the 12 species in the four petitions. The final listing rule for the nine species, including the six species treated in the current proposed rule, was published on August 27, 1984 (49 FR 33881).

A proposed rule to designate critical habitat for these six endangered species on Guam was published in the **Federal Register** on June 14, 1991 (56 FR 27485). This proposed rule was withdrawn on April 4, 1994, (59 FR 15696) because most of the lands proposed as critical habitat had by this time been incorporated in the Guam National Wildlife Refuge overlay lands, and the Service therefore determined that critical habitat designation was not prudent because it would not provide these species with any benefit beyond that already provided by the refuge overlay lands.

Since the withdrawal of the proposed critical habitat, several judicial decisions in court cases examining critical habitat determinations have rejected rationales used by the Service in ''not prudent'' findings. These cases included *Natural Resources Defense Council* v. *U.S. Department of the Interior,* 113 F. 3d 1121 (9th Cir. 1997) involving the threatened coastal California gnatcatcher, and *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Haw. 1998) involving 245 listed plant species. The decisions in these cases rejected the Service's rationales of ''increased threat'' and ''no benefit'' in the case of the gnatcatcher, and of ''increased threat,'' ''no benefit on private lands,'' and ''no additional benefit on federal lands'' in the case of the Hawaiian plants.

On April 3, 2000, the Marianas Audubon Society and the Center for Biological Diversity filed a suit to challenge the Service's 1994 withdrawal of critical habitat for the six species. On September 7, 2000, the Service filed a motion to voluntarily remand the withdrawal and non-prudency decision based on the subsequent court decisions. This motion set a deadline of June 3, 2003, for the Service to determine prudency and designate final critical habitat, if prudent, for these six species. On January 25, 2002, the Government of Guam filed a motion for preliminary injunction against the Service to prevent our re-consideration of the 1994 ''not prudent'' critical habitat determinations for the six species. On February 8, 2002, the Service filed its opposition to the Government of Guam's motion for preliminary injunction. On April 16, 2002, the Guam District Court dismissed the Government of Guam's motion for preliminary injunction and issued a ruling upholding the settlement based on a voluntary remand.

On December 7, 2001, we mailed letters to four major landowners (Chamorro Land Trust Commission, U.S. Air Force, U.S. Navy, and Guam National Wildlife Refuge) on Guam informing them that the Service was in the process of determining the prudency of designating critical habitat for the little Mariana fruit bat, Mariana fruit bat, Mariana crow, Guam broadbill, Guam Micronesian kingfisher, and the bridled white-eye and requested from them information on management of lands that currently or recently (within the past 30 years) support these six species. The letters contained a fact sheet describing the six listed species and critical habitat, the 1991 proposed rule to designate critical habitat, the 1994 withdrawal of the proposed rule, and a questionnaire designed to gather information about land management practices, which we requested be returned to us by January 14, 2002. We received three responses to our landowner mailing with varying types and amounts of information on current land management activities. Some responses included natural resource management plans, cooperative agreements, and descriptions of management activities such as brown treesnake and feral ungulate control.

On February 7 and 8, 2002, the Service met with several landowners and managers in Guam, including the Navy and Air Force, to obtain more specific information on management activities and suitability of certain habitat areas for these six species. On June 8 and July 31, 2002, we sent to landowners, other stakeholders, and scientific experts a request for comments on copies of draft maps of areas on Guam and Rota identified as being important to the species. The information provided by landowners and managers and scientists during the meetings, in subsequent informal discussions, and in the responses to our written request for comments was considered and incorporated into this proposed rule.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and, (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species (16 U.S.C. 1532(5)(A)). ''Conservation,'' as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary (16 U.S.C. 1532 (3)).

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies insure against destruction or adverse modification of critical habitat with regard to actions they carry out, fund, or authorize. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of regulatory protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species conservation and where management

actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified or help to avoid accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.''

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by states and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Section 4 generally requires that we designate critical habitat at the time of listing and based on what we know at the time of the designation. Habitat is often dynamic, however, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation may continue to be available for conservation actions that may be implemented under section 7(a)(1) or subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will be subject to review in light of future recovery plans, habitat conservation plans (HCP), or other species conservation planning and recovery efforts.

Prudency Determination

Designation of critical habitat is not prudent when one or both of the following situations exists: (i) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (ii) such designation of critical habitat would not be beneficial to the species (50 CFR 424.12(a)(1)). To determine whether critical habitat would be prudent for each species, we analyzed the potential threats and benefits for each species.

The little Mariana fruit bat, Guam broadbill, and bridled white-eye are believed extinct on Guam. The little Mariana fruit bat was last observed in 1968 and subsequent surveys for this species in the 1970s and 1980s yielded no observations (USFWS 1990a). The Guam broadbill was last observed in 1984 and subsequent forest bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles *et al.* 1995). A proposed rule to remove the Guam broadbill from the Endangered Species list was published in the **Federal Register** on January 25, 2002 (67 FR 3675). The bridled white-eye was last observed on Guam in 1984 and subsequent forest bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles *et al.* 1995). Therefore, because these species are believed extinct on Guam, we propose that designation of critical habitat for the little Mariana fruit bat, Guam broadbill, and bridled white-eye is not prudent because such designation would be of no benefit to these species. If these species are rediscovered, we may revise this proposal to address the new information (*see* 16 U.S.C. 1532 (5)(B); 50 CFR 424.13(f)).

We examined the evidence available for the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow, and did not find that the taking of any of these species would be exacerbated by the designation of critical habitat. There is evidence that Mariana crows and Guam Micronesian kingfishers occasionally are killed on other islands in Micronesia (USFWS in prep., D. Kesler, U.S. Geological Survey, Biological Resources Division, *in litt.,* 2002). However, this is not considered a major factor in the decline of these two bird species on Guam or Rota (USFWS 1990b). We do not believe that designation of critical habitat will lead to increased taking of these species on Guam, but we believe some crows may be harassed in agricultural homestead areas on Rota. Poaching of roosting Mariana fruit bats is considered a major factor in the decline of this species and is still considered an important threat to their conservation (USFWS 1990a). However, because critical habitat designation does not identify the exact location of roost sites, we believe it will not lead to increased Mariana fruit bat poaching.

In the absence of a finding that critical habitat would increase the degree of threat to a listed species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The potential benefits of critical habitat designation include: (1) The protection of unoccupied areas by the triggering of section 7 consultation, (2) focusing conservation activities on designated areas, and (3) potential public education and awareness benefits accruing to the species. All of the above benefits apply to the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow. Therefore, we propose that designation of critical habitat is prudent

for the Mariana fruit bat and Guam Micronesian kingfisher on Guam, and for the Mariana crow on Guam and Rota.

Proposed Critical Habitat Designations

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to identify areas that contain the physical and biological features that are essential for the conservation of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow. This information included: peer-reviewed scientific publications (*e.g.*, Baker 1951, Jenkins 1983, Wiles *et al.* 1995, NRC 1997); published and draft revised recovery plans (USFWS 1990a, 1990b, 2002); the final listing rule (49 FR 33881); unpublished reports by the Guam Division of Aquatic and Wildlife Resources (GDAWR), CNMI Division of Fish and Wildlife (DFW), and the Service (*e.g.*, Wiles 1982a, Engbring and Ramsey 1984, Morton 1996, Morton *et al.* 1999); aerial photographs and satellite imagery of Guam and Rota; personal communications with scientists familiar with the species and habitats; and responses to critical habitat outreach packages mailed to Federal, Territory of Guam, CNMI, and private landowners. Specific information we used from these sources includes estimates of historic and current distribution, abundance, and territory sizes for the three species, as well as data on resource and habitat requirements. From recovery plans, we considered the recovery objectives and the assessments of the habitat necessary to meet these objectives, as well as life history information.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such features are termed ''primary constituent elements'', and include but are not limited to: Space for individual and population growth and for normal behavior; food, water, air, light, minerals and other nutritional or physiological requirements; cover or shelter; sites for nesting and rearing of offspring; and habitats that are protected from disturbance and are representative of the historic geographical and ecological distributions of the species.

The primary constituent elements for each of the three species for which we are proposing critical habitat are found predominantly in the remaining tracts of mature limestone forest on Guam and Rota. These forests in general are disturbed little by human activities and exhibit the biotic and structural characteristics necessary for foraging, sheltering, roosting, nesting, and rearing of young of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow on Guam, and for these same life functions of the crow on Rota. Guam and Rota experience a high frequency of severe storms, and these regularly and significantly alter forest structure (NRC 1997). Therefore, sufficient habitat area is necessary to absorb the variable impacts of these natural disturbances and still maintain the integrity of the primary constituent elements to support fruit bat, kingfisher, and crow populations. Specific details of primary constituent elements for each species are described below.

Mariana fruit bat—This species feeds on a variety of plant material but is primarily frugivorous (Wiles and Fujita 1992). Specifically, Mariana fruit bats forage on the fruit of at least 28 plant species, the flowers of 15 species, and the leaves of two plant species (Wiles and Fujita 1992). Some of the plants used for foraging include *Artocarpus* sp. (breadfruit), *Carica papaya* (papaya), *Cycas circinalis* (fadang), *Ficus* spp. (figs), *Pandanus tectorius* (kafu), *Cocos nucifera* (coconut), and *Terminalia catappa* (talisai). Many of these plant species are found in a variety of forested habitats on Guam including limestone, ravine, coastal, and secondary forests (Stone 1970, Raulerson and Rhinehart 1991).

During the day, Mariana fruit bats roost in trees in groups or colonies and occasionally alone (Wiles 1987, Pierson and Rainey 1992). These roost sites are an important aspect of their biology because they are used for sleeping, grooming, breeding, and intra-specific interactions (USFWS 1990a). Published reports of roost sites on Guam indicate these sites occur in mature limestone forest and are found within 100 m (328 ft) of 80 to 180 m (262 to 591 ft) tall clifflines (USFWS 1990a). On Guam, Mariana fruit bats prefer to roost in mature fig and *Mammea odorata* (chopak) trees but will also roost in other tree species such as *Casuarina equisetifolia* (gago), *Macaranga thompsonii* (pengua), *Guettarda speciosa* (panao), and *Neisosperma oppositifolia* (fagot) (Wheeler and Aguon 1978; Wiles 1981, 1982b). On other islands in the Mariana Archipelago, Mariana fruit bats have been observed in secondary forest and gago groves (Glass and Taisacan 1988, Marshall *et al.* 1995, Worthington and Taisacan 1996). Factors involved in roost site selection are not clear, but data from Guam indicate that some sites may be selected for their inaccessibility by humans and thus limited human disturbance. Fruit bats will abandon roost sites if disturbed and have been reported to move to new locations up to 10 km (6 mi) away (USFWS 1990a).

In summary, the primary constituent elements required by the Mariana fruit bat for the biological needs of foraging, sheltering, roosting, and rearing of young are found in areas supporting limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native and introduced plant species. These forest types provide the primary constituent elements of:

(1) Plant species used for foraging such as breadfruit, papaya, fadang, fig, kafu, coconut palm, and talisai; and

(2) Remote locations, often within 100 m (328 ft) of 80 to 180 m (262 to 591 ft) tall clifflines, with limited exposure to human disturbance, that contain mature fig, chopak, gago, pengua, panao, fagot, and other tree species that are used for roosting and breeding.

Guam Micronesian kingfisher—Jenkins (1983) recorded the Guam Micronesian kingfisher nesting and foraging in northern Guam in mature limestone forest, secondary forests, and coastal forests dominated by coconut trees. Kingfishers also were found historically in southern Guam in ravine and coastal forests (Jenkins 1983). Few data exist about specific kingfisher nest sites on Guam, but in one study nest sites in northern Guam were found in native limestone forest, and the location of these sites within the forest was correlated with closed canopy cover and dense understory vegetation (Marshall 1989). Recent studies of the Pohnpei Micronesian kingfisher *(Halcyon cinnamomina reichenbachii)* have documented that this subspecies also occurs in a wide range of forest types, however, territories of all 14 breeding pairs studied on Pohnpei included at least several hectares of mature native rainforest (D. Kesler, pers. comm., 2002).

Micronesian kingfishers are obligate cavity nesters, and require specific substrates for excavating nest cavities. On Guam, Marshall (1989) found that kingfishers excavated nest cavities in relatively soft, decaying wood in standing dead trees, including *Tristiropsis obtusangula* (faniok), *Pisonia grandis* (umumu), breadfruit, fig, and coconut palm, in the mud nests of *Nasutitermes* spp. termites, and in the root masses of epiphytic ferns. All nest cavities found in trees were in large-

diameter trees (average dbh 42.7 ± 12.7 cm (16.8 ± 5.0 in)), and these trees contained an average of 19 excavations, most of which were incomplete (Marshall 1989). Multiple excavations in suitable nest trees suggest both the importance of these trees as nest sites and the importance of excavation in the kingfishers' courtship and nesting behavior (Jenkins 1983). The links between courtship behavior, excavation activity, and nest substrate requirements have been well documented in the captive population of this species as well (Bahner, *et al.* 1998; S. Derrickson, Conservation Research Center, *in litt.* 2002). Marshall (1989) concluded that the population density of kingfishers on Guam may be limited by the availability of nest sites.

Guam Micronesian kingfishers hold year-round territories which are aggressively defended (Jenkins 1983). Nothing is known about the territory size requirements of Micronesian kingfishers on Guam, but research on the Pohnpei subspecies indicates that territory sizes in upland forest are approximately 10 ha (25 ac) (Kesler, pers. comm., 2001).

Guam Micronesian kingfishers feed both on invertebrates and small vertebrates, including insects, segmented worms, hermit crabs, skinks, geckoes, and possibly other small vertebrates (Marshall 1949, Baker 1951, Jenkins 1983). This species typically forages by perching motionless on exposed perches and swooping down to capture prey on the ground (Jenkins 1983). Guam kingfishers also will capture prey from foliage and have been observed gleaning insects from tree bark (Maben 1982). Marshall (1989) observed no kingfishers foraging in dead trees.

In summary, the primary constituent elements required for the Guam Micronesian kingfisher for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young are found in areas that support limestone, secondary, ravine, swamp, agricultural, and coastal forests containing native and introduced plant species. These forest types include the primary constituent elements of:

(1) Closed canopy and well-developed understory vegetation, large (approximately 43 cm (17 in) dbh), standing dead trees (especially *Tristiropsis obtusangula* (faniok), *Pisonia grandis* (umumu), breadfruit, fig, and coconut palm), mud nests of *Nasutitermes* spp. termites, and root masses of epiphytic ferns for breeding;

(2) Sufficiently diverse structure to provide exposed perches and ground surfaces, leaf litter, and other substrates that support a wide range of vertebrate and invertebrate prey species for foraging kingfishers; and

(3) Sufficient overall breeding and foraging area to support large kingfisher territories (approximately 10 ha (25 ac)).

Mariana crow—Historically, the distribution of Mariana crows among habitats was similar on Guam and Rota. Crows were known to use secondary, coastal, ravine, and agricultural forests including coconut plantations (Seale 1901, Stophet 1946, Marshall 1949, Baker 1951, Jenkins 1983), but all evidence indicates they were most abundant in native limestone forests (Michael 1987, Morton *et al.* 1999). Mariana crow nests on Guam have been found in 11 tree genera, all but one of which are native, but most nests are located high in emergent fig or *Elaeocarpus joga* (yoga) trees (Morton 1996; C. Aguon, Guam Division of Aquatic and Wildlife Resources, unpubl. data).

On Rota, crows use both mature and secondary limestone forests (Morton *et al.* 1999), but not exclusively (M. Lusk and E. Taisacan unpubl. data). Of 156 nest sites on Rota, 39 percent and 42 percent were in mature and secondary limestone forest, respectively (Morton *et al.* 1999). Between 1992 and 1994, 90 percent (n = 115) of observations of perching crows on Rota were in native trees, primarily in middle to low heights of the canopy (M. Lusk and E. Taisacan unpubl. data). Mariana crows nested in 20 tree genera on Rota (Morton *et al.* 1999). Of 161 nest trees found during 1996–99, 63 percent were of four species: fagot, *Eugenia reinwardtiana* (a'abang), *Intsia bijuga* (ifit), and *Premna obtusifolia* (ahgao) (Morton *et al.* 1999). Individual nest trees averaged 16.9 cm (6.7 in) diameter at breast height and 8.7 m (28.5 ft) high. Canopy cover over nest sites averaged 93 percent and was never less than 79 percent. Although 18 percent of the forested area of Rota is tangantangan or some other species of introduced tree (Falanruw *et al.* 1989), no crow nests have been found in any non-native tree species. Nests were located at least 290 m (950 ft) from the nearest road and 62 m (203 ft) from the nearest forest edge, in areas with forest canopy cover that averaged 93 percent. The distances from edges strongly suggest that nesting crows are sensitive to disturbance by humans (Morton *et al.* 1999). No detailed information is available on the historical nest site selection by crows on Guam, but the remaining crows on Guam nest and forage only in primary or mature limestone forest.

In Rota, Morton *et al.* (1999) found that breeding crows on six study areas averaged one pair per 22 ha (50 ac) of forested habitat, and each territory was dominated by native forest. Pair densities ranged from one per 37 ha (91 ac) in relatively fragmented forest, to as high as one pair per 12 ha (30 ac) in mostly intact limestone forest along a coastal terrace. Territories were aggressively defended from July through January, although established pairs occupied these areas throughout the year.

In addition to habitat for breeding territories, Mariana crows also require habitat for juvenile dispersal. When juvenile Mariana crows leave the nest, they are typically tended by their parents until the following breeding season, a period that ranges from 3 to 18 months (Morton *et al.* 1999). After this parental attendance period, these juveniles enter the non-breeding population of Mariana crows until they are recruited into the adult population at approximately three years of age (Morton *et al.* 1999). Little research has been done on the non-breeding population of crows and their habitat needs, but the territoriality of breeding adults and the time required before juveniles enter the breeding population indicate that foraging habitat outside established territories is needed to maintain juvenile Mariana crows.

Mariana crows may forage at any height in the forest or on the ground (Jenkins 1983, Tomback 1986). The crows forage in at least 18 tree genera, most of which are native (Tomback 1986; Jenkins 1983; C. Aguon, unpubl. data). Mariana crows are omnivorous. They have been observed to feed on a variety of native and non-native invertebrates, reptiles, young rats, and birds' eggs, as well as on the foliage, buds, fruits, and seeds of at least 26 plant species (Jenkins 1983; Tomback 1986; Michael 1987; C. Aguon, unpubl. data).

In summary, the primary constituent elements required by the Mariana crow for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young are found in areas that support limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native and introduced plant species. These forest types provide the primary constituent elements of:

(1) Emergent and subcanopy trees with dense cover for breeding such as fagot, pengua, ifit, ahgao, aabang, fig, yoga, and faniok;

(2) Sufficient area of predominantly native limestone forest to allow nesting at least 290 m (950 ft) from the nearest road and 62 m (203 ft) from the nearest forest edge and to support Mariana crow breeding territories (approximately 12 to

37 ha (30 to 91 ac)) and foraging areas for nonbreeding juvenile crows; and

(3) Standing dead trees and plant species such as *Aglaia mariannensis* (maypunayo), breadfruit, coconut palm, fagot, *Hibiscus tiliaceus* (pago), ifit, tangentangen, *Ochrosia mariannensis* (langiti), kafu, ahgao, fig, and yoga for foraging.

Criteria Used To Identify Proposed Critical Habitat

We used several criteria to identify and select lands proposed for designation as critical habitat. For the Mariana fruit bat (Guam only) and Mariana crow, we began with all areas that are currently occupied. The Guam subspecies of Micronesian kingfisher is currently extirpated in the wild, so no habitat currently is occupied. We then examined unoccupied forested lands on Guam containing the primary constituent elements that are needed for the conservation of each species (*see* explanation below). We identified which unoccupied areas on Guam were needed for the conservation of each species using recovery habitat identified in recovery plans and information on the historical distribution of each species. Within the area of historical distribution, we gave preference to lands that provided the largest tracts of native forest and were more recently occupied by each species. We determined the boundaries of proposed critical habitat units by the extent of suitable forest containing the primary constituent elements. The location of these suitable forests in many areas coincided with the boundaries of military reservations, national wildlife refuges, and conservation areas on Guam. We also included some small non-forested areas interspersed with forested areas because of their potential for reforestation. We did not include urban and agricultural lands because they generally do not contain the primary constituent elements, do not meet the definition of critical habitat, and are not likely to be restored to native forest.

On Guam, we identified two units for each species using the guidelines provided by the Mariana fruit bat recovery plan (1990a), Guam forest bird recovery plan (1990b), and recommendations by the Mariana crow recovery team for the draft revised recovery plan (USFWS in prep). On Rota, we identified one unit for the Mariana crow using guidelines from the draft revised recovery plan (USFWS in prep). For the conservation of the Mariana crow, these recovery plans call for established populations in northern Guam, southern Guam, and on Rota.

The establishment of two geographically separated populations on Guam is important to decrease the risk of extinction of the species as a result of localized, stochastic events such as typhoons and disease outbreaks (Dobson and May 1986, NRC 1997). A long-accepted view developed from ecological research is that the existence of more than one population increases the long-term likelihood of species' persistence (Raup 1991, Meffe and Carroll 1996). The specific areas proposed as critical habitat in northern and southern Guam were selected based upon their current status as blocks of largely forested land containing the primary constituent elements required by each species. These areas include the last relatively large blocks of native forest on the island within each species' historical range.

Within the proposed critical habitat unit boundaries, only lands containing one or more of the primary constituent elements are proposed as critical habitat. Existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas do not contain the primary constituent elements and therefore are not proposed as critical habitat. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Section 3(5)(A)(ii) of the Act provides that areas outside the geographical area currently occupied by the species may meet the definition of critical habitat upon determination that they are essential for conservation of the species. We included unoccupied habitat in the proposed critical habitat for the Guam Micronesian kingfisher and Mariana crow on Guam because, as explained below, we believe the currently occupied habitat alone would not provide for the conservation of the species.

Guam Micronesian kingfisher—The last wild kingfisher on Guam was seen in 1988 and this subspecies is believed extinct in the wild (Beck *et al.* 2001). The total population now consists of 63 birds in 11 captive breeding institutions (Bahner, *in litt.* 2002). Because the Guam Micronesian kingfisher is extinct in the wild and all suitable habitat presently is unoccupied, inclusion of unoccupied areas containing the primary constituent elements is essential to the conservation of this species. Recovery to the point where the protection afforded by listing is no longer necessary will require restoration of the Guam Micronesian kingfisher through release of captive birds and subsequent natural dispersal in areas of Guam that formerly were inhabited but that are not now occupied.

Mariana crow—The critical habitat unit proposed for the Mariana crow on Rota reflects the recovery goal of maintaining a population of at least 75 breeding pairs on Rota and the Recovery Team's estimation of areas necessary to meet this goal (USFWS in prep). The lands proposed as critical habitat for the Mariana crow on Rota support at least 63 breeding pairs (Morton *et al.* 1999). We included all areas identified in the revised recovery plan as high priority, and incorporated lower priority areas known or believed to harbor crows to provide additional habitat to support the non-breeding crow population and create greater connectivity between high-priority areas.

On Guam, the distribution and abundance of Mariana crows have declined precipitously over the last three decades (USFWS in prep.). Currently, the population consists of 12 birds occupying 777 ha (1,920 ac) located in the munitions storage area of Andersen Air Force Base in northern Guam. This current distribution represents an 85 percent reduction in range from the estimated distribution in 1994 (5,112 ha, 12,633 ac) reported by Wiles *et al.* (1995).

Mariana crows are territorial; each pair defends an area of a size determined by forest type and structure (Morton *et al.* 1999). The maximum density or carrying capacity of crow pairs in a particular area depends on both habitat quality (for foraging and breeding) and the spatial arrangement of territories. On Rota, Mariana crow territories ranged from 12 to 37 ha (30 to 91 ac) in size with an average of one pair per 22 ha (54 ac) (Morton *et al.* 1999). The currently occupied area on Guam (777 ha; 1,920 ac) could be expected to support only about 35 pairs, which is less than the 75 pairs recommended by the recovery team and therefore too small to support a Mariana crow population large enough to be considered safe from extinction.

Because of the territorial nature of the Mariana crow, its small total population size, limited range, vulnerability to environmental threats, and recovery goals set for the species, inclusion of certain currently unoccupied areas on Guam that contain the primary constituent elements is essential to the conservation of the species. Recovery to the point where listing is no longer necessary will require restoration of Mariana crows on Guam through natural

dispersal, translocation, and/or release of captive birds in areas that were formerly inhabited but that are not currently occupied. Unoccupied areas adjacent to currently occupied areas are needed for recovery to allow expansion of the existing population and help alleviate threats associated with small population size. Specifically, the 12 crows currently found on Andersen Air Force Base in northern Guam do not constitute a viable population of this species. These animals are unlikely to increase their numbers to a self-sustaining level in the area they presently occupy, even with human intervention. For this population to persist in the long-term, it must expand onto adjacent lands that now are unoccupied.

Mariana fruit bat—Although the current population of Mariana fruit bats on Guam is small and most bats roost in a limited area, the foraging behavior and diverse diet of the fruit bats cause them to use most of the island for foraging, as documented by Wiles *et al.* (1995). Thus, all of the proposed critical habitat for this species is used for foraging and/or roosting and is considered to be occupied.

Proposed Critical Habitat Designation

Lands proposed as critical habitat for the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow occur in two units for each species on Guam, one in northern Guam and one in southern Guam (see justification above), and in one unit for the Mariana crow on Rota. Because the primary constituent elements for each of the three species occur predominantly in the remaining tracts of native forest on Guam and Rota, the size, shape, and locations of the proposed critical habitat units largely represent these tracts of forest. The proposed northern unit on Guam is the same for the fruit bat and kingfisher, and the proposed southern unit on Guam is the same for all three species. The northern unit proposed for the Mariana crow is slightly smaller than for the Mariana fruit bat or Guam Micronesian kingfisher because of differences in the conservation goals set for each species in the recovery plans (USFWS 1990a, 1990b, in prep). The smaller extent of the proposed critical habitat for the Mariana crow on Guam reflects the lower target population size for Guam indicated in the revised recovery plan and the proposed critical habitat unit for the crow on Rota (USFWS, in prep.).

The proposed critical habitat units provide the full range of primary constituent elements needed by these three species, including a variety of undeveloped, forested areas that are used for foraging, roosting, shelter, nesting, and raising offspring. The approximate area and land ownership within each unit are shown in Table 1. Proposed critical habitat includes land under Federal, Territorial, Commonwealth, and private ownership, with Federal lands being managed by the Department of Defense and the Department of the Interior. All of the proposed critical habitat on Guam currently is occupied by the Mariana fruit bat. Approximately 8 percent of proposed critical habitat on Guam currently is occupied by the Mariana crow, but 52 percent was occupied as recently as 1994. None of the proposed lands on Guam are currently occupied by the Guam Micronesian kingfisher, but all were occupied historically. On Rota, all of the proposed critical habitat is occupied by the Mariana crow. A brief description of each unit for each species and reasons for proposing it as critical habitat are presented below.

TABLE 1.—APPROXIMATE AREA (HECTARES, ACRES) OF PROPOSED CRITICAL HABITAT UNITS BY LAND OWNERSHIP

Unit	Federal*	GovGuam	Private	Total
Unit A. *Northern Guam:*.				
Mariana fruit bat & Guam Micronesian kingfisher	5,149 ha (12,724 ac)	591 ha (1,461 ac)	63 ha (153 ac)	5,803 ha (14,338 ac)
Mariana crow	4,997 ha (12,346 ac)	39 ha (97 ac)	39 ha (97 ac)	5,075 ha (12,540 ac)
Unit B. *Southern Guam:* All species	2,880 ha (7,116 ac)	551 ha (1,363 ac)	803 ha (1,985 ac)	4,234 ha (10,464 ac)
		CNMI gov't		
Unit C. *Rota:* Mariana crow	.....	2,258 ha (5,581 ac)	204 ha (503 ac)	2,462 ha (6,084 ac)
Total:				
Mariana fruit bat & Guam Micronesian kingfisher	8,029 ha (19,840 ac)	1,142 ha (2,825 ac)	866 ha (2,138 ac)	10,037 ha (24,803 ac)
		GovGuam + CNMI		
Mariana crow	7,877 ha (19,463 ac)	2,848 ha (7,041 ac)	1,046 ha (2,585 ac)	11,771 ha (29,089 ac)

*Federal lands are under the ownership or jurisdiction of the Department of Defense or U.S. Fish and Wildlife Service.

Mariana Fruit Bat

Proposed Unit A: Northern Guam

Proposed Unit A consists of approximately 5,803 ha (14,338 ac) encompassing much of the undeveloped areas on the northern end of Guam. This proposed area includes both units of the Commander U.S. Naval Forces Marianas (COMNAVMARIANAS) Communications Annex and former Federal Aviation Administration (FAA) land currently administered by the Pacific Division of Base Realignment and Closure (PACDIV BRAC). The proposed unit also includes Andersen Air Force Base, the Guam National Wildlife Refuge, private property located near Uruno Basin and Jinapsen Beach, the Anao Conservation Area, private property at Janum Point, and Government of Guam lands located between the cliffline and coastline from Janum Point to Campanaya Point. The vegetation in proposed Unit A consists of coastal, limestone, agricultural, and secondary forests composed of native and introduced plant species and contains the full range of primary constituent elements needed for the conservation of the Mariana fruit bat. This proposed unit is important because it contains the only known Mariana fruit bat colony on Guam and large areas of current foraging and roosting habitat. This area also contains all the known historical roost sites along the northern coast of Guam and many of the reported foraging sites used by bats in northern

Guam since 1981 (*see* Wiles *et al.* 1995 for details). Unit A also encompasses all the essential conservation areas identified in the Mariana fruit bat recovery plan (USFWS 1990a).

The proposed areas in Unit A are divided into three sections. The first section consists of a thin projection of forested land between the coastline and approximately 1.0 km (0.6 mi) inland that extends from the boundary between the Communications Annex and former Air Force Harmon Annex and the boundary of Andersen Air Force Base. This section does not include the housing and other developed areas on the Communications Annex and former FAA land. The second section consists of most of the forested land between the southern boundary of Andersen Air Force Base and the coastline from Ritidian to Pati Points but does not include the housing, airfields, and other developed areas on Andersen Air Force Base, the recently cleared cargo drop zone in Northwest Field on Andersen Air Force Base, private land in the Uruno Basin below the cliffline (elevation: 122 m, 400 ft), and private land along Jinapsan Beach below the 12-meter (40-ft) elevation contour. The third section consists of the thin projection of forested land between the coastline and approximately 1 km (0.6 mi) inland that extends from Campanaya Point to the border of Andersen Air Force Base at Anao Point.

Proposed Unit B: Southern Guam

Unit B consists of approximately 4,234 ha (10,464 ac) encompassing much of the forested areas in central southern Guam. This proposed unit includes lands in the Bolanos Conservation Area, much of the COMNAVMARIANAS Ordnance Annex, and private property at Sinaje, Mapao, and Bubulao. This unit consists of limestone, agricultural, secondary, swamp, and ravine forests composed of native and introduced species and contains the full range of primary constituent elements needed for recovery of the Mariana fruit bat. Unit B contains the area occupied by the only known population of fruit bats in southern Guam, including large areas of foraging and roosting habitat in areas like the Fena Lake Watershed. Unit B also encompasses essential conservation areas identified in the Mariana fruit bat recovery plan (USFWS 1990a).

The critical habitat proposed in Unit B consists of three sections. The main section includes most of the forested areas within the Ordnance Annex and forested area above the 244-m (800-ft) elevation contour in the Sinaje region near Mount Lamlam. The second section consists of the forested areas at the headwaters of the Bubulao and Ugum Rivers and the forested areas along and between both rivers until their confluence approximately 1 km (0.6 mi) above Talofofo Falls. The third section consists of the forested areas outside Ordnance Annex that occur along and between the Maagas and Mahlac Rivers near where they converge and become the Talofofo River.

Guam Micronesian Kingfisher

Proposed Unit A: Northern Guam

Proposed Unit A consists of approximately 5,803 ha (14,338 ac) encompassing much of the undeveloped areas on the northern end of Guam. This section includes both units of the COMNAVMARIANAS Communications Annex, former FAA land currently administered by PACDIV BRAC, Andersen Air Force Base, the Guam National Wildlife Refuge, private property located in the Uruno Basin and along Jinapsan Beach, the Anao Conservation Area, private property at Janum Point, and Government of Guam lands located between the cliffline and coastline from Janum Point to Campanaya Point. The vegetation in proposed Unit A consists of coastal, limestone, agricultural, and secondary forests composed of native and introduced species that contain the full range of primary constituent elements required for the recovery of the Guam Micronesian kingfisher on northern Guam. Unit A includes forested areas along the northwest and northeast coasts of the island that were occupied by Guam Micronesian kingfishers in the 1970s and early 1980s (Drahos 1977, Maben and Aguon 1980, 1981) as well as other forested areas in northern Guam that supported high densities of Guam Micronesian kingfishers in 1981 (Engbring and Ramsey 1984). Unit A also encompasses essential conservation areas in the northern Guam forest bird recovery plan (USFWS 1990b).

The proposed areas in Unit A are divided into three sections. The first section consists of a thin projection of forested land between the coastline and approximately 1 km (0.6 mi) inland that extends from the boundary between the Communications Annex and former Air Force Harmon Annex and the boundary of Andersen Air Force Base. This section does not include the housing and other developed areas on the Communications Annex and former FAA land. The second section consists of most of the forested land between the southern boundary of Andersen Air Force Base and the coastline from Ritidian to Pati Points. This section does not include the housing, airfields, and other developed areas on Andersen Air Force Base; the recently cleared cargo drop zone in Northwest Field on Andersen Air Force Base; private land in the Uruno Basin below the cliffline (elevation: 122 m, 400 ft); and private land along Jinapsan Beach below the 12-m (40-ft) elevation contour. The third section consists of the thin projection of forested land between the coastline and approximately 1 km (0.6 mi) inland that extends from Campanaya Point to the border of Andersen Air Force Base at Anao Point.

Proposed Unit B: Southern Guam

Proposed Unit B consists of approximately 4,234 ha (10,464 ac) encompassing much of the forested areas in central southern Guam. This unit contains part of the Bolanos Conservation Area, much of the COMNAVMARIANAS Ordnance Annex, and private property at Sinaje, Mapao, and Bubulao. This proposed unit consists of limestone, secondary, agricultural, swamp, and ravine forests composed of native and introduced species and contains the full range of primary constituent elements required for the recovery of the kingfisher in southern Guam. This unit is important because it includes the location of the last known observations (Fena Lake region 1963–1964) of Guam Micronesian kingfishers in southern Guam (Drahos 1977). Unit B also contains some of the largest tracts of forest remaining in southern Guam and is believed to be essential for the conservation of the Guam Micronesian kingfisher.

The critical habitat proposed in Unit B consists of three sections. The main section includes most of the forested areas within the Ordnance Annex and forested area above the 244-m (800-ft) elevation contour in the Sinaje region near Mount Lamlam. The second section consists of the forested areas at the headwaters of the Bubulao and Ugum Rivers and the forested areas along and between both rivers until their confluence approximately 1 km (0.6 mi) above Talofofo Falls. The third section consists of the forested areas outside Ordnance Annex that occur along and between the Maagas and Mahlac Rivers near where they converge and become the Talofofo River.

Mariana Crow

Proposed Unit A: Northern Guam

Proposed Unit A consists of approximately 5,075 ha (12,540 ac) of forested land encompassing the northern end of Guam. This proposed unit includes forested areas on

Andersen Air Force Base, Guam National Wildlife Refuge, COMNAVMARIANAS Communications Annex, and private property at Uruno Basin and Jinapsan Beach. Unit A includes limestone, secondary, agricultural, and coastal forests composed of native and non-native plants and contains the full range of primary constituent elements needed for recovery of the Mariana crow on Guam. This unit includes the area occupied by the last 12 Mariana crows in the munitions storage area on Andersen Air Force Base, much of the 1994 historical distribution of Mariana crows in northern Guam (Wiles *et al.* 1995), and the areas that contained the highest densities of crows in northern Guam in 1981 (Engbring and Ramsey 1984). Approximately 15 percent of the unit currently is occupied by the Mariana crow. Unit A also contains some of the largest tracts of mature limestone forest remaining on Guam and is identified as important recovery habitat in the draft revised Mariana crow recovery plan (USFWS in prep.).

The proposed areas in Unit A can be divided into two sections. The first section consists of the forested land (Federal, Territory, and private) between the southern boundary of Andersen Air Force Base and the coastline between Ritidian and Pati Point, not including the housing, airfields, and other developed areas on Andersen Air Force Base, the recently cleared cargo drop zone in Northwest Field on Andersen Air Force Base, private land in the Uruno Basin below the cliffline (elevation: 122 m, 400 ft), and private land along Jinapsan Beach below the 12-m (40-ft) elevation contour. The second section consists of forested areas on the Communications Annex between the coastline near Haputo Beach and Route 3, including forested areas on the northern part of the base near the antennae fields.

Proposed Unit B: Southern Guam

Proposed Unit B consists of approximately 4,234 ha (10,464 ac) of forested land encompassing much of central southern Guam. This proposed unit contains sections of the Bolanos Conservation Area, COMNAVMARIANAS Ordnance Annex, and private property at Sinaje, Mapao, and Bubulao. Unit B is composed of limestone, secondary, swamp, agricultural, and ravine forests consisting of native and non-native plants and contains the full range of primary constituent elements needed for recovery of the species on southern Guam. This unit includes sites of some of the last known observations of Mariana crows in southern Guam. Specifically, Mariana crows were observed in the forests around Fena Lake and Alamagosa Springs on the Ordnance Annex between 1963 and 1965 (Drahos 1977). This unit also encompasses some of the last remaining large tracts of native forest on southern Guam and is identified as important recovery habitat in the draft revised Mariana crow recovery plan (USFWS in prep.).

The critical habitat proposed in Unit B consists of three sections. The main section includes most of the forested areas within the Ordnance Annex and forested area above the 244-m (800-ft) elevation contour in the Sinaje region near Mount Lamlam. The second section consists of the forested areas at the headwaters of the Bubulao and Ugum Rivers and the forested areas along and between both rivers until their confluence approximately 1 km (0.6 mi) above Talofofo Falls. The third section consists of the forested areas outside Ordnance Annex that occur along and between the Maagas and Mahlac Rivers near where they converge and become the Talofofo River.

Proposed Unit C: Rota

Proposed Unit C consists of approximately 2,462 ha (6,084 ac) of forested land encompassing much of the undeveloped areas on Rota. This proposed unit contains the Afatung Wildlife Management Area, I Chenchon Bird Sanctuary, and forested areas on public and private lands around the Sabana and Sinapalu plateaus. Unit C is composed of limestone, secondary, agricultural, coastal, and ravine forests consisting of native and non-native plants and contains the full range of primary constituent elements needed for recovery of the Mariana crow on Rota. This unit includes the known breeding territories of at least 63 Mariana crow pairs and possibly those of an additional 25 crow pairs on Rota (Morton *et al.* 1999). This unit also includes all the areas identified as important conservation areas in the draft revised Mariana crow recovery plan (USFWS in prep.).

The critical habitat proposal in Unit C consists of five sections. The first section includes the Afatung Wildlife Management Area in the Palii region and the forested areas in the Finata, Alaguan, and I Koridot regions. The second section includes the I Chenchon Bird Sanctuary and the forested areas in the I Chiugai and As Dudo regions of eastern Rota. The third unit consists of much of the forested areas in the As Matmos, Mochong, Lalayak, Pekngasu, and I Batko regions as well as the forested areas adjacent to the Rota Resort. The fourth section includes much of the forested areas in the Mananana, Uyulan Hulo, Sailgai Hulo, Gayauga, Lempanai, and Lupok regions. The fifth section includes much of the forested areas, as well as some of the grassland areas, in the Talakhaya and Gaonan regions of southern Rota.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat by appreciably diminishing the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, states, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are only advisory. We may adopt the formal conference report as the biological opinion when critical habitat is designated, if no significant new information or changes in the action alter the content of the opinion (*see* 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat.

Actions on Federal lands that may affect critical habitat on Guam for the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow would require section 7 consultation. Activities that may affect these species on private, Government of Guam, or CNMI lands but require a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or Federal funding (*e.g.*, from the Federal Highway Administration, FAA, Federal Emergency Management Agency, or Natural Resources Conservation Service) also will continue to be subject to the section 7 consultation process.

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those Federal actions that may adversely modify such habitat or that may be affected by such designation. Activities that may result in the destruction or adverse modification of critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for both the survival and recovery of the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow is appreciably reduced. Activities that may directly or indirectly adversely affect the proposed critical habitat would include, but are not limited to:

(1) Removing, thinning, or destroying Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow forest habitat by burning, mechanical, chemical, or other means (*e.g.*, woodcutting, grading, overgrazing, construction, road building, mining, herbicide application, etc.).

(2) Appreciably decreasing habitat value or quality through introduction or promotion of potential nest predators, disease or disease vectors, vertebrate or invertebrate food competitors, invasive plant species, forest fragmentation, overgrazing, augmentation of feral ungulate populations, water diversion or impoundment, groundwater pumping or other activities that alter water quality or quantity to an extent that affects vegetation structure, or activities that increase the risk of fire.

To portray the Federal actions that might be affected by a critical habitat designation, we first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued existence'' of a species are those that would appreciably reduce the likelihood of both the survival and recovery of a listed species. Actions likely to result in the destruction or adverse modification of critical habitat are those that would appreciably reduce the value of critical habitat for both the survival and recovery of the listed species.

Federal agencies already consult with us on activities in areas currently occupied by these species to ensure that their actions are not likely to jeopardize the continued existence of these species. These actions include, but are not limited to:

(1) Regulation of waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Development on private, Government of Guam, or CNMI lands involving Federal permits or funding such as Housing and Urban Development projects;

(4) Military training or similar activities of the U.S. Air Force or Navy on lands under their jurisdiction at Andersen Air Force Base or COMNAVMARIANAS Communications and Ordnance Annex;

(5) Construction of communication sites licensed by the Federal Communications Commission;

(6) Road construction or maintenance, funded or approved by the Federal Highway Administration; or

(7) Disaster relief activities funded by the Federal Emergency Management Agency.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, please contact the Field Supervisor, Pacific Islands Ecological Services Field Office (*see* **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and plants and inquiries about prohibitions and permits should be directed to the U.S. Fish and Wildlife Service, Conservation Planning and Permit Program at the same address.

Critical Habitat Definition Exclusions

Some areas providing habitat essential to the species may not require special management or protection and therefore would not fall within the ESA definition of critical habitat (16 U.S.C. 1532(5)(A)(i)). Adequate special management or protection is provided by a legally operative plan or agreement that addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long-term conservation of the species. If any areas containing the primary constituent elements are currently being managed to address the conservation needs of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow and do not require special management or protection, we may exclude such areas from the proposed rule because they would not meet the definition of critical habitat in section 3(5)(A)(i) of the Act.

We use the following three criteria to determine if a plan provides adequate management or protection: (1) A current plan specifying the management actions must be complete and provide sufficient conservation benefit to these species, (2) the plan must provide assurances that the conservation management strategies will be implemented, and (3) the plan must provide assurances that the conservation management strategies will be effective. In determining if management strategies are likely to be implemented, we consider whether: (a) A management plan or agreement exists that specifies the management actions

being implemented or to be implemented; (b) there is a timely schedule for implementation; (c) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (d) the party(ies) have the authority and long-term commitment to the agreement or plan to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands. In determining whether an action is likely to be effective, we consider whether: (a) The plan specifically addresses the management needs, including reduction of threats to these species; (b) such actions have been successful in the past; (c) there are provisions for monitoring and assessment of the effectiveness of the management actions; (d) and adaptive management principles have been incorporated into the plan.

Based on information provided to us by landowners and managers to date, we have been unable to identify any areas on Guam or Rota that are adequately managed and protected to address the threats to the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow so as to qualify for exclusion under the Act's definition of critical habitat. Several areas are covered under current management plans and are being managed in a manner that meets some of the conservation needs of the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow, but the management does not adequately reduce the primary threats to these species.

The Sikes Act Improvements Act of 1997 (Sikes Act) requires each military installation that includes land or water suitable for the conservation and management of natural resources to have completed, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide sufficient conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat. To date, no military installation on Guam has completed a final INRMP that provides sufficient management and protection for the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow, although many of the projects described in these documents are generally beneficial to Guam's natural environment and recovery of listed species.

Economic Exclusions

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We are conducting an analysis of the economic impacts of designating the proposed areas as critical habitat and will use this information in our final determination. A notice of availability of the draft economic analysis will be published in the **Federal Register**.

In most instances the benefits of excluding Habitat Conservation Plan (HCP) areas from critical habitat designations have outweighed the benefits of including them. Currently, there are no HCPs on Guam that include the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow as a covered species. However, the Service is working with the CNMI to develop an HCP to address impacts to the Mariana crow associated with the development of agricultural homesteads on Rota. The proposed agricultural homesteads are not included in the proposed critical habitat, but the anticipated conservation areas are. In the event that future HCPs are developed within the boundaries of designated critical habitat, assistance will be available to applicants to promote protection and management of habitat areas essential for the conservation of these species. Opportunities may exist to locate development and habitat modification activities in nonessential areas, or to mitigate activities within essential habitat areas so that such activities will not adversely modify the critical habitat. The Service will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow as well as conservation measures for those lands.

Public Comments Solicited

We intend that any final action resulting from this proposal be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We are particularly interested in comments concerning:

(1) The reasons why any area should or should not be determined to be critical habitat as provided by section 4 of the Act and 50 CFR 424.12(a)(1), including whether the benefits of designation will outweigh any threats to these species due to designation;

(2) Specific information on the current or former numbers and distribution of Mariana fruit bats, Guam Micronesian kingfishers, and Mariana crows, and what habitat is essential to the conservation of these species and why;

(3) Whether lands within proposed critical habitat are currently being managed to address conservation needs of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow;

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

(6) Whether future development and approval of conservation measures (*e.g.*, Conservation Agreements, Safe Harbor Agreements, etc.) should be excluded from critical habitat and, if so, by what mechanism;

(7) Whether military lands covered under an approved INRMP should be excluded from critical habitat;

(8) Economic and other values associated with designating critical habitat for the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow, such as those derived from non-consumptive uses (*e.g.*, hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' and reductions in administrative costs); and

(9) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

If we receive information that any of the areas proposed as critical habitat are currently being managed and protected to adequately address the conservation needs of the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow, we may exclude such areas from any final designation as not meeting the definition of critical habitat in section 3(5)(A) of the Act.

In anticipation of public interest, public hearings have been scheduled on Rota for November 6, 2002, and on Guam for November 7, 2002, (*see* **ADDRESSES** section). Prior to each public hearing, the Service will be available to provide information and to answer questions. We also will be available for questions after each of the hearings. Anyone wishing to make oral comments for the record at the public hearing is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (*see* **ADDRESSES** section). If submitting comments by electronic format, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: RIN 1018–AI25'' and your name and return address in your e-mail message. Please note that the e-mail address *Mariana_CritHab@r1.fws.gov* will be closed at the termination of the public comment period.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office in Honolulu.

Peer Review

Our policy published on July 1, 1994 (59 FR 34270), directs us to seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. We plan to expand this review to increase the number of reviewers. The purpose of such review is to ensure listing and critical habitat decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite the peer reviewers to comment, during the public comment period, on the proposed designations of critical habitat. We will consider all comments and data received during the 60-day comment period on this proposed rule during preparation of a final decision on the proposed critical habitat. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the supplementary information section of the preamble helpful in understanding the document? (5) Is the background information useful and is the amount appropriate? (6) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may e-mail your comments to this address: *Execsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this proposal is a significant rule reviewed by the Office of Management and Budget (OMB). We have prepared a draft economic analysis of this proposed action. We will use this analysis to meet the requirement of section 4(b)(2) of the ESA to consider the economic and other consequences of designating the proposed areas as critical habitat and may exclude an area from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of designating it, unless failure to designate such area as critical habitat would lead to the extinction of the Mariana fruit bat, Guam Micronesian kingfisher, or Mariana crow. This draft analysis will be available for public comment before any final decision on the proposed designation. The availability of the draft economic analysis will be announced in the **Federal Register**.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

The following discussion of the potential economic impacts of this proposed rule reflects the views of the Service, only. This discussion is based upon the information regarding potential economic impact that is available to the Service at this time. This assessment of economic effect may be modified prior to final rulemaking based upon development and review of the economic analysis being prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect the position of the Service on the type of economic analysis required by the judicial decision in *New Mexico Cattle Growers Assn.* v. *U.S. Fish & Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001).

Under 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 effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. A ''substantial number'' of small entities is more than 20 percent of those small entities affected by the regulation, out of the total universe of small entities in the industry or, if appropriate, industry segment. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. Based on current information, the Service proposes to certify that this proposed rule will not have a significant effect on a substantial number of small entities.

We must determine whether the proposed rulemaking will affect a substantial number of small entities. According to the Small Business Administration, small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, *etc.*). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation. In areas where the species are present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect Mariana fruit bats, Mariana crows, and Guam Micronesian kingfishers. If these critical habitat designations are finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, in areas where the species are present, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants because consultation would already be required because of the presence of the listed species, and the duty to avoid adverse modification of critical habitat would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where the species is present, designation of critical habitat could result in an additional economic burden on small entities due to the requirement to reinitiate consultation for ongoing Federal activities. We have reviewed 209 informal consultations and 37 formal consultations conducted on the Mariana fruit bat, Mariana crow, and Guam Micronesian kingfisher on Guam since these species were listed in 1984. In addition, we reviewed nine informal consultations conducted on the island of Rota, CNMI, since 1984. No formal consultations have been conducted on Rota since the Mariana crow was listed. Consultations on Federal grants to State wildlife programs, which do not affect small entities, were not reviewed for this proposed rule. Seventy-seven of the 209 informal consultations on Guam and three of the five informal consultations on Rota were conducted in response to requests for technical assistance or species lists for different locations on Guam and Rota. The majority of these requests were made by Federal agencies, some on their behalf by private consultants or contractors. Of the 246 total consultations on Guam, 57 informal and 20 formal consultations involved at least one of the species involved in this proposed rule. Of the nine consultations on Rota, six involved the Mariana crow.

Of the 20 formal consultations on Guam, two may have involved a small entity. Both of these concerned proposals by the Urunau Resort Corporation to have contractors conduct topographic survey work on private and Federal lands for a potential access road through Navy property to private lands. The Mariana fruit bat and Mariana crow were reported from the action areas. The biological opinions (Pacific Islands Fish and Wildlife Office log numbers 1–2–90–F–027 and 1–2–91–F–08) concluded that the proposed action would not result in jeopardy to either species. The reasonable and prudent measures required in the biological opinions to avoid or minimize incidental take of these species did not include major modifications to the proposed action that placed a significant economic burden on Urunau Resort Corporation. We do not believe this constitutes a substantial number of small entities (*see* earlier discussion on substantial number). Of the remaining 18 formal consultations on Guam involving the Mariana fruit bat, Mariana crow, and/or Guam Micronesian kingfisher, ten were conducted on behalf of the Air Force and eight were conducted on behalf of the Navy. In all of these consultations, the Service concluded that the proposed actions would not result in jeopardy to these three listed species.

Of the 57 informal consultations on Guam, one may have concerned a small entity (private individuals, consulting firms, or non-profit organizations). The proposed action in this case, the gathering of a large Chamorro family on the Guam National Wildlife Refuge, was determined not likely to adversely affect listed species, and was subject only to minor restrictions under a special use permit for the refuge. We do not believe this instance constitutes a substantial number of small entities (*see* earlier discussion on substantial number). Four informal consultations were conducted on behalf of Government of Guam agencies. One action was determined not likely to adversely affect listed species, and the other was determined

to have no effect on listed species. A third was determined not likely to adversely modify the critical habitat proposed in 1991. The fourth consultation on behalf of the Government of Guam concerned technical assistance from the Service, and resulted in no regulatory action by the Service or economic burden on the Government of Guam. We conclude, however, that the Government of Guam is not a small entity.

Of the six informal consultations on Rota that concerned the Mariana crow, none concerned a small entity and all consultations were conducted on behalf of the Government of the CNMI. Four of these consultations were requests for technical assistance or species lists and resulted in no regulatory action by the Service or economic burden on the Government of the CNMI. The remaining two actions were determined not likely to adversely affect the Mariana crow. We concluded, however, that the Government of the CNMI is not a small entity.

The remaining 52 informal consultations on Guam exclusively involved the following Federal agencies: U.S. Air Force (27 consultations), U.S. Department of the Navy (14 consultations), U.S. Department of Agriculture (four consultations), U.S. Fish and Wildlife Service (3 consultations), U.S. Army Corps of Engineers (2 consultations), U.S. Department of the Army (one consultation), and Natural Resources Conservation Service (formally the Soil Conservation Service) (one consultation). None of these agencies is a small entity. Of these consultations, seven included critical habitat proposed in 1991, and these proposed actions were determined not likely to adversely modify proposed critical habitat. Of the remaining 45 consultations, 38 concluded with our concurrence that the proposed action either would have no effect on, or was not likely to adversely affect, listed species; five consultations were responses to requests for either species lists or technical assistance and did not conclude with a regulatory determination; one concluded with a request by the Service for more information; and one concluded with a determination that the proposed action, Navy training maneuvers, was likely to adversely affect the Mariana crow.

In areas where the species clearly are not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act that otherwise would not be required. The majority of activities in the proposed critical habitat areas for the Mariana fruit bat, Mariana crow, and Guam Micronesian kingfisher that have Federal involvement likely will concern the U.S. Navy or Air Force. As mentioned above, however, only 77 of 246 informal consultations on Guam completed under section 7 of the Act involved any of the species for which critical habitat is being proposed. As a result, we cannot easily identify future consultations that may result from the listed status of the species or the increment of additional consultations that may be required by this critical habitat designation. Furthermore, a large proportion of the proposed designation on Guam is currently unoccupied by these species. Therefore, for the purposes of this review and certification under the Regulatory Flexibility Act, we are assuming that any future consultations in the area proposed as critical habitat on Guam likely will result from the critical habitat designations.

Of the total land area proposed as critical habitat on Guam for the Mariana fruit bat, Mariana crow, and Guam Micronesian kingfisher, approximately 9 percent is private land, 11 percent is Government of Guam land, and 80 percent is Federal land. Of the total land area proposed as critical habitat for the Mariana crow on Rota, approximately 8 percent is private land and 92 percent is Government of the CNMI land. Much of the land within the proposed critical habitat units has limited potential for development because of the remote locations, lack of access, and rugged terrain of these lands. On non-Federal lands, activities that lack Federal involvement would not be affected by the proposed critical habitat designations. Activities of an economic nature that are likely to occur on non-Federal lands in the area encompassed by these proposed designations consist of improvements to and construction of roads, communications and tracking facilities, and other infrastructure; residential and tourist-related development; ranching and farming; and recreational use such as camping, picnicking, game hunting, and fishing. With the exception of communications and tracking facilities improvements by the FAA or the Federal Communications Commission, road building or improvement by the Federal Highways Authority, and water or sewer system development by the Corps of Engineers, these activities are unlikely to have Federal involvement. On lands that are or may be in agricultural production, the types of activities that might trigger a consultation include irrigation ditch system projects that may require section 404 authorizations from the Corps of Engineers, and watershed management and restoration projects sponsored by the Natural Resources Conservation Service (NRCS). However the NRCS restoration projects typically are voluntary, and the irrigation ditch system projects within lands that are in agricultural production are rare and may affect only a small percentage of the small entities within these proposed critical habitat designations. Therefore, analysis of currently available information indicates that the proposed rule would not affect a substantial number of small entities. We are not aware of any commercial activities on the Federal lands included in these proposed critical habitat designations.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or would result in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. However, the Act does not prohibit the take of listed plant species or require terms and conditions to minimize adverse effect to critical habitat. We may also identify discretionary conservation recommendations designed to minimize

or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to gather information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. Furthermore, these measures must be economically feasible, consistent with the intended purpose of the action, and within the scope of authority of the Federal agency involved in the consultation (*see* 50 CFR. 404.2, definition of reasonable and prudent alternative). Based on our consultation history, we can describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats they face, especially as described in the final listing rule and in this proposed critical habitat designation, as well as our experience with the listed species in Guam and Rota. The kinds of actions that may be included in future reasonable and prudent alternatives include, but are not limited to, management of competing non-native species and predators, restoration of degraded habitat, construction of protective fencing, and regular monitoring. Therefore, such measures are not likely to result in a significant economic impact to a substantial number of small entities.

As required under section 4(b)(2) of the Act, we are conducting an analysis of the potential economic and other impacts of this proposed critical habitat designation, and we will make that analysis available for public review and comment before finalizing these designations.

In summary, we are considering whether this proposed rule would result in a significant economic effect on a substantial number of small entities. Currently available information indicates it would not affect a substantial number of small entities. Approximately 11 percent of the lands proposed as critical habitat on Guam are on Government of Guam lands. In addition, approximately 92 percent of the lands proposed as critical habitat on Rota are on Government of the CNMI lands. The Territory of Guam and CNMI are not small entities. Approximately nine percent of the lands proposed as critical habitat on Guam and eight percent of lands proposed as critical habitat on Rota are on private lands. As discussed earlier, many of the actions likely to occur on the private land parcels included in this proposal are not likely to require any Federal authorization. In the remaining areas, section 7 application, the only trigger for regulatory impact under this rule, largely would be limited to a subset of the area proposed. The most likely future section 7 consultations resulting from this rule would be for informal consultations on actions proposed by the military, federally funded land and water conservation projects, species-specific surveys and research projects, and watershed management and restoration projects sponsored by NRCS. These consultations likely would occur on only a subset of the total number of parcels and, therefore, are not likely to affect a substantial number of small entities. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even if it did occur, we would not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. Thus, currently available information indicates that the proposed designation of critical habitat for the Mariana fruit bat, Mariana crow, and Guam Micronesian kingfisher will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required. However, should the economic analysis of this rule indicate otherwise, we will revisit this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211, on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Though current information indicates this proposed rule would be a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 August 25, 2000 *et seq.*):

(a) This rule, as proposed, will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan does not appear to be required. Small governments would be affected only to the extent that any programs having Federal funds, permits, or other authorized activities would have to ensure that their actions will not adversely affect the critical habitat. However, as discussed above, these actions are currently subject to similar restrictions through the listing protections of the species, and further restrictions are not anticipated to result from critical habitat designation of occupied areas. In our economic analysis, we will evaluate the impact of designating unoccupied areas where section 7 consultations would not have occurred but for the critical habitat designation.

(b) This rule, as proposed, will not produce on State, local, or Tribal governments or the private sector a Federal mandate of $100 million or greater in any year, so it would not meet the criteria for a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have preliminarily analyzed the potential takings implications of the proposed critical habitat designation in a preliminary takings implication assessment, which indicates that this proposed rule would not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, the proposed rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by the Mariana fruit bat and Mariana crow would have little incremental impact on the Government of Guam or the CNMI and their activities. The designations may have some benefit to the Government of Guam and the CNMI in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of these species are identified. While this

definition and identification does not alter where and what federally sponsored activities may occur, it may assist the Government of Guam and the CNMI in long-range planning rather than waiting for case-by-case section 7 consultation to occur.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Act. The proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. 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.

National Environmental Policy Act

We have determined that we do not have to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. The proposed designation of critical habitat on Guam and Rota for the Mariana fruit bat, Guam Micronesian kingfisher, and Mariana crow does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary authors of this document are Frederick A. Amidon and Holly B. Freifeld, Pacific Islands Fish and Wildlife Office (*see* **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 would continue to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entries for ''Bat, Mariana fruit'' under ''MAMMALS'', ''Kingfisher, Guam Micronesian'' under ''BIRDS,'' and ''Crow, Mariana'' under ''BIRDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Bat, Mariana fruit (=Mariana flying fox).	*Pteropus mariannus mariannus*.	Western Pacific Ocean: USA (Guam, Commonwealth of the Northern Mariana Islands).	Guam	E	156	17.95(a)	NA
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Crow, Mariana	*Corvus kubaryi*	Western Pacific Ocean: (Guam and Rota).	Entire Range	E	156	17.95(b)	NA
*	*	*	*	*	*		*
Kingfisher, Guam Micronesian.	*Halcyon cinnamomina cinnamomina*.	Western Pacific Ocean: (Guam).	Entire Range	E	156	17.95(b)	NA
*	*	*	*	*	*		*

3. Amend § 17.95 by adding the same order as the species appear in § 17.11:

a. In paragraph (a), critical habitat for the Mariana fruit bat (*Pteropus mariannus mariannus*); and

b. In paragraph (b), critical habitat for the Mariana crow (*Corvus kubaryi*) and Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*), as set forth below.

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

* * * * *

Mariana Fruit Bat (*Pteropus mariannus mariannus*)

(1) Critical habitat units for the Mariana fruit bat are depicted for the Territory of Guam.

(2) Within these areas, the primary constituent elements required by the Mariana fruit bat for the biological needs of foraging, sheltering, roosting, and rearing of young are found in areas supporting limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native or introduced plant species. These forest types provide the primary constituent elements of:

(i) Plant species used for foraging such as *Artocarpus* sp. (breadfruit), *Carica papaya* (papaya), *Cycas circinalis* (fadang), *Ficus* spp. (fig), *Pandanus tectorius* (kafu), *Cocos nucifera* (coconut palm), and *Terminalia catappa* (talisai).

(ii) Remote locations, often within 100 m (328 ft) of 80 to 100 m (262 to 591 ft) tall clifflines, with limited exposure to human disturbance, that contain mature fig, *Mammea odorata* (chopak), *Casuarina equisetifolia* (gago), *Macaranga thompsonii* (pengua), *Guettarda speciosa* (panao), and *Neisosperma oppositifolia* (fagot), and other tree species that are used for roosting and breeding.

(3) Critical habitat does not include existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

(4) **Note:** Map 1—General Locations of Units for Mariana Fruit Bat—follows:

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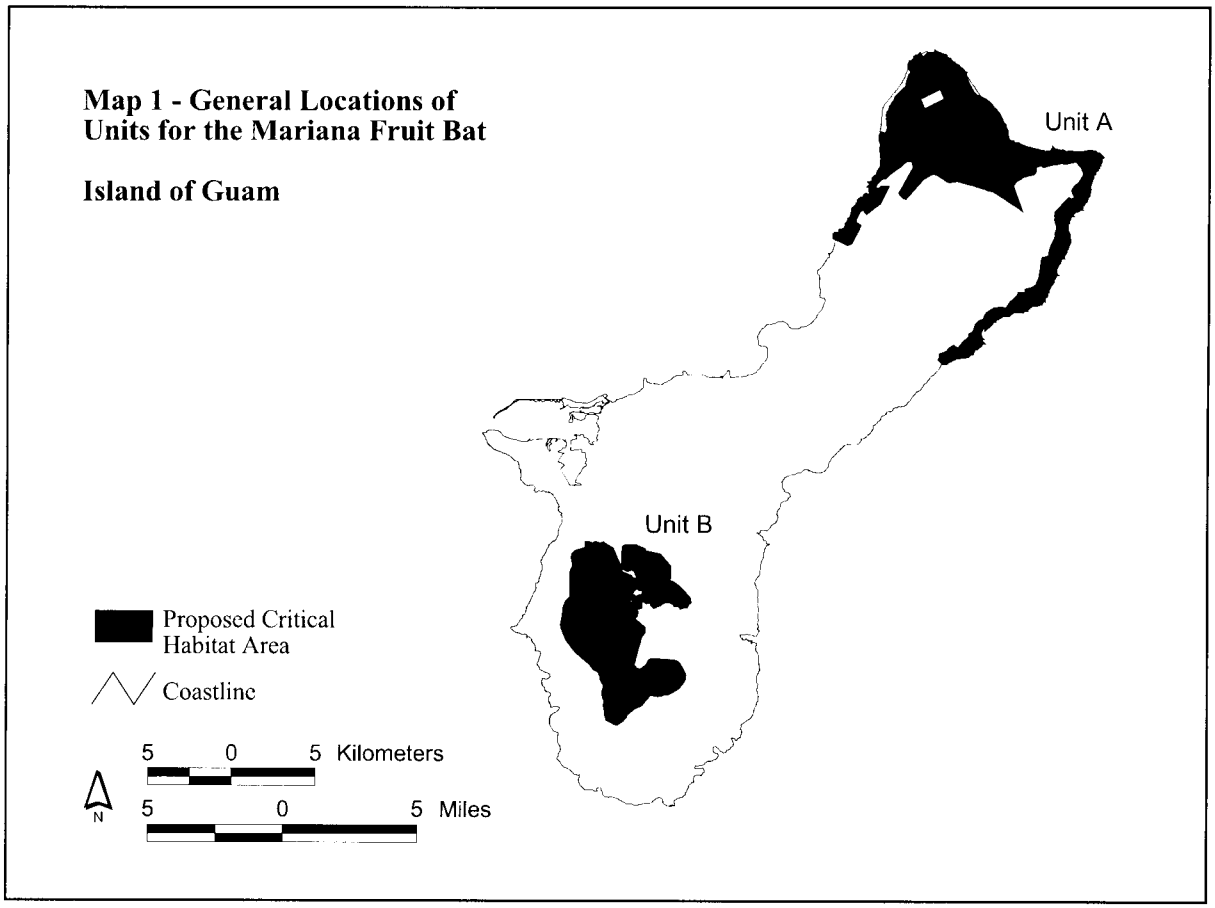


(5) Northern Guam, Unit A, Mariana fruit bat (5,803 ha; 14,338 ac).

(i) Unit A consists of 106 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 269645, 1491989; 269464, 1492175; 269501, 1492206; 269493, 1492433; 269892, 1492587; 270039, 1492791; 270215, 1492895; 270407, 1492769; 270592, 1492782; 270860, 1493156; 271182, 1493403; 271268, 1493585; 271268, 1493643; 271436, 1493753; 271559, 1494014; 271607, 1494236; 271813, 1494415; 272043, 1494477; 272129, 1494724; 272413, 1495015; 272655, 1495146; 272822, 1495101; 272918, 1495177; 273101, 1495192; 273263, 1495136; 273431, 1495202; 274161, 1496022; 274173, 1496089; 274601, 1496017; 274599, 1496283; 274931, 1496366; 275216, 1496545; 275446, 1497148; 275593, 1498173; 275675, 1498164; 276008, 1498280; 276052, 1498688; 276156, 1498965; 276437, 1499560; 276381, 1499660; 276493, 1500036; 276358, 1500432; 276358, 1500432; 276358, 1500435; 276374, 1500948; 277097, 1501696; 277216, 1501626; 277395,

1501709; 277565, 1501788; 277367, 1502247; 277556, 1502519; 277738, 1502614; 278104, 1503226; 277931, 1503680; 277528, 1504079; 276540, 1503998; 275541, 1503775; 275456, 1503878; 274960, 1503661; 275017, 1503428; 275017, 1503428; 274919, 1503336; 274350, 1503193; 273846, 1502898; 273696, 1502636; 273683, 1502394; 274082, 1501289; 272625, 1502266; 271544, 1502611; 270399, 1502902; 270276, 1502896; 269976, 1502855; 269819, 1502894; 269127, 1503348; 268873, 1503326; 268324, 1502996; 267317, 1501835; 267067, 1502058; 267891, 1503624; 267799, 1504039; 267471, 1504118; 267162, 1503935; 266993, 1503750; 266419, 1503365; 266115, 1503073; 265990, 1503021; 265865, 1503010; 265532, 1502708; 265443, 1502458; 265558, 1502239; 265719, 1502249; 265928, 1502401; 266157, 1502406; 265972, 1502034; 265720, 1501528; 265451, 1501304; 265451, 1501304; 265035, 1500959; 264833, 1501228; 264547, 1501077; 264338, 1500650; 264260, 1500311; 264547, 1500113; 264060, 1499171; 263865, 1499073; 263276, 1499383.

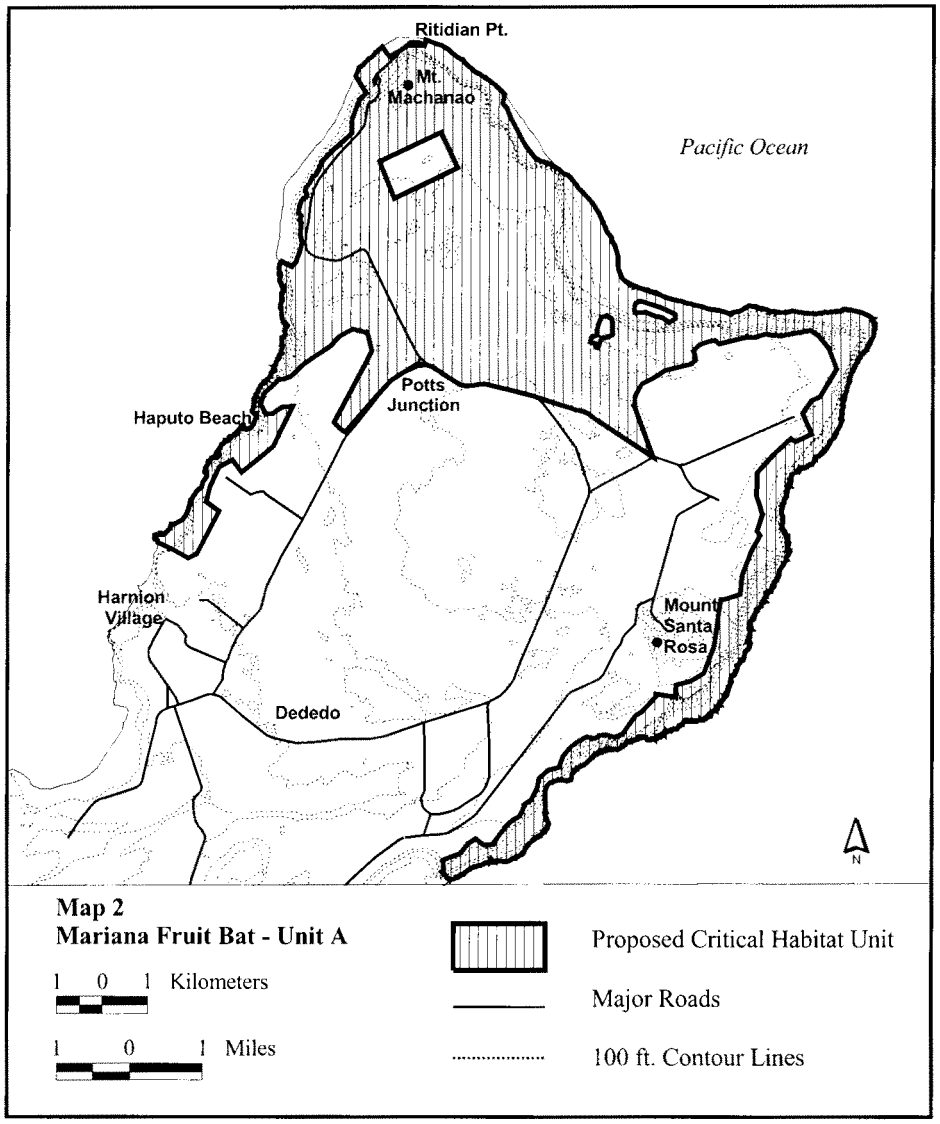
(ii) Excluding three areas:

(A) Bounded by the following four points (133 ha, 328 ac): 268056, 1507791; 269417, 1508433; 269771, 1507647; 268377, 1506972.

(B) Bounded by the following 15 points (17 ha, 43 ac): 272711, 1503822; 272730, 1503928; 272767, 1503961; 272872, 1503975; 272859, 1504070; 272879, 1504214; 272949, 1504372; 273070, 1504396; 273184, 1504331; 273199, 1503977; 273041, 1503917; 272949, 1503912; 272884, 1503703; 272828, 1503710; 272818, 1503785.

(C) Bounded by the following 12 points (20 ha, 48 ac): 273808, 1504727; 274234, 1504592; 274579, 1504430; 274572, 1504328; 274444, 1504247; 274295, 1504355; 274146, 1504389; 273930, 1504484; 273795, 1504464; 273686, 1504470; 273659, 1504585; 273707, 1504687.

(iii) **Note:** Map 2 of Unit A for Mariana fruit bat follows:



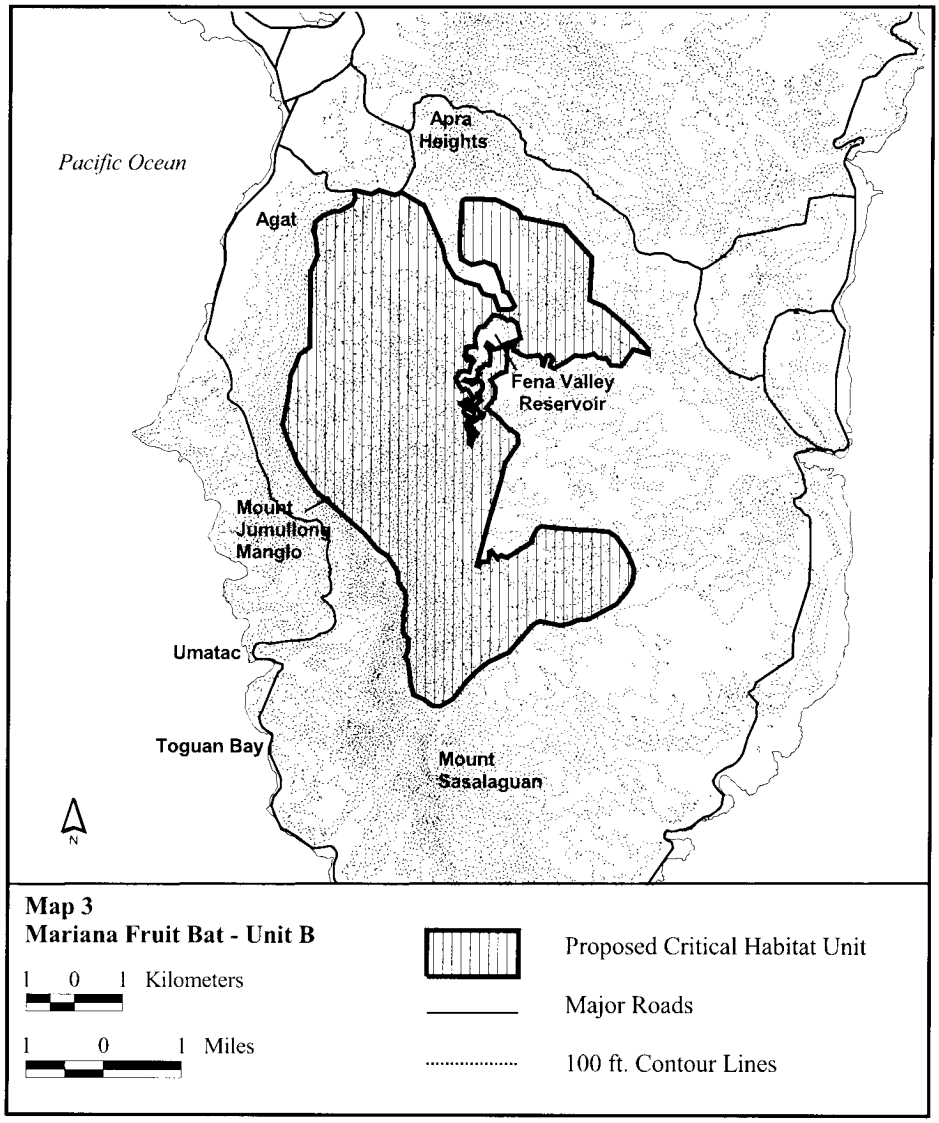
(6) Southern Guam, Unit B, Mariana fruit bat (4,234 ha; 10,464 ac):

(i) Unit B consists of 184 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 248002, 1474589; 247650, 1474901; 247495, 1475129; 247271,

1475466; 247014, 1476083; 246950, 1476271; 247074, 1476899; 247118, 1477285; 247235, 1477541; 247293, 1477723; 247508, 1477876; 247522, 1479447; 247658, 1479766; 247629, 1480138; 247571, 1480291; 247586, 1480324; 247611, 1480465; 247782, 1480608; 248018, 1480694; 248088, 1480673; 248307, 1480797; 248380, 1480844; 248434, 1480948; 248420, 1481047; 248423, 1481115; 248490, 1481114; 248732, 1481047; 248758, 1481043; 248787, 1481048; 248930, 1481119; 249268, 1481028; 249316, 1481047; 249377, 1481077; 249428, 1481064; 249874, 1480811; 250243, 1479980; 250246, 1479973; 250253, 1479957; 250272, 1479915; 250316, 1479645; 250511, 1479330; 250724, 1479237; 250997, 1479153; 251074, 1479008; 251187, 1478955; 251318, 1478939; 251419, 1478655; 251585, 1478663; 251706, 1478676; 251746, 1478741; 251615, 1479003; 251516, 1479035; 251486, 1479196; 251428, 1479358; 251344, 1479561; 251122, 1479654; 250863, 1479589; 250640, 1479700; 250614, 1479911; 250605, 1480129; 250652, 1480853; 250673, 1480921; 250741, 1480941; 250877, 1480941; 251212, 1480936; 251338, 1480936; 251405, 1480904; 251819, 1480706; 251886, 1480568; 252757, 1480381; 253342, 1479736; 253298, 1478854; 253597, 1478723; 253904, 1478475; 254210, 1478183; 254510, 1477855; 254526, 1477750; 254207, 1477835; 253963, 1477494; 253962, 1477494; 253743, 1477502; 253641, 1477652; 253589, 1477649; 253472, 1477667; 253389, 1477739; 253204, 1477694; 252993, 1477709; 252793, 1477566; 252561, 1477440; 252476, 1477486; 252472, 1477520; 252536, 1477618; 252532, 1477670; 252476, 1477716; 252416, 1477705; 252353, 1477501; 252322, 1477517; 252329, 1477634; 252265, 1477716; 252009, 1477683; 251888, 1477724; 251820, 1477781; 251730, 1477811; 251726, 1477875; 251748, 1477931; 251601, 1477871; 251583, 1477373; 251458, 1477343; 251258, 1477204; 251360, 1477030; 251349, 1476842; 251168, 1476619; 251428, 1476423; 251583, 1476231; 251816, 1476080; 251835, 1475891; 251563, 1475479; 251560, 1475465; 251484, 1475137; 251262, 1474361; 250994, 1473369; 251024, 1473358; 251092, 1473456; 251221, 1473456; 251262, 1473576; 251239, 1473655; 251292, 1473686; 251405, 1473531; 251496, 1473591; 251605, 1473546; 251767, 1473633; 252137, 1473874; 252125, 1473916; 252231, 1474142; 252318, 1474183; 252540, 1474161; 252992, 1474119; 253446, 1474105; 253722, 1474068; 253867, 1473973; 254079, 1473688; 254181, 1473477; 254247, 1473316; 254203, 1473017; 254064, 1472805; 253882, 1472586; 253306, 1472273; 253101, 1472258; 252919, 1472185; 252722, 1472141; 252533, 1472181; 252306, 1472229; 252175, 1472171; 251883, 1471842; 251657, 1471580; 251233, 1471383; 251000, 1471200; 250803, 1471003; 250701, 1470864; 250511, 1470624; 250241, 1470470; 250081, 1470478; 249913, 1470602; 249687, 1470704; 249672, 1470799; 249614, 1470981; 249599, 1471171; 249570, 1471390; 249519, 1471485; 249584, 1471645; 249584, 1471864; 249482, 1471966; 249468, 1472163; 249497, 1472258; 249460, 1472338; 249519, 1472543; 249535, 1472652; 249511, 1472820; 249358, 1473032; 249365, 1473229; 249322, 1473280; 249151, 1473567; 248928, 1473703; 248650, 1474031.

(ii) Excluding one area: Bounded by the following 114 points (4,346 ha; 45,338 ac): 250684, 1476986; 250614, 1477069; 250531, 1477232; 250595, 1477315; 250614, 1477358; 250718, 1477387; 250815, 1477358; 250855, 1477510; 250916, 1477596; 250868, 1477671; 250823, 1477681; 250823, 1477622; 250769, 1477609; 250713, 1477695; 250753, 1477791; 250742, 1477869; 250793, 1477893; 250951, 1477890; 250924, 1478061; 250940, 1478131; 251018, 1478286; 251114, 1478310; 251310, 1478543; 251425, 1478535; 251534, 1478484; 251596, 1478433; 251690, 1478460; 251802, 1478366; 251874, 1478058; 251656, 1477976; 251620, 1477975; 251516, 1477920; 251482, 1477886; 251330, 1477839; 251270, 1477914; 251189, 1477957; 251173, 1477906; 251248, 1477802; 251256, 1477663; 251245, 1477534; 251216, 1477505; 251141, 1477526; 250989, 1477400; 251011, 1477327; 250959, 1477224; 250890, 1477189; 250804, 1477184; 250737, 1477208; 250713, 1477192; 250841, 1477148; 250874, 1477111; 250978, 1477178; 251055, 1477177; 251090, 1477109; 251090, 1477036; 251072, 1476975; 250986, 1476921; 250981, 1476892; 251002, 1476879; 251029, 1476900; 251045, 1476871; 251013, 1476849; 251061, 1476784; 250945, 1476680; 251055, 1476498; 251121, 1476501; 251120, 1476456; 251090, 1476418; 250994, 1476413; 250970, 1476370; 250844, 1476314; 250858, 1476242; 250922, 1476162; 250970, 1476119; 250991, 1476089; 250973, 1476068; 250943, 1476100; 250887, 1476111; 250879, 1476065; 250924, 1476025; 250887, 1475948; 250866, 1475867; 250817, 1475886; 250815, 1475966; 250836, 1476020; 250817, 1476057; 250812, 1476113; 250817, 1476140; 250801, 1476162; 250775, 1476180; 250767, 1476279; 250783, 1476373; 250863, 1476421; 250740, 1476472; 250702, 1476542; 250721, 1476616; 250780, 1476619; 250903, 1476536; 250906, 1476552; 250855, 1476627; 250823, 1476638; 250796, 1476710; 250769, 1476731; 250745, 1476683; 250681, 1476665; 250625, 1476702; 250627, 1476721; 250710, 1476718; 250721, 1476780; 250772, 1476798; 250868, 1476756; 250906, 1476801; 250775, 1477023; 250780, 1477039.

(iii) **Note:** Map 3 of Unit B for Mariana fruit bat follows:



* * * * *

(b) *Birds.*

* * * * *

Mariana crow (*Corvus kubaryi*)

(1) Critical habitat units for the Mariana crow are depicted for the Territory of Guam and the island of Rota, Commonwealth of the Northern Mariana Islands.

(2) The primary constituent elements required by the Mariana crow for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young are found in areas that support limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native and introduced plant species. These forest types provide the primary constituent elements of:

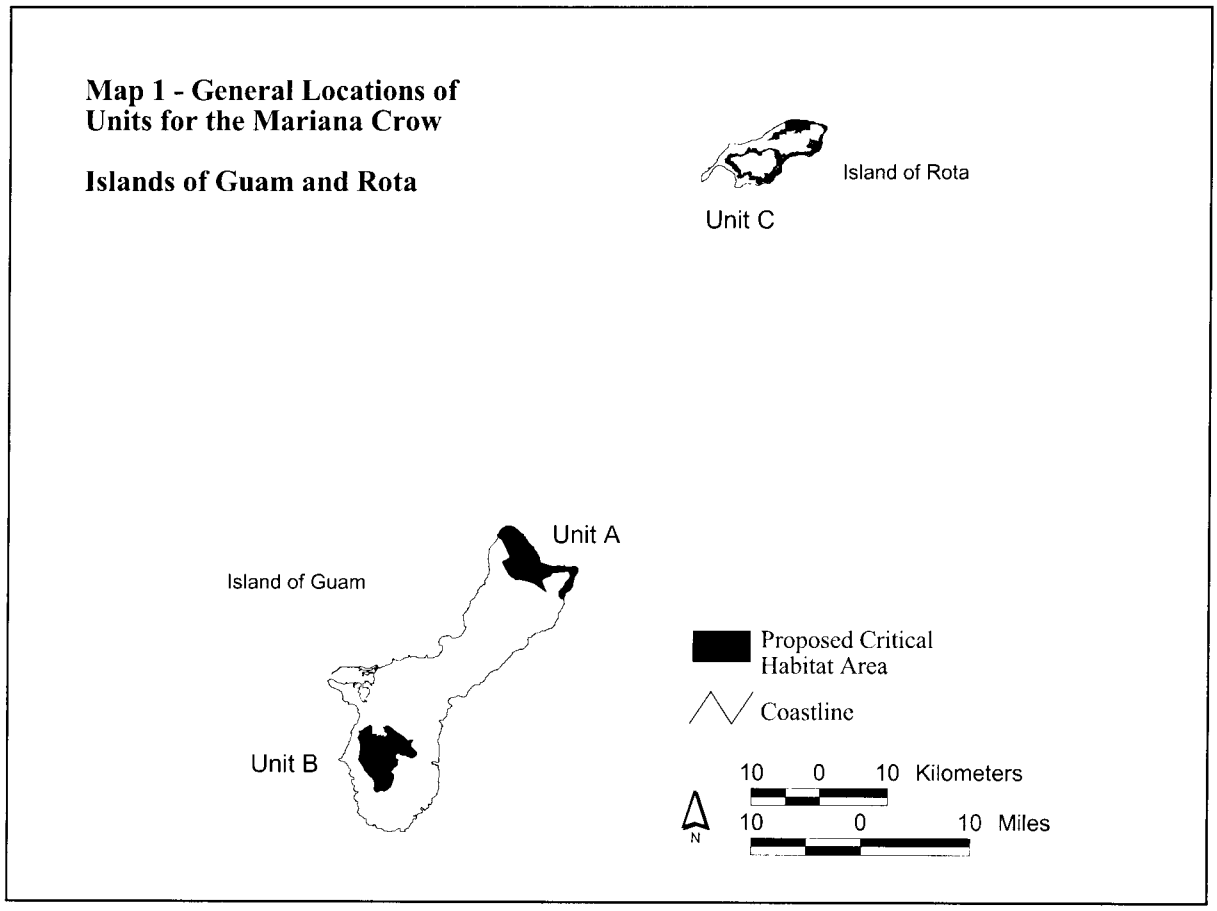
(i) Emergent trees and subcanopy trees with dense cover for breeding such as *Neisosperma oppositifolia* (fagot), *Macaranga thompsonii* (pengua), *Intsia bijuga* (ifit), *Premna obtusifolia* (ahgao), *Eugenia reinwardtiana* (aabang), *Ficus* spp. (fig), *Elaeocarpus joga* (yoga), and *Tristiropsis obtusangula* (faniok);

(ii) Sufficient area under predominantly native forest to allow nesting at least 290 m (950 ft) from the nearest road and 62 m (203 ft) from the nearest forest edge and to support Mariana crow breeding territories (approximately 12 to 37 ha (30 to 91 ac)) and foraging areas for nonbreeding juvenile crows; and

(iii) Standing dead trees and plant species such as *Aglaia mariannensis* (maypunayo), *Artocarpus* spp. (breadfruit), *Cocos nucifera* (coconut palm), fagot, *Hibiscus tiliaceus* (pago), ifit, *Leucaena* spp. (tangentangen), *Ochrosia mariannensis* (langiti), *Pandanus tectorius* (kafu), ahgao, fig, and joga for foraging.

(3) Critical habitat does not include existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

(4) **Note:** Map 1—General locations of units for Mariana crow follows:



(5) Northern Guam, Unit A, Mariana crow (5,075 ha; 12,540 ac).

(i) Unit A consists of 58 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 276837, 1498680; 276836, 1498679; 276161, 1498972; 276437, 1499560; 276381, 1499660; 276493, 1500036; 276358, 1500432; 276374, 1500948; 277097, 1501696; 277216, 1501626; 277565, 1501788; 277367, 1502247; 277556, 1502519; 277738, 1502614; 278104, 1503226; 277931, 1503680; 277528, 1504079; 276540, 1503998; 275541, 1503775; 275456, 1503878; 274960, 1503661; 275017, 1503428; 274919, 1503337; 274350, 1503193; 273846, 1502898; 273696, 1502636; 273683, 1502394; 274082, 1501289; 272625, 1502266; 271544, 1502611; 270399, 1502902; 270276, 1502896; 269976, 1502855; 269819, 1502894; 269127, 1503348; 268873, 1503326; 268324, 1502996; 267317, 1501835; 267067, 1502058; 267891, 1503624; 267799, 1504039; 267471, 1504118; 267162, 1503935; 266993, 1503750; 266419, 1503365; 266115, 1503073; 265990, 1503021; 265865, 1503010; 265532, 1502708; 265443, 1502458; 265558, 1502239; 265719, 1502249; 265928, 1502401; 266157, 1502406; 265720, 1501528; 265451, 1501304; 264834, 1501755; 264835, 1501755.

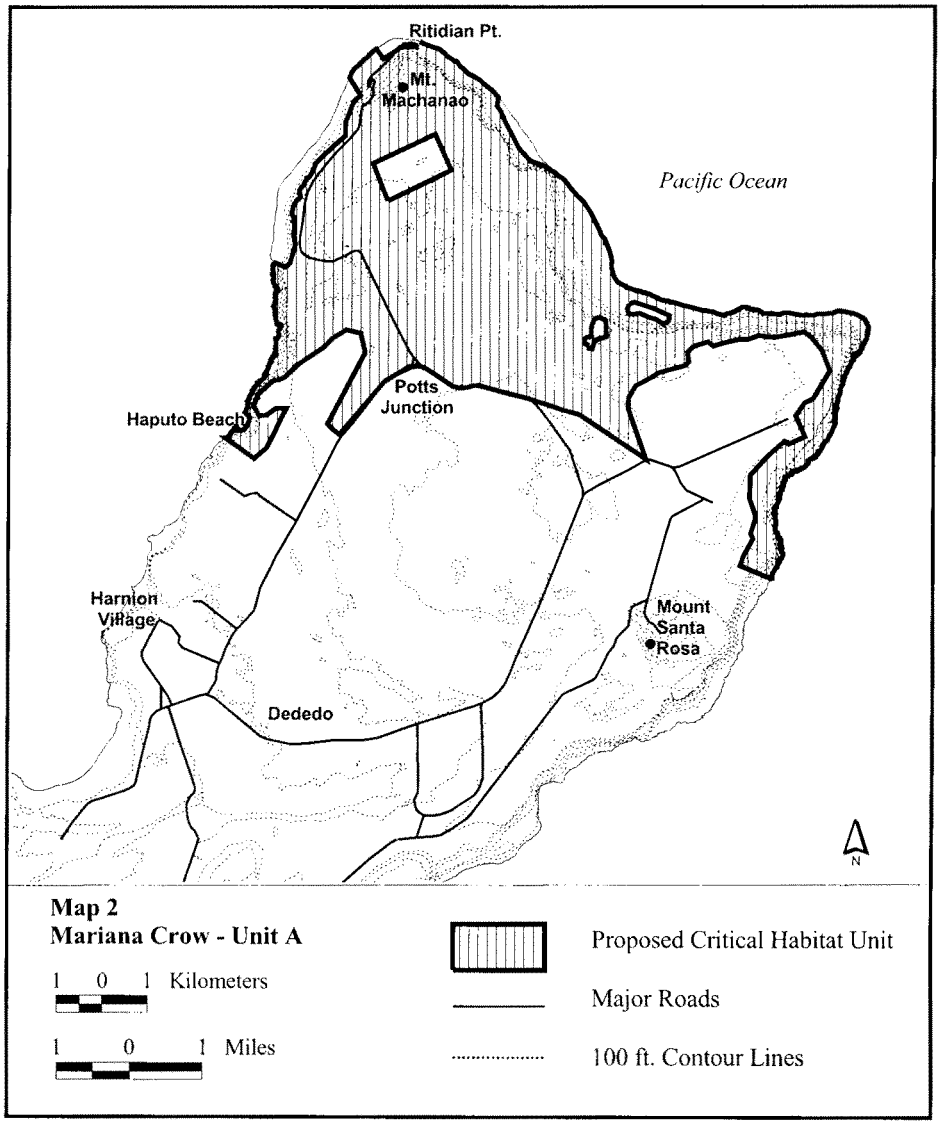
(ii) Excluding three areas:

(A) Bounded by the following four points (133 ha, 328 ac): 268056, 1507791; 269417, 1508433; 269771, 1507647; 268377, 1506972.

(B) Bounded by the following 15 points (17 ha, 43 ac): 272711, 1503822; 272730, 1503928; 272767, 1503961; 272872, 1503975; 272859, 1504070; 272879, 1504214; 272949, 1504372; 273070, 1504396; 273184, 1504331; 273199, 1503977; 273041, 1503917; 272949, 1503912; 272884, 1503703; 272828, 1503710; 272818, 1503785.

(C) Bounded by the following 12 points (20 ha, 48 ac): 273808, 1504727; 274234, 1504592; 274579, 1504430; 274572, 1504328; 274444, 1504247; 274295, 1504355; 274146, 1504389; 273930, 1504484; 273795, 1504464; 273686, 1504470; 273659, 1504585; 273707, 1504687.

(iii) **Note:** Map 2 of Unit A for Mariana crow follows:



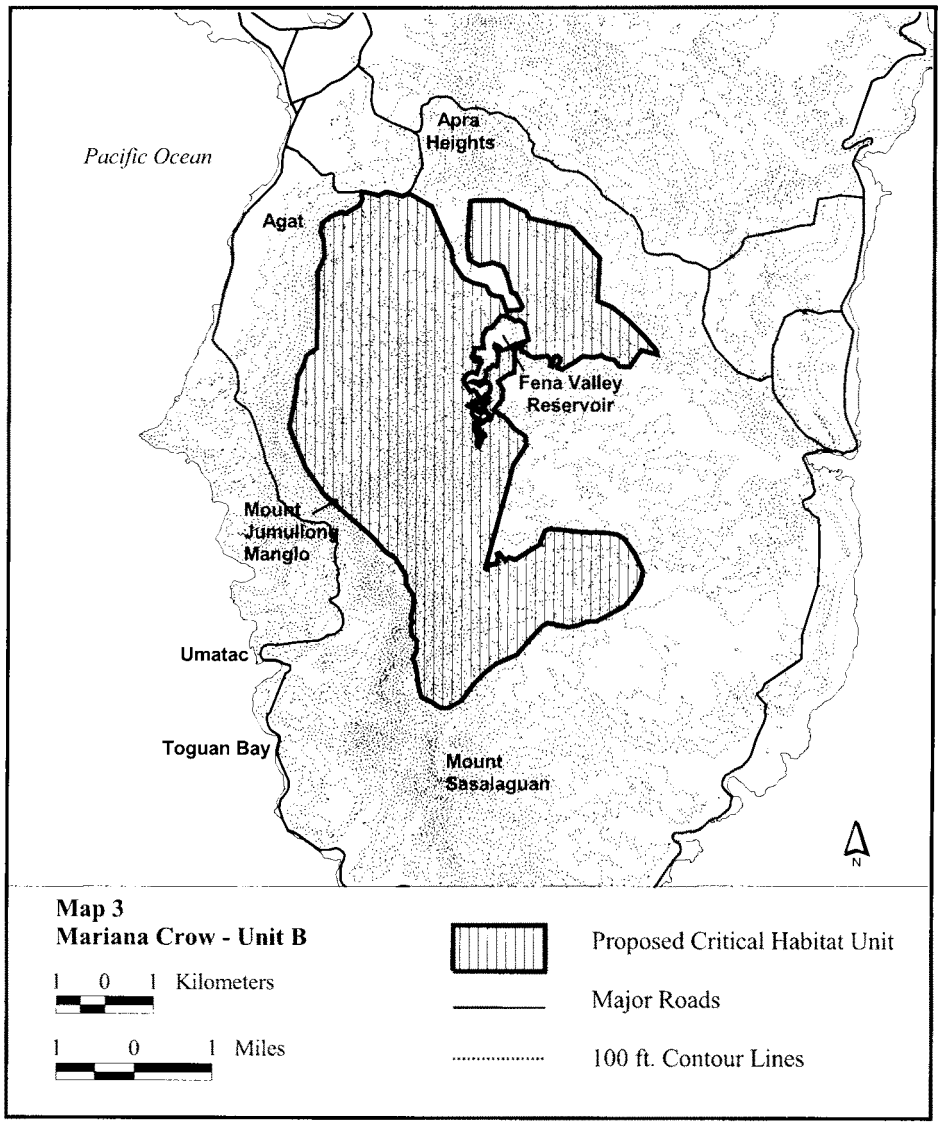
(6) Southern Guam, Unit B, Mariana crow (4,234 ha; 10,464 ac).

(i) Unit B consists of 184 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 248002, 1474589; 247650, 1474901; 247495, 1475129; 247271, 1475466; 247014, 1476083; 246950, 1476271; 247074, 1476899; 247118, 1477285; 247235, 1477541; 247293, 1477723; 247508, 1477876; 247522, 1479447; 247658, 1479766; 247629, 1480138; 247571, 1480291; 247586, 1480324; 247611, 1480465; 247782, 1480608; 248018, 1480694; 248088, 1480673; 248307, 1480797; 248380, 1480844; 248434, 1480948; 248420, 1481047; 248423, 1481115; 248490, 1481114; 248732, 1481047; 248758, 1481043; 248787, 1481048; 248930, 1481119; 249268, 1481028; 249316, 1481047; 249377, 1481077; 249428, 1481064; 249874, 1480811; 250243, 1479980; 250246, 1479973; 250253, 1479957; 250272, 1479915; 250316, 1479645; 250511, 1479330; 250724, 1479237; 250997, 1479153; 251074, 1479008; 251187, 1478955; 251318, 1478939; 251419, 1478655; 251585, 1478663; 251706, 1478676; 251746, 1478741; 251615, 1479003; 251516, 1479035; 251486, 1479196; 251428, 1479358; 251344, 1479561; 251122, 1479654; 250863, 1479589; 250640, 1479700; 250614, 1479911; 250605, 1480129; 250652, 1480853; 250673, 1480921; 250741, 1480941; 250877, 1480941; 251212, 1480936; 251338, 1480936; 251405, 1480904; 251819, 1480706; 251886, 1480568; 252757, 1480381; 253342, 1479736; 253298, 1478854; 253597, 1478723; 253904, 1478475; 254210, 1478183; 254510, 1477855; 254526, 1477750; 254207, 1477835; 253963, 1477494; 253962, 1477494; 253743, 1477502; 253641, 1477652; 253589, 1477649; 253472, 1477667; 253389, 1477739; 253204, 1477694; 252993, 1477709; 252793, 1477566; 252561, 1477440; 252476, 1477486; 252472, 1477520; 252536, 1477618; 252532, 1477670; 252476, 1477716; 252416, 1477705; 252353, 1477501; 252322, 1477517; 252329, 1477634; 252265, 1477716; 252009, 1477683; 251888, 1477724; 251820, 1477781; 251730, 1477811; 251726, 1477875; 251748, 1477931; 251601, 1477871; 251583, 1477373; 251458, 1477343; 251258, 1477204; 251360, 1477030; 251349, 1476842; 251168, 1476619; 251428, 1476423; 251583, 1476231; 251816, 1476080; 251835, 1475891; 251563, 1475479; 251560, 1475465; 251484, 1475137; 251262, 1474361; 250994, 1473369; 251024, 1473358; 251092, 1473456; 251221, 1473456; 251262, 1473576; 251239,

1473655; 251292, 1473686; 251405, 1473531; 251496, 1473591; 251605, 1473546; 251767, 1473633; 252137, 1473874; 252125, 1473916; 252231, 1474142; 252318, 1474183; 252540, 1474161; 252992, 1474119; 253446, 1474105; 253722, 1474068; 253867, 1473973; 254079, 1473688; 254181, 1473477; 254247, 1473316; 254203, 1473017; 254064, 1472805; 253882, 1472586; 253306, 1472273; 253101, 1472258; 252919, 1472185; 252722, 1472141; 252533, 1472181; 252306, 1472229; 252175, 1472171; 251883, 1471842; 251657, 1471580; 251233, 1471383; 251000, 1471200; 250803, 1471003; 250701, 1470864; 250511, 1470624; 250241, 1470470; 250081, 1470478; 249913, 1470602; 249687, 1470704; 249672, 1470799; 249614, 1470981; 249599, 1471171; 249570, 1471390; 249519, 1471485; 249584, 1471645; 249584, 1471864; 249482, 1471966; 249468, 1472163; 249497, 1472258; 249460, 1472338; 249519, 1472543; 249535, 1472652; 249511, 1472820; 249358, 1473032; 249365, 1473229; 249322, 1473280; 249151, 1473567; 248928, 1473703; 248650, 1474031.

(ii) Excluding one area: Bounded by the following 114 points (99 ha, 245 ac): 250684, 1476986; 250614, 1477069; 250531, 1477232; 250595, 1477315; 250614, 1477358; 250718, 1477387; 250815, 1477358; 250855, 1477510; 250916, 1477596; 250868, 1477671; 250823, 1477681; 250823, 1477622; 250769, 1477609; 250713, 1477695; 250753, 1477791; 250742, 1477869; 250793, 1477893; 250951, 1477890; 250924, 1478061; 250940, 1478131; 251018, 1478286; 251114, 1478310; 251310, 1478543; 251425, 1478535; 251534, 1478484; 251596, 1478433; 251690, 1478460; 251802, 1478366; 251874, 1478058; 251656, 1477976; 251620, 1477975; 251516, 1477920; 251482, 1477886; 251330, 1477839; 251270, 1477914; 251189, 1477957; 251173, 1477906; 251248, 1477802; 251256, 1477663; 251245, 1477534; 251216, 1477505; 251141, 1477526; 250989, 1477400; 251011, 1477327; 250959, 1477224; 250890, 1477189; 250804, 1477184; 250737, 1477208; 250713, 1477192; 250841, 1477148; 250874, 1477111; 250978, 1477178; 251055, 1477177; 251090, 1477109; 251090, 1477036; 251072, 1476975; 250986, 1476921; 250981, 1476892; 251002, 1476879; 251029, 1476900; 251045, 1476871; 251013, 1476849; 251061, 1476784; 250945, 1476680; 251055, 1476498; 251121, 1476501; 251120, 1476456; 251090, 1476418; 250994, 1476413; 250970, 1476370; 250844, 1476314; 250858, 1476242; 250922, 1476162; 250970, 1476119; 250991, 1476089; 250973, 1476068; 250943, 1476100; 250887, 1476111; 250879, 1476065; 250924, 1476025; 250887, 1475948; 250866, 1475867; 250817, 1475886; 250815, 1475966; 250836, 1476020; 250817, 1476057; 250812, 1476113; 250817, 1476140; 250801, 1476162; 250775, 1476180; 250767, 1476279; 250783, 1476373; 250863, 1476421; 250740, 1476472; 250702, 1476542; 250721, 1476616; 250780, 1476619; 250903, 1476536; 250906, 1476552; 250855, 1476627; 250823, 1476638; 250796, 1476710; 250769, 1476731; 250745, 1476683; 250681, 1476665; 250625, 1476702; 250627, 1476721; 250710, 1476718; 250721, 1476780; 250772, 1476798; 250868, 1476756; 250906, 1476801; 250775, 1477023; 250780, 1477039.

(iii) **Note:** Map 3 of Unit B for Mariana crow follows:



BILLING CODE 4310–55–C

(7) Rota, Unit C, Mariana crow (2,462 ha; 6,084 ac).

(i) Unit C consists of 719 points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84):
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309608, 1565299; 309578, 1565369; 309820, 1565486; 310001, 1565592; 310154, 1565639; 310358, 1565685; 310369, 1565665; 310596, 1565693; 310642, 1565657; 310700, 1565655; 310795, 1565726; 310937, 1565754; 310976, 1565767; 311272, 1565802; 311282, 1565660; 311408, 1565703; 311494, 1565731; 311616, 1565734; 311782, 1565734; 311858, 1565745; 312021, 1565735; 312100, 1565743; 312203, 1565779; 312306, 1565776; 312392,
1565841; 312409, 1565811; 312398, 1565757; 312439, 1565681; 312479, 1565670; 312550, 1565678; 312596, 1565678; 312601, 1565730; 312574, 1565776; 312533, 1565838; 312950, 1565848; 312983, 1565823; 313055, 1565882; 313070, 1565943; 313113, 1566024; 313256, 1566157; 313460, 1566223; 313496, 1566305; 313555, 1566443; 313631, 1566481; 313723, 1566467; 313799, 1566489; 313878, 1566481; 313921, 1566505; 313929, 1566540; 313902, 1566559; 313864, 1566557; 313826, 1566521; 313788, 1566543; 313790, 1566603; 313783, 1566660; 313813, 1566703; 313862, 1566757; 313832, 1566768; 313788, 1566749; 313704, 1566717; 313615, 1566668; 313569, 1566627; 313498, 1566527; 313478, 1566478; 313376, 1566382; 313136, 1566223; 313101, 1566254; 313101, 1566366; 313059, 1566413; 313016, 1566416; 312962, 1566413; 312874, 1566387; 312529, 1566471; 312501, 1566632; 312565, 1566815; 312693, 1566785; 312693, 1566897; 312807, 1566917; 312813, 1566980; 312802, 1567132; 312937, 1567124; 312932, 1566925; 312996, 1566927; 313121, 1567027; 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(ii) Excluding three areas:

(A) Bounded by the following 225 points (1,828 ha, 4,517 ac): 304379, 1562567; 304411, 1562555; 304424, 1562519; 304395, 1562481; 304302, 1562446; 304273, 1562406; 304249, 1562358; 304254, 1562282; 304261, 1562234; 304267, 1562190; 304322, 1562154; 304363, 1562125; 304393, 1562154; 304450, 1562187; 304496, 1562219; 304553, 1562195; 304591, 1562252; 304677, 1562222; 304751, 1562222; 304756, 1562184; 304707, 1562097; 304732, 1562065; 304778, 1562078; 304848, 1562116; 304883, 1562133; 304897, 1562100; 304919, 1562054; 304965, 1562055; 305014, 1562130; 305027, 1562070; 305087, 1562070; 305138, 1562106; 305178, 1562184; 305273, 1562139; 305332, 1562082; 305502, 1562089; 305578, 1562186; 305634, 1562202; 305663, 1562153; 305654, 1562055; 305625, 1562051; 305559, 1561906; 305499, 1561766; 305502, 1561677; 305536, 1561661; 305583, 1561645; 305628, 1561651; 305657, 1561733; 305750, 1562039; 305797, 1562046; 305851, 1562027; 305884, 1561946; 305962, 1561919; 306000, 1561908; 306049, 1561932; 306083, 1561909; 306124, 1561894; 306125, 1561840; 306152, 1561740; 306149, 1561664; 306171, 1561612; 306196, 1561564; 306331, 1561523; 306475, 1561523; 306637, 1561536; 306678, 1561599; 306697, 1561618; 306795, 1561601; 306862, 1561696; 306865, 1561764; 306854, 1561781; 306837, 1561785; 306821, 1561831; 306726, 1561820; 306597, 1561737; 306383, 1561737; 306312, 1561775; 306280, 1561824; 306280, 1561867; 306328, 1561986; 306326, 1562043; 306369, 1562146; 306348, 1562193; 306359, 1562248; 306396, 1562413; 306211, 1562495; 306212, 1562642; 306491, 1562590; 306893, 1562575; 307497, 1563122; 307570, 1563395; 307632, 1563500; 307765, 1563576; 307881, 1563606; 307963, 1563657; 308014, 1563772; 308065, 1564029; 308062, 1564310; 308088, 1564565; 308044, 1564754; 307833, 1564944; 307768, 1565047; 307819, 1565112; 307805, 1565168; 307749, 1565378; 307765, 1565443; 307822, 1565486; 307811, 1565570; 307779, 1565654; 307817, 1565697; 307825, 1565828; 307842, 1565852; 307741, 1565909; 307639, 1565920; 307442, 1565987; 307386, 1566039; 307223, 1566107; 307152, 1566137; 307112, 1566137; 307082, 1566183; 307047, 1566199; 306955, 1566199; 306887, 1566191; 306824, 1566142; 306643, 1566020; 306544, 1565957; 306401, 1565931; 306247, 1565886; 306225, 1565841; 306113, 1565820; 306065, 1565846; 305956, 1565740; 305864, 1565621; 305851, 1565381; 305732, 1565386; 305724, 1565275; 305583, 1565276; 305305, 1565376; 305244, 1565424; 305104, 1565593; 304938, 1565657; 304768, 1565694; 304538, 1565717; 304173, 1565710; 304059, 1565694; 303985, 1565704; 303930, 1565725; 303903, 1565726; 303881, 1565697; 303879, 1565686; 303866, 1565617; 303819, 1565548; 303760, 1565524; 303670, 1565498; 303545, 1565484; 303504, 1565453; 303445, 1565416; 303355, 1565352; 303191, 1565289; 303022, 1565141; 302927, 1565120; 302874, 1565088; 302601, 1565117; 302527, 1565140; 302218, 1565153; 302086, 1565142; 301948, 1565092; 301810, 1565044; 301728, 1565024; 301675, 1565037; 301588, 1565018; 301416, 1565032; 301326, 1565030; 301284, 1565055; 301215, 1564939; 301207, 1564880; 301178, 1564669; 301199, 1564611; 301215, 1564529; 301236, 1564468; 301284, 1564460; 301363, 1564476; 301459, 1564476; 301604, 1564444; 301705, 1564365; 301734, 1564277; 301781, 1564145; 301827, 1564059; 301898, 1564026; 301972, 1563986; 302078, 1563923; 302144, 1563891; 302215, 1563817; 302318, 1563661; 302371, 1563526; 302605, 1563264; 302705, 1563179; 302736, 1563065; 302743, 1562848; 302859, 1562481; 302916, 1562366; 302961, 1562293; 302983, 1562274; 303027, 1562300; 303093, 1562406; 303115, 1562459; 303159, 1562565; 303190, 1562612; 303214, 1562638; 303250, 1562687; 303323, 1562713; 303478, 1562733; 303626, 1562749; 303778, 1562811; 303847, 1562837; 303900, 1562902; 303986,

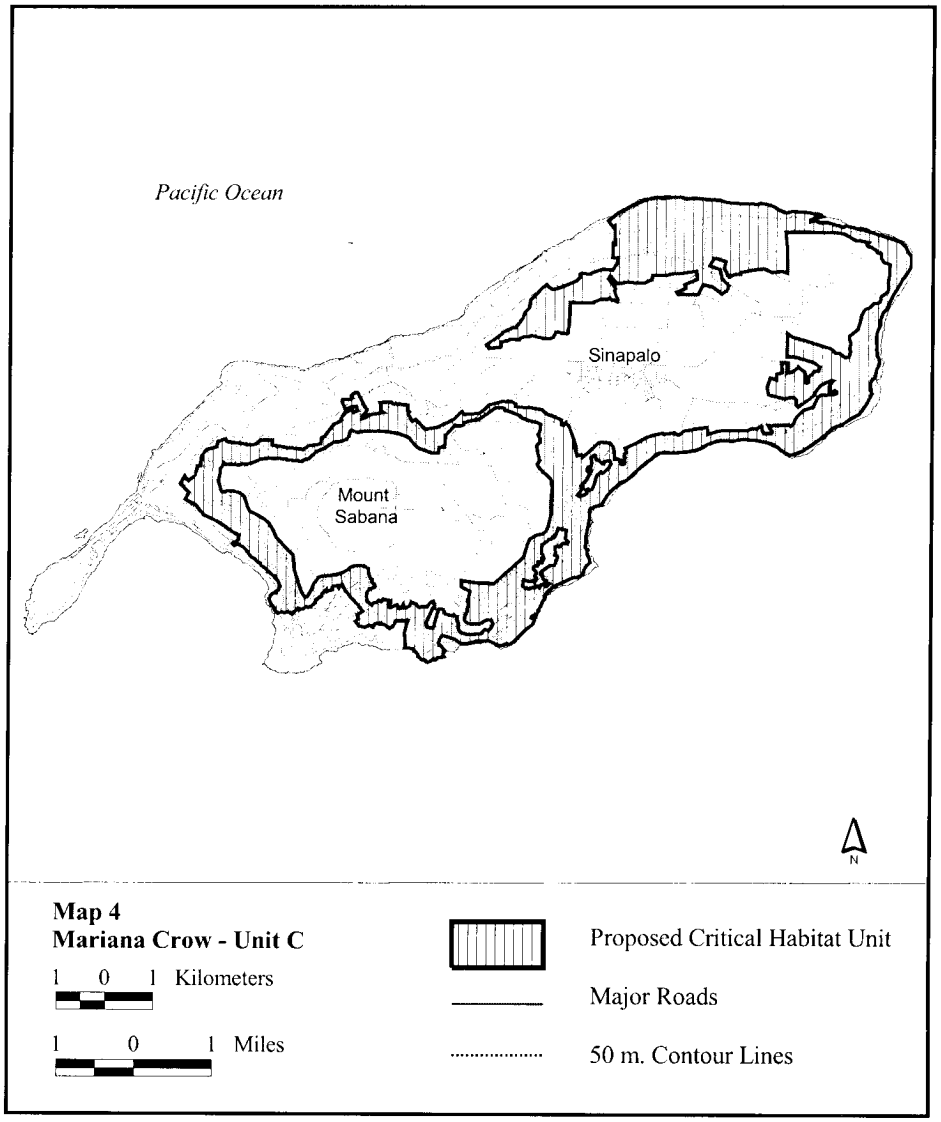
1562937; 304081, 1562943; 304196, 1562928; 304284, 1562884; 304280, 1562804; 304302, 1562749; 304315, 1562704; 304363, 1562636; 304368, 1562613.

(B) Bounded by the following 80 points (34 ha, 84 ac): 307495, 1562490; 307624, 1562456; 307687, 1562504; 307700, 1562504; 307723, 1562493; 307768, 1562521; 307804, 1562511; 307827, 1562494; 307871, 1562552; 307897, 1562565; 307928, 1562565; 307943, 1562545; 307959, 1562519; 307976, 1562515; 308031, 1562572; 307996, 1562594; 307980, 1562618; 307978, 1562640; 307930, 1562655; 307908, 1562675; 307891, 1562697; 307891, 1562743; 307856, 1562771; 307851, 1562810; 307902, 1562852; 308068, 1562957; 308134, 1562964; 308164, 1562997; 308173, 1563049; 308204, 1563115; 308197, 1563150; 308171, 1563159; 308149, 1563172; 308158, 1563220; 308153, 1563290; 308153, 1563334; 308184, 1563347; 308234, 1563340; 308316, 1563418; 308398, 1563405; 308418, 1563437; 308367, 1563499; 308373, 1563676; 308215, 1563726; 308158, 1563576; 308126, 1563534; 308091, 1563547; 308052, 1563487; 308025, 1563486; 307965, 1563436; 307886, 1563373; 307872, 1563313; 307872, 1563199; 307896, 1563181; 307911, 1563141; 307871, 1563095; 307869, 1563073; 307904, 1563069; 307880, 1563003; 307862, 1563010; 307849, 1563025; 307803, 1563019; 307807, 1562964; 307792, 1562951; 307753, 1562946; 307713, 1562935; 307700, 1562911; 307704, 1562881; 307753, 1562828; 307768, 1562797; 307733, 1562745; 307731, 1562727; 307781, 1562683; 307729, 1562598; 307713, 1562633; 307689, 1562635; 307646, 1562613; 307495, 1562647; 307488, 1562556; 307488, 1562533.

(C) Bounded by the following 53 points (19 ha, 46 ac): 308671, 1564401; 308686, 1564398; 308762, 1564422; 308791, 1564444; 308793, 1564466; 308784, 1564497; 308797, 1564525; 308821, 1564528; 308848, 1564503; 308874, 1564514; 308905, 1564532; 308955, 1564666; 308979, 1564736; 308994, 1564814; 309056, 1564845; 309090, 1564889; 309126, 1564869; 309248, 1564976; 309277, 1565027; 309288, 1565060; 309280, 1565083; 309271, 1565117; 309213, 1565113; 309170, 1565106; 309132, 1565058; 309100, 1565068; 309047, 1565112; 308992, 1565145; 308979, 1565217; 308948, 1565228; 308887, 1565176; 308883, 1565150; 308900, 1565075; 308876, 1564990; 308839, 1564994; 308821, 1564996; 308791, 1564924; 308813, 1564898; 308839, 1564906; 308870, 1564928; 308878, 1564915; 308808, 1564760; 308756, 1564683; 308703, 1564628; 308672, 1564595; 308668, 1564571; 308677, 1564563; 308716, 1564574; 308718, 1564560; 308673, 1564489; 308647, 1564459; 308607, 1564406; 308654, 1564386.

(iii) **Note:** Map 4 of Unit C for Mariana crow follows:

BILLING CODE 4310–55–P



* * * * *

Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*)

(1) Critical habitat units for the Guam Micronesian kingfisher are depicted for the Territory of Guam.

(2) The primary constituent elements required by the Guam Micronesian kingfisher for the biological needs of foraging, sheltering, roosting, nesting, and rearing of young are found in areas that support limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native and introduced plant species. These forest types include the primary constituent elements of:

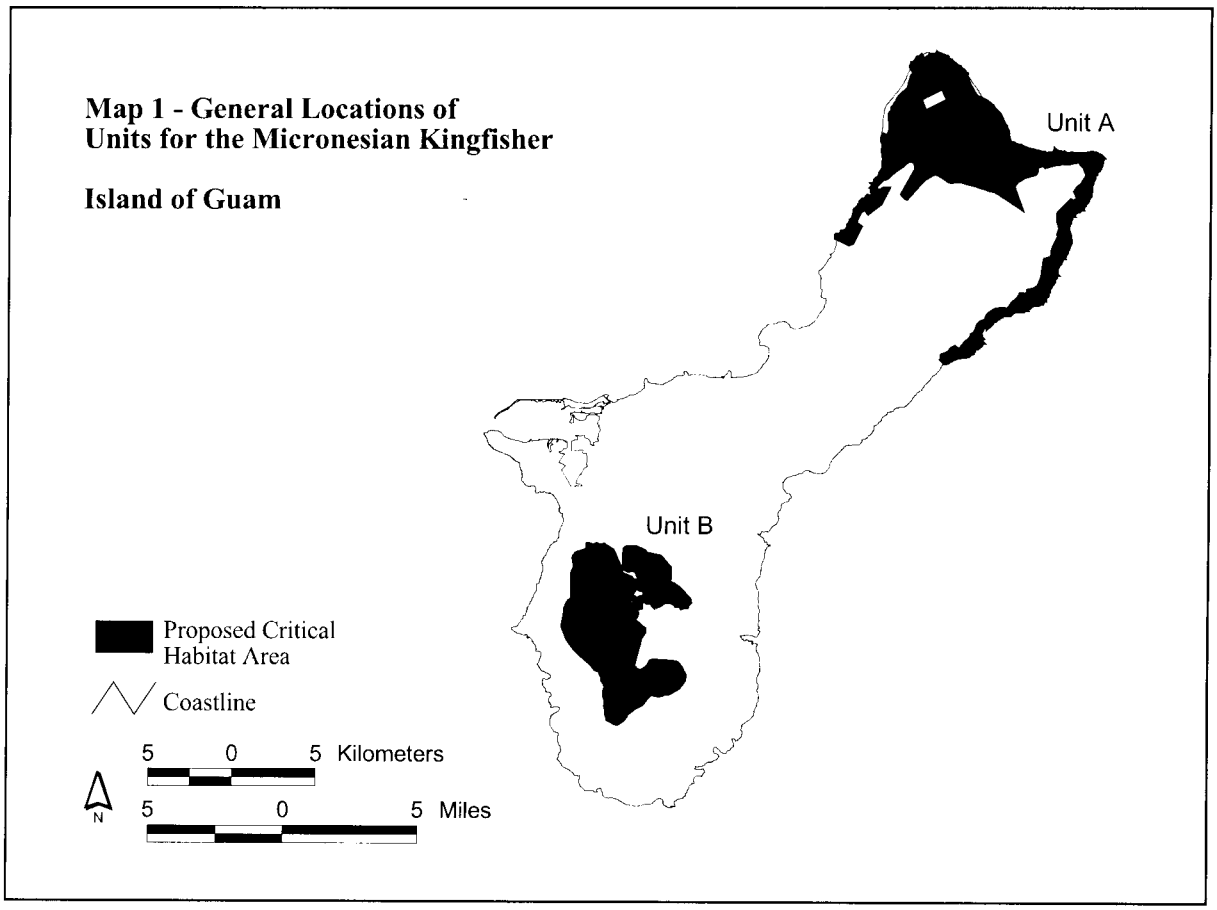
(i) Closed canopy and well-developed understory vegetation, large (approximately 43 cm (17 in) dbh), standing dead trees (especially *Tristiropsis obtusangula* (faniok), *Pisonia grandis* (umumu), *Artocarpus* spp. (breadfruit), *Ficus* spp. (fig), and *Cocos nucifera* (coconut palm)), mud nests of *Nasutitermes* spp. termites, and root masses of epiphytic ferns for breeding;

(ii) Sufficiently diverse structure to provide exposed perches and ground surfaces, leaf litter, and other substrates that support a wide range of vertebrate and invertebrate prey species for foraging kingfishers; and

(iii) Sufficient overall breeding and foraging area to support large kingfisher territories (approximately 10 ha (25 ac)).

(3) Critical habitat does not include existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, antennas, water tanks, agricultural fields, paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

(4) **Note:** Map 1—General locations of units for Guam Micronesian kingfisher—follows:



(5) Northern Guam, Unit A, Guam Micronesian kingfisher (5,803 ha; 14,338 ac).

(i) Unit A consists of 106 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 269645, 1491989; 269464, 1492175; 269501, 1492206; 269493, 1492433; 269892, 1492587; 270039, 1492791; 270215, 1492895; 270407, 1492769; 270592, 1492782; 270860, 1493156; 271182, 1493403; 271268, 1493585; 271268, 1493643; 271436, 1493753; 271559, 1494014; 271607, 1494236; 271813, 1494415; 272043, 1494477; 272129, 1494724; 272413, 1495015; 272655, 1495146; 272822, 1495101; 272918, 1495177; 273101, 1495192; 273263, 1495136; 273431, 1495202; 274161, 1496022; 274173, 1496089; 274601, 1496017; 274599, 1496283; 274931, 1496366; 275216, 1496545; 275446, 1497148; 275593, 1498173; 275675, 1498164; 276008, 1498280; 276052, 1498688; 276156, 1498965; 276437, 1499560; 276381, 1499660; 276493, 1500036; 276358, 1500432; 276358, 1500432; 276358, 1500435; 276374, 1500948; 277097, 1501696; 277216, 1501626; 277395, 1501709; 277565, 1501788; 277367, 1502247; 277556, 1502519; 277738, 1502614; 278104, 1503226; 277931, 1503680; 277528, 1504079; 276540, 1503998; 275541, 1503775; 275456, 1503878; 274960, 1503661; 275017, 1503428; 275017, 1503428; 274919, 1503336; 274350, 1503193; 273846, 1502898; 273696, 1502636; 273683, 1502394; 274082, 1501289; 272625, 1502266; 271544, 1502611; 270399, 1502902; 270276, 1502896; 269976, 1502855; 269819, 1502894; 269127, 1503348; 268873, 1503326; 268324, 1502996; 267317, 1501835; 267067, 1502058; 267891, 1503624; 267799, 1504039; 267471, 1504118; 267162, 1503935; 266993, 1503750; 266419, 1503365; 266115, 1503073; 265990, 1503021; 265865, 1503010; 265532, 1502708; 265443, 1502458; 265558, 1502239; 265719, 1502249; 265928, 1502401; 266157, 1502406; 265972, 1502034; 265720, 1501528; 265451, 1501304; 265451, 1501304; 265035, 1500959; 264833, 1501228; 264547, 1501077; 264338, 1500650; 264260, 1500311; 264547, 1500113; 264060, 1499171; 263865, 1499073; 263276, 1499383.

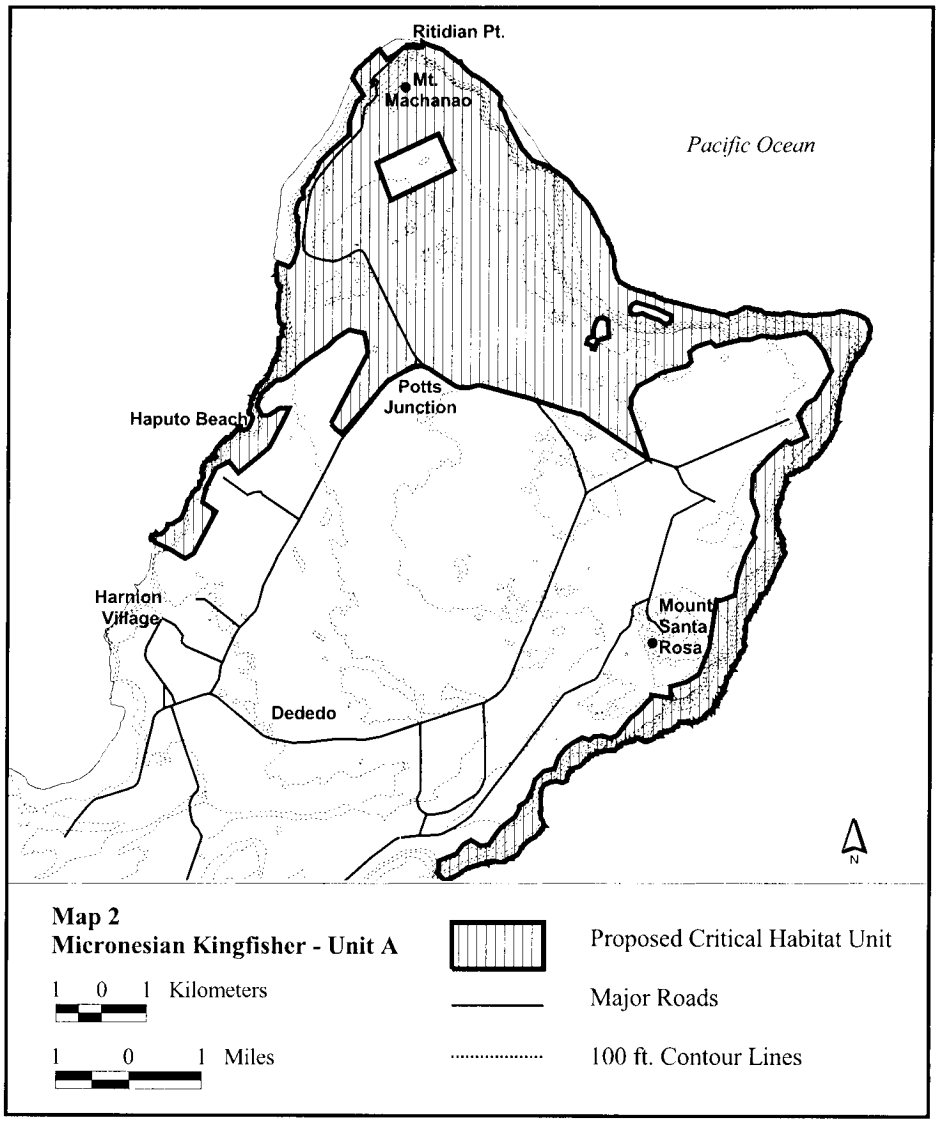
(ii) Excluding three areas:

(A) Bounded by the following four points (133 ha, 328 ac): 268056, 1507791; 269417, 1508433; 269771, 1507647; 268377, 1506972.

(B) Bounded by the following 15 points (17 ha, 43 ac): 272711, 1503822; 272730, 1503928; 272767, 1503961; 272872, 1503975; 272859, 1504070; 272879, 1504214; 272949, 1504372; 273070, 1504396; 273184, 1504331; 273199, 1503977; 273041, 1503917; 272949, 1503912; 272884, 1503703; 272828, 1503710; 272818, 1503785.

(C) Bounded by the following 12 points (20 ha, 48 ac): 273808, 1504727; 274234, 1504592; 274579, 1504430; 274572, 1504328; 274444, 1504247; 274295, 1504355; 274146, 1504389; 273930, 1504484; 273795, 1504464; 273686, 1504470; 273659, 1504585; 273707, 1504687.

(iii) **Note:** Map 2 of Unit A for Guam Micronesian kingfisher follows:



(6) Southern Guam, Unit B, Guam Micronesian kingfisher (4,234 ha; 10,464 ac).

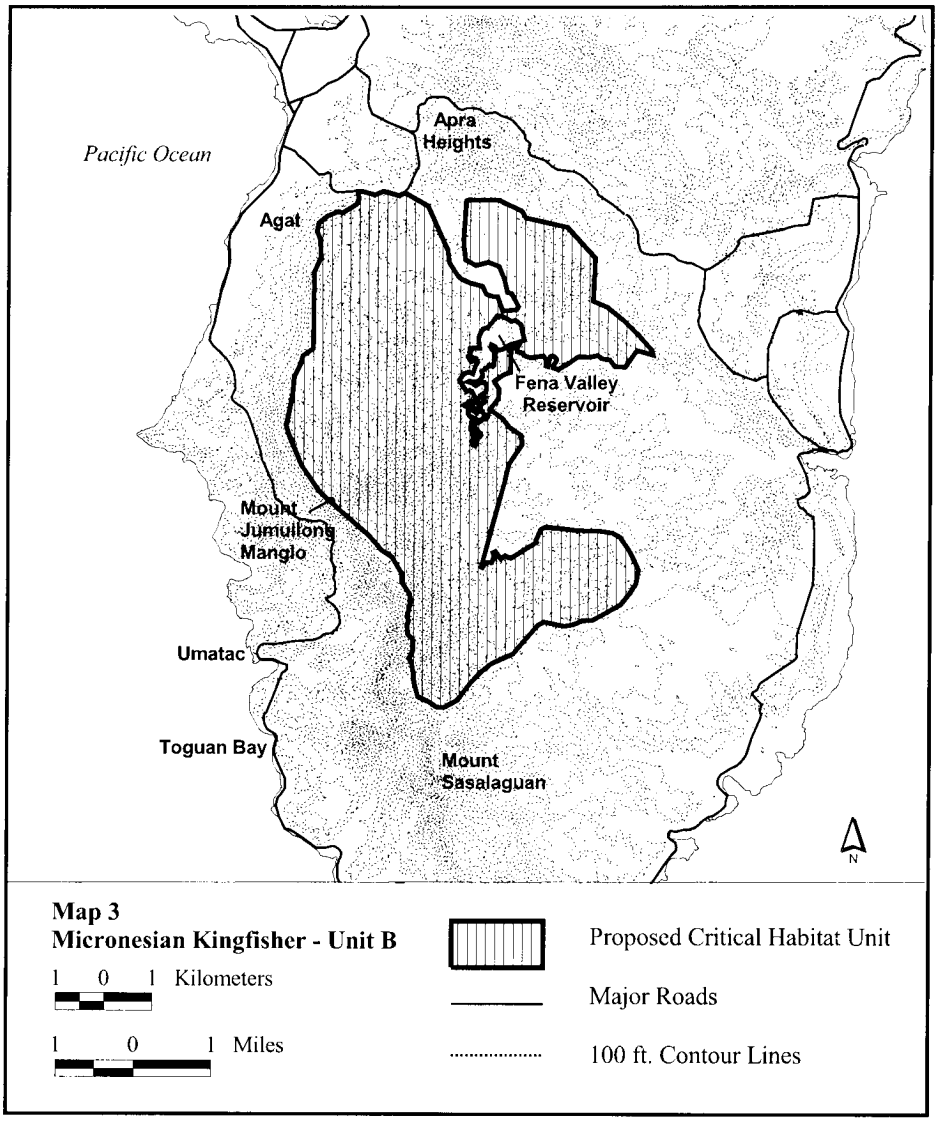
(i) Unit B consists of 184 boundary points with the following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84): 248002, 1474589; 247650, 1474901; 247495, 1475129; 247271, 1475466; 247014, 1476083; 246950, 1476271; 247074, 1476899; 247118, 1477285; 247235, 1477541; 247293, 1477723; 247508, 1477876; 247522, 1479447; 247658, 1479766; 247629, 1480138; 247571, 1480291; 247586, 1480324; 247611, 1480465; 247782, 1480608; 248018, 1480694; 248088, 1480673; 248307, 1480797; 248380, 1480844; 248434, 1480948; 248420, 1481047; 248423, 1481115; 248490, 1481114; 248732, 1481047; 248758, 1481043; 248787, 1481048; 248930, 1481119; 249268, 1481028; 249316, 1481047; 249377, 1481077; 249428, 1481064; 249874, 1480811; 250243, 1479980; 250246, 1479973; 250253, 1479957; 250272, 1479915; 250316, 1479645; 250511, 1479330; 250724, 1479237; 250997, 1479153; 251074, 1479008; 251187, 1478955; 251318, 1478939; 251419, 1478655; 251585, 1478663; 251706, 1478676; 251746, 1478741; 251615, 1479003; 251516, 1479035; 251486, 1479196; 251428, 1479358; 251344, 1479561; 251122, 1479654; 250863, 1479589; 250640, 1479700; 250614, 1479911; 250605, 1480129; 250652, 1480853; 250673, 1480921; 250741, 1480941; 250877, 1480941; 251212, 1480936; 251338, 1480936; 251405, 1480904; 251819, 1480706; 251886, 1480568; 252757, 1480381; 253342, 1479736; 253298, 1478854; 253597, 1478723; 253904, 1478475; 254210, 1478183; 254510, 1477855; 254526, 1477750; 254207, 1477835; 253963, 1477494; 253962, 1477494; 253743, 1477502; 253641, 1477652; 253589, 1477649; 253472, 1477667; 253389, 1477739; 253204, 1477694; 252993, 1477709; 252793, 1477566; 252561, 1477440; 252476, 1477486; 252472, 1477520; 252536, 1477618; 252532, 1477670; 252476, 1477716; 252416, 1477705; 252353, 1477501; 252322, 1477517; 252329, 1477634; 252265, 1477716; 252009, 1477683; 251888, 1477724; 251820, 1477781; 251730, 1477811; 251726, 1477875; 251748, 1477931; 251601, 1477871; 251583, 1477373; 251458, 1477343; 251258, 1477204; 251360, 1477030; 251349, 1476842; 251168, 1476619; 251428, 1476423; 251583, 1476231; 251816, 1476080; 251835, 1475891; 251563, 1475479; 251560, 1475465; 251484, 1475137; 251262, 1474361; 250994, 1473369; 251024, 1473358; 251092, 1473456; 251221, 1473456; 251262, 1473576; 251239, 1473655; 251292, 1473686; 251405, 1473531; 251496, 1473591; 251605,

1473546; 251767, 1473633; 252137, 1473874; 252125, 1473916; 252231, 1474142; 252318, 1474183; 252540, 1474161; 252992, 1474119; 253446, 1474105; 253722, 1474068; 253867, 1473973; 254079, 1473688; 254181, 1473477; 254247, 1473316; 254203, 1473017; 254064, 1472805; 253882, 1472586; 253306, 1472273; 253101, 1472258; 252919, 1472185; 252722, 1472141; 252533, 1472181; 252306, 1472229; 252175, 1472171; 251883, 1471842; 251657, 1471580; 251233, 1471383; 251000, 1471200; 250803, 1471003; 250701, 1470864; 250511, 1470624; 250241, 1470470; 250081, 1470478; 249913, 1470602; 249687, 1470704; 249672, 1470799; 249614, 1470981; 249599, 1471171; 249570, 1471390; 249519, 1471485; 249584, 1471645; 249584, 1471864; 249482, 1471966; 249468, 1472163; 249497, 1472258; 249460, 1472338; 249519, 1472543; 249535, 1472652; 249511, 1472820; 249358, 1473032; 249365, 1473229; 249322, 1473280; 249151, 1473567; 248928, 1473703; 248650, 1474031.

(ii) Excluding one area: Bounded by the following 114 points (99 ha, 245 ac): 250684, 1476986; 250614, 1477069; 250531, 1477232; 250595, 1477315; 250614, 1477358; 250718, 1477387; 250815, 1477358; 250855, 1477510; 250916, 1477596; 250868, 1477671; 250823, 1477681; 250823, 1477622; 250769, 1477609; 250713, 1477695; 250753, 1477791; 250742, 1477869; 250793, 1477893; 250951, 1477890; 250924, 1478061; 250940, 1478131; 251018, 1478286; 251114, 1478310; 251310, 1478543; 251425, 1478535; 251534, 1478484; 251596, 1478433; 251690, 1478460; 251802, 1478366; 251874, 1478058; 251656, 1477976; 251620, 1477975; 251516, 1477920; 251482, 1477886; 251330, 1477839; 251270, 1477914; 251189, 1477957; 251173, 1477906; 251248, 1477802; 251256, 1477663; 251245, 1477534; 251216, 1477505; 251141, 1477526; 250989, 1477400; 251011, 1477327; 250959, 1477224; 250890, 1477189; 250804, 1477184; 250737, 1477208; 250713, 1477192; 250841, 1477148; 250874, 1477111; 250978, 1477178; 251055, 1477177; 251090, 1477109; 251090, 1477036; 251072, 1476975; 250986, 1476921; 250981, 1476892; 251002, 1476879; 251029, 1476900; 251045, 1476871; 251013, 1476849; 251061, 1476784; 250945, 1476680; 251055, 1476498; 251121, 1476501; 251120, 1476456; 251090, 1476418; 250994, 1476413; 250970, 1476370; 250844, 1476314; 250858, 1476242; 250922, 1476162; 250970, 1476119; 250991, 1476089; 250973, 1476068; 250943, 1476100; 250887, 1476111; 250879, 1476065; 250924, 1476025; 250887, 1475948; 250866, 1475867; 250817, 1475886; 250815, 1475966; 250836, 1476020; 250817, 1476057; 250812, 1476113; 250817, 1476140; 250801, 1476162; 250775, 1476180; 250767, 1476279; 250783, 1476373; 250863, 1476421; 250740, 1476472; 250702, 1476542; 250721, 1476616; 250780, 1476619; 250903, 1476536; 250906, 1476552; 250855, 1476627; 250823, 1476638; 250796, 1476710; 250769, 1476731; 250745, 1476683; 250681, 1476665; 250625, 1476702; 250627, 1476721; 250710, 1476718; 250721, 1476780; 250772, 1476798; 250868, 1476756; 250906, 1476801; 250775, 1477023; 250780, 1477039.

(iii) **Note:** Map 3 of Unit B for Guam Micronesian kingfisher follows:

BILLING CODE 4310–55–P



* * * * *

Dated: October 1, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–25649 Filed 10–11–02; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Tuesday,
October 15, 2002

Part III

Nuclear Regulatory Commission

Privacy Act of 1974; Republication of Systems of Records Notices; Notice

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of systems of records notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all its Privacy Act Systems of Records. The NRC is revising and republishing all its systems of records (systems) notices as a result of this review. The systems revisions are minor corrective and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A–130, Appendix I.

EFFECTIVE DATE: All revisions included in this republication are complete and accurate as of October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Sandra S. Northern, Privacy Program Officer, FOIA/Privacy Act Team, Web, Publishing and Distribution Services Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6879; email: *ssn@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Republication of NRC's Revised Systems of Records Notices

With the exception of 1 new system of records, these notices were last published in the **Federal Register** on September 18, 2000 (65 FR 56414–56449). The new system of records is NRC–12, Child Care Tuition Assistance Program Records, published in the **Federal Register** on December 19, 2001 (66 FR 65523), and became effective on January 28, 2002.

Two systems of records have been revoked, NRC–15, NRC Employees on Standards Developing Bodies Files, and NRC–34, Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index, Text/Imaging Management System and Associated Records.

Privacy Act Systems Nuclear Regulatory Commission

NRC Systems of Records

1. Parking Permit Records—NRC
2. Biographical Information Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
4. Conflict of Interest Files—NRC.
5. Contracts Records Files—NRC.
6. Discrimination Cases—NRC.
7. Telephone Call Detail Records—NRC.
8. Employee Appeals, Grievances, and Complaints Records—NRC.
9. Office of Small Business and Civil Rights Discrimination Complaint Files—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC.
12. Child Care Tuition Assistance Program Records—NRC.
13. Incentive Awards Files—NRC.
14. Employee Assistance Program Files—NRC.
15. [Revoked.]
16. Facility Operator Licensees Record Files (10 CFR part 55)—NRC.
17. Occupational Injuries and Illness Records—NRC.
18. Office of the Inspector General (OIG) Investigative Records—NRC.
19. Official Personnel Training Records Files—NRC.
20. Official Travel Records—NRC.
21. Payroll Accounting Records—NRC.
22. Personnel Performance Appraisals—NRC.
23. Office of Investigations Indices, Files, and Associated Records—NRC.
24. Property and Supply System (PASS)—NRC.
25. Oral History Program—NRC.
26. Full Share Program Records—NRC.
27. Radiation Exposure Information and Reports System (REIRS) Files—NRC.
28. Recruiting, Examining, and Placement Records—NRC.
29. [Revoked.]
30. Reactor Program System (RPS)/Regulatory Information Tracking System (RITS)—NRC.
31. Correspondence and Records, Office of the Secretary—NRC.
32. Office of the Chief Financial Officer Financial Transactions and Dept Collection Management Records—NRC.
33. Special Inquiry File—NRC.
34. [Revoked.]
35. Drug Testing Program Records—NRC.
36. Employee Locator Records Files—NRC.
37. Information Security Files and Associated Records—NRC.
38. Mailing Lists—NRC.
39. Personnel Security Files and Associated Records—NRC.
40. Facility Security Access Control Records—NRC.
41. Tort Claims and Personal Property Claims Records—NRC.
42. Skills Assessment and Employee Profile Records—NRC.
43. Employee Health Center Records—NRC.
44. Employee Fitness Center Records—NRC.

These systems of records are those systems maintained by the NRC that contain personal information about individuals, and from which personal information can be retrieved by reference to an individual identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the proposed ''routine uses'' of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act (Act), as stated in section 2(b)(4) of the Act, is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to * * * ''disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.'' The NRC intends to follow these principles in transferring information to another agency or individual as a ''routine use,'' including assurance that the information is relevant for the purposes for which it is transferred.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement of General Routine Uses.

1. If a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine

use, to a Federal, State, local, or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to NRC-paid experts, consultants, and others under contract with the NRC, on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC contract. This access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC–1

SYSTEM NAME:

Parking Permit Records—NRC.

SYSTEM LOCATION:

Office of Administration, Administrative Services Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractors who apply for parking permits for NRC-controlled parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of the applications and the revenue collected for the headquarters buildings garage. The applications include, but are not limited to, the applicant's name, address, telephone number, length of service, and vehicle, rideshare and handicap information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511 (1982), 41 CFR 101–20.104 (2001), Parking Facilities; Management Directive 13.4, ''Transportation Management,'' Part I, ''White Flint North Parking Procedures''.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To record amount paid and revenue collected for parking;

b. To contact permit holder;

c. To determine priority for issue of permits;

d. To provide statistical reports to city, county, State, and Federal government agencies; and

e. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by name, tag number and permit number.

SAFEGUARDS:

Paper records and backup disks are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records are limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old in accordance with GRS 3.3a(1)(b) by shredding or in the regular trash disposal system. The automated records are destroyed when no longer needed.

SYSTEM MANAGERS(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Applications submitted by NRC employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Commissioners and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data about the Commissioners and senior NRC staff members, including photographs of Commissioners.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841, 5843(a), 5844(a), 5845(a), and 5849 (1994–1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then

destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–3

SYSTEM NAME:

Enforcement Actions Against Individuals—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in NRC-licensed activities who have been subject to NRC enforcement actions or who have been the subject of correspondence indicating that they are being, or have been, considered for enforcement action.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes, but is not limited to, individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, Demands for Information, and letters to individuals who are being or have been considered for enforcement action. Also included are responses to these actions and letters. In addition, the files may contain other relevant documents directly related to those actions and letters that have been issued. Files are arranged numerically by Individual Action (IA) numbers, which are assigned when individual enforcement actions are considered. In instances where only letters are issued, these letters also receive IA numbers. The system includes a computerized database from which information is retrieved by names of the individuals subject to the action and IA numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2114, (1978); 42 U.S.C. 2167, as amended (1992); 42 U.S.C. 2201(i), as amended (1992); and 42 U.S.C. 2282, as amended, (1996); 10 CFR 30.10, 40.10, 50.5, 60.11, 61.9b, 70.10, 72.12, 110.7b (1998).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To respond to general information requests from the Congress;

b. To deter future violations, certain information in this system of records may be routinely disseminated to the public by means such as: Publishing in the **Federal Register** certain enforcement actions issued to individuals and making the information available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov*.

c. When considered appropriate for disciplinary purposes, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activities;

d. Where appropriate to ensure the public health and safety, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a Federal or State agency with licensing jurisdiction;

e. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

f. For the routine uses specified in paragraphs 1, 2, 3, 4, and 5 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders, on computer printouts, and on computer media.

RETRIEVABILITY:

Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS:

Paper records are maintained in lockable file cabinets and are under visual control during duty hours. Access to computer records requires use of proper password and user identification codes. Access to and use of these records is limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Significant Enforcement Actions Case Files are permanent records and are transferred to NARA with related indexes when 20 years old in accordance with NARA approved schedule N1–431–00–05, Item 3.a(1) and 3.a(4). All other enforcement actions and violations are destroyed 10 years after the actions are cutoff, in accordance with NARA approved schedule N1–431–00–05, Item 3.b(1) and 3.b(4).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in the records is primarily obtained from NRC inspectors and investigators and other NRC employees, individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–4

SYSTEM NAME:

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special Government employees, former employees, advisory committee members, and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (*i.e.*, name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (*i.e.*, nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Advice and determinations (*i.e.*, no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (*i.e.*, proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR parts 2634–2640, 5801 (1994–2002); 18 U.S.C. 201–209 (2002); Executive Order 12731 (October 17, 1990); Ethics in Government Act of 1978; as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, Office of Government Ethics, Office of Special Counsel, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders. Records are also maintained on computer media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Records are maintained in locked file cabinets and in computer files that can only be accessed by the appropriate personnel.

RETENTION AND DISPOSAL:

Records are destroyed when 6 years old in accordance with GRS 1–24.a and GRS 1–24.b; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Legal Counsel, Legislation, and Special Projects, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned, other NRC offices, or other persons such as attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Contracts, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees substantially involved with contracting, such as Project Officers and Procurement Officials. Persons who are employed as NRC contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC procurement officials, assessment of

contractor performance, invoice payment records, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3301 (1976); 31 U.S.C. 3511 (1982); 48 CFR subpart 4.8 (2001); NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and computer media.

RETRIEVABILITY:

Paper records are accessed by contract number, taxpayer identification number (TIN), or purchase order number; and are cross-referenced to the automated system that contains the name of the contractor, vendor, project officer, procurement official, or contract manager.

SAFEGUARDS:

File folders are maintained in unlocked conserver files in a key code locked room. Access to and use of these records are limited to those persons whose official duties require such access. Electronic files are password protected.

RETENTION AND DISPOSAL:

Records for transactions of more than $100,000 are destroyed 6 years and 3 months after final payment, in accordance with GRS 3–3.a(1)(a). Transactions of $100,000 or less are destroyed 3 years after final payment in accordance with GRS 3–3.a(1)(b). Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding. Electronic records in the Contracts System are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–6

SYSTEM NAME:

Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and in enforcement coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. The duplicate systems in the Regional Offices would ordinarily be limited to the cases filed in each Region.

CATORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with the Department of Labor (DOL) concerning alleged acts of discrimination in violation of section 211 of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged alphabetically by name to track complaints filed by individuals with DOL under section 211 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL including copies of complaints, correspondence between the parties, and decisions by the Regional Administrators of DOL's Occupational, Safety, and Health Administration, Administrative Law Judges, and the Administrative Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201, as amended, (1992); 42 U.S.C. 2282, as amended (2002); 42 U.S.C. 5851, as amended (1992); 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7 (1996), and 10 CFR 72.10 (1999).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders, on computer printouts, and on computer media.

RETRIEVABILITY:

Records are accessed by the name of the individual who has filed a complaint with DOL.

SAFEGUARDS:

Paper records are maintained in lockable file cabinets. Access to computer records requires use of proper password and user identification codes. Access to and use of these records is limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Nonrecord materials are destroyed when no longer needed by NRC.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington,

DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information received from the Department of Labor is treated by DOL as public information and subject to disclosure under applicable laws.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom a record pertains, attorneys for these individuals, union representatives serving as advisors to these individuals, NRC licensees, NRC staff, and DOL.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–7

SYSTEM NAME:

Telephone Call Detail Records—NRC.

SYSTEM LOCATION:

Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals utilizing NRC telephones, including current and former NRC employees and contractors who make local or long-distance telephone calls and individuals who received telephone calls placed from NRC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of the agency telephones to place local or long-distance calls, records indicating assignment of telephone numbers to employees, and records relating to the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 *et seq.* (1968); 41 CFR 101–35.1, Use of Government Telephones; 41 CFR 101, Subchapter B, Management and Use of Information and Records; NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information ln these records may be used:

a. By individual employees of the agency to determine their individual responsibility for telephone calls; and

b. For the routine uses specified in paragraphs 1, 3, 5, and 6 of the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures under 5 U.S.C. 552a(b)(12) may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on computer media.

RETRIEVABILITY:

Accessed by name, office, or telephone number.

SAFEGUARDS:

Maintained in locking file cabinets or locked rooms. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records pertaining to employee phone use are destroyed when 3 years old in accordance with GRS 12–4. Records pertaining to location of telephone equipment, equipment requests, and phone service are destroyed when 3 years old in accordance with GRS 12–2.b.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Technology Infrastructure Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from call detail listings, NRC Form 768, ''Request for Information Technology Services,'' results of administrative inquiries relating to assignment of responsibility for placement of specific telephone calls, and certification of telephone bills.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–8

SYSTEM NAME:

Employee Appeals, Grievances, and Complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system may be maintained, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed written complaints brought to the Office of Human Resource's attention or initiated grievances or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management, and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to disciplinary actions, adverse actions, appeals, complaints, grievances, arbitrations, and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records consist of the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3591 (1978), 5 U.S.C. 4303, as amended (1990), 5 U.S.C. 7503 (1978); 42 U.S.C. 2201(d), as amended (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board under applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, index cards, floppy disks, and a password-protected automated system.

RETRIEVABILITY:

These records are indexed annually by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets and in a password-protected automated system available only to Labor Relations personnel. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to grievances, appeals, and adverse actions are destroyed seven years after the cases are closed in accordance with GRS 1–30.a and GRS 1–30.b, index cards are destroyed or deleted with the related records or sooner, if no longer needed, and computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Organization and Labor Relations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–9

SYSTEM NAME:

Office of Small Business and Civil Rights Discrimination Complaint Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Small Business and Civil Rights, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system may be maintained, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have initiated EEO counseling and/or filed a formal complaint of employment discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Rehabilitation Act. Individuals in the United States in education programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of sex discrimination under Title IX of the Civil Rights Act. Individuals in the United States in programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of discrimination under Title VI of the Civil Rights Act, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and Title IV of the Energy Reorganization Act of 1974, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may contain copies of written reports by counselors; investigative files; administrative files, including documentation of withdrawn and/or dismissed complaints; complainant's name, title, and grade; types and theories of discrimination alleged; description of action and conditions giving rise to complaints, settlement agreements, and compliance documents; description of corrective and/or remedial actions; description of disciplinary actions, if any; request for hearings, procedural information, and hearing transcripts; procedural information and forms regarding Alternative Dispute Resolution (ADR); Equal Employment Opportunity Commission (EEOC), Merit System Protection Board (MSPB), Department of Education, and Department of Justice findings, analyses, decisions and orders; final agency decisions and final actions; and notices of intent to file in Federal District Court, notices of cases filed in Federal district court, and Federal court decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 206(d), as amended (1996); 29 U.S.C. 633a, as amended (1995); 29 U.S.C. 791 *et seq.* (1978); 42 U.S.C. 2000e–16, as amended (2002); 42 U.S.C. 5891 (1974); Executive Order (E.O.) 11246, September 24, 1965; E.O. 11375, October 13, 1967; E.O. 12086, October 5, 1978; 29 CFR part 1614 (1999); and 10 CFR part 4 (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information related to discrimination complaints to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, the Department of Justice and the Department of Education, under applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, and on computer media.

RETRIEVABILITY:

Accessed by name and docket number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Computer records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Official Discrimination Complaint Case Files are destroyed four years after the resolution of the case in accordance with GRS 1–25.a. Computer files are destroyed after the period authorized for the related hard copy files or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, mediators, NRC staff, the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, the Department of Justice and/or Department of Education officials, affidavits or statements from complainants, testimony of witnesses, and official documents relating to the complaints.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—FOIA/Privacy Act Team, Web, Publishing, and Distribution Services Division, Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the written requests from individuals or organizations made under the FOIA or PA, the NRC response letters, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a (2002); 42 U.S.C. 2201, as amended (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses. Some of the FOIA records are made publicly available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on microfiche, and computer media.

RETRIEVABILITY:

Accessed by unique assigned number for each request and by requester's name.

SAFEGUARDS:

Records are maintained in locked file cabinets that are kept in locked rooms. Computerized records are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained in hard copy or electronic record format for 2 years from date of reply if the request is granted in accordance with GRS 14–11.a(1), 6 years if denied in accordance with GRS 14–11.a(3)(a), and 6 years from date of final determination, if appealed, in accordance with GRS 14–12.a. The FOIA/PA official files are on paper and in electronic form. FOIA/PA records are disposed of by placement in receptacles designated for classified and sensitive unclassified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Web, Publishing, and Distribution Services Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Requests are made by individuals. The response to the request is based upon information contained in NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters and all Senior Executive Service (SES)

personnel, Office of Human Resources, NRC, One and Two White Flint North, 11555 and 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Duplicate system—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees and those formerly employed by the NRC (terminated through death, resignation, retirement, or separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains personnel records that document an individual's Federal career and includes notification of personnel action (SF–50) and documents supporting the action taken; life insurance, thrift savings plan, health benefits and related beneficiary forms; letters of disciplinary action; notices of reductions-in-force; and other records retained in accordance with Office of Personnel Management's Guide to Personnel Recordkeeping. These records include employment information such as personal qualification statements (OF612), resumes, and related documents including information about an individual's birth date, social security number, veterans preference status, tenure, minority group designator, physical handicaps, past and present salaries, grades, position titles; employee locator forms identifying home and work address, phone numbers and emergency contacts; and certain medical records related to initial appointment and employment. Some duplicate records may contain office-specific applications, personnel qualification statements (SF–171), resumes, conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 (2002); 42 U.S.C. 290dd–2; 42 U.S.C. 290ee–1 (2002); 42 U.S.C. 2201(d) (1992); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update monthly the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File, and security investigations, and to update adverse actions and termination records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on computer media.

RETRIEVABILITY:

Records are indexed by any combination of name, social security number, or identification number.

SAFEGUARDS:

Official Personnel Folders are maintained in locking cabinets and related documents may be maintained in unlocked file cabinets or an electromechanical file organizer. Computer files (Human Resources Management System (HRMS) Personnel Module) are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service in accordance with GRS 1–1.b—OPF. Correspondence and forms maintained on the left side of the Official Personnel Folder are temporary records and are maintained for the periods of time specified in *The Guide to Personnel Recordkeeping* or other agency guidelines in accordance with GRS 1–10. Computer records are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and all NRC SES employees—Chief, Human Resources Services and Operations Programs, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Region I–IV non-SES employees—The appropriate Regional Personnel Officer at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, other academic institutions, or persons, including references, private and Federal physicians, and medical institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5) and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–12

SYSTEM NAME:

Child Care Tuition Assistance Program Records—NRC.

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who voluntarily apply for child care tuition assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include application forms for child care tuition assistance containing personal information, including employee (parent) name, social security number, grade, home and work telephone numbers, home and work addresses, total family income, name of child on whose behalf the parent is applying for tuition assistance, child's date of birth; information on child care providers used, including name, address, provider license number and State where issued, tuition cost, and provider tax identification number; and copies of IRS Form 1040 and 1040A for verification purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 107–67, section 630, November 12, 2001, and Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the Office of Personnel Management to provide statistical reports; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

RETRIEVABILITY:

Information may be retrieved by employee name or social security number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets and computer records are protected by the use of passwords.

RETENTION AND DISPOSAL:

The records in this system are currently unscheduled and must be retained until the National Archives and Records Administration (NARA) approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from NRC employees who apply for child care tuition assistance. Furnishing of the information is voluntary.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, office, grade, and salary; justification to support recommendation and authorization for cash award; monetary amount of cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4513, 5336 (1993–2002).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other Government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and computer media.

RETRIEVABILITY:

Information is accessed by name, type of award, office, and year of award.

SAFEGUARDS:

Maintained in locking file cabinets and in a password-protected computer

system. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records relating to meritorious and distinguished service awards made at the Commission level, excluding those in the Official Personnel Folder, are permanent in accordance with NRCS 2–22.3.a;

b. Case files pertaining to NRC-sponsored awards, excluding those for departmental-level awards, are destroyed 2 years after approval or disapproval in accordance with GRS 1–12.a(1);

c. Correspondence pertaining to awards from other Federal agencies or non-Federal organizations are destroyed when 2 years old in accordance with GRS 1–12.a(2);

d. Letters of commendation and appreciation, excluding copies filed in the Official Personnel Folder, are destroyed when 2 years old in accordance with GRS 1–12.c;

e. Lists and indexes to agency award nominations are destroyed when superseded or obsolete in accordance with GRS 1–12.d; and

f. Computer files are continually updated and information deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Services and Benefits, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, other agencies and organizations, and Official Personnel Folders.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–14

SYSTEM NAME:

Employee Assistance Program Files—NRC.

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the EAP and the results of any counseling or referrals which may have taken place. The records may contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 21 U.S.C. 1101; 42 U.S.C. 290dd–1 and 290dd–2 (2002); 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR part 2, as authorized by 42 U.S.C. 290dd–2, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance and Wellness Services Manager.

RETENTION AND DISPOSAL:

Employee counseling files are destroyed 3 years after termination of counseling in accordance with GRS 1–26.a. Information contained in the related statistical database is destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information compiled by the Manager, Employee Assistance and Wellness Services, during the course of counseling with an NRC employee or members of the employee's family.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–15 [Revoked]

NRC–16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for nonpower (test and research) reactor facilities, at the Operator Licensing and Human Performance Section, Equipment and Human Performance Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The Operator Licensing Tracking System (OLTS) is located at NRC Headquarters and is accessible by the four Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed under 10 CFR part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR part 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i) (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper logs, paper in file folders, and computer media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer access requires password. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Reactor Operator Licensees Records: Inactive case files (*i.e.*, after latest license expiration/termination/revocation, application denial or withdrawal, or issuance of denial letter), are retired after 3 years to the Federal Records Center, and destroyed after 10 years in accordance with NRCS 2–24.13.

b. Operator Licensing Tracking System: Retained as long as system is operational. Destroyed 2 years after system terminates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing and Human Performance Section, Equipment and Human Performance Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, members of the Operator Licensing and Human Performance Section, Equipment and Human Performance Branch or Regional Operator licensing branches, and other NRC and contractor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–17

SYSTEM NAME:

Occupational Injuries and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the location and descriptions of the injury or illness, treatment, and disposition as well as copies of Workman's Compensation claim forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902, as amended (2002); 29 U.S.C. 657(c), as amended (1998); Executive Order (E.O.) 12196, February 26, 1980; E.O. 12223, June 30, 1980; E.O. 12608, September 9, 1987.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Agency Safety and Health Officer and/or the Chief, Human Resources Services and Operations, Office of Human Resources, to prepare periodic statistical reports on employees' health and injury status for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative under duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of HR staff. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Employee case files are destroyed when 5 years old in accordance with GRS 1–34. Computer files are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC Public Health Unit; NRC Headquarters and Regional Office feeder reports; and forms with original information largely supplied by employees concerned, supervisors, witnesses, medical personnel, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–18

SYSTEM NAME:

Office of the Inspector General (OIG) Investigative Records—NRC.

SYSTEM LOCATION:

Office of the Inspector General, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in complaints or actual investigative cases, reports, accompanying documents, and correspondence prepared by, compiled by, or referred to the OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system comprises four parts: (1) An automated Text Management System containing reports of investigations and inspections closed since 1989 and brief descriptions of investigative cases open and pending in the OIG since 1989 that have not yet resulted, but will result, in investigative or inspection reports; (2) paper files of all OIG and predecessor Office of Inspector and Auditor (OIA) reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data, and work papers pertaining to all closed and pending investigations and inspections; (3) paper index card files of OIG and OIA cases closed from 1970 through 1989; and (4) an automated Allegations Tracking System that includes allegations referred to the OIG after 1985, whether or not the allegation progressed to an investigation or inspection, and dates that the investigation or inspection, if any, was opened and closed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended, 5 U.S.C. App. 3 (2002); 42 U.S.C. 2035(c), 2201(c) (1992), and 5841(f) (1986).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, OIG may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To any Federal, State, local, tribal, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity when records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of law, whether administrative, civil, criminal, or regulatory in nature.

b. To public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

c. To a Federal, State, local, tribal, or foreign agency, or a public authority or professional organization if necessary to obtain information relevant to a decision by NRC or the requesting organization concerning the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit, or other personnel action related to the record subject.

d. To a court, adjudicative body before which NRC is authorized to appear, Federal agency, individual or entity designated by NRC or otherwise empowered to resolve disputes, counsel or other representative, or witness or potential witness when it is relevant and necessary to the litigation if any of the parties listed below is involved in the litigation or has an interest in the litigation:

1. NRC, or any component of NRC;

2. Any employee of NRC where the NRC or the Department of Justice has agreed to represent the employee; or

3. The United States, where NRC determines that the litigation is likely to affect the NRC or any of its components.

e. To a private firm or other entity that OIG or NRC contemplates it will contract or has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, inquiry, or other activity related to this system of records. The contractor, private firm, or entity needing access to the records to perform the activity shall maintain Privacy Act safeguards with respect to information. A contractor, private firm, or entity operating a system of records under 5 U.S.C. 552a(m) shall comply with the Privacy Act.

f. To another agency to the extent necessary for obtaining its advise on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

g. To a member of Congress or to a congressional staff member in response to his or her inquiry made at the written request of the subject individual.

h. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored manually on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from the Text Management System alphabetically by the name of an individual, by case

number, or by subject matter. Information in the paper files backing up the Text Management System and older cases closed by 1989 is retrieved by subject matter and/or case number, not by individual identifier. Information is retrieved from index card files for cases closed before 1989 by the name or numerical identifier of the individual or entity under investigation or by subject matter. Information in the Allegations Tracking System is retrieved by allegation number, case number, or name.

SAFEGUARDS:

The automated Text Management System is accessible only on one terminal in the OIG, is password protected, and is accessible only to OIG investigative personnel. Paper files backing up the Text Management System and older case reports and work papers are maintained in approved security containers and locked filing cabinets in a locked room; associated indices, records, diskettes, tapes, *etc.,* are stored in locked metal filing cabinets, safes, storage rooms, or similar secure facilities. Index card files for older cases (1970–1989) are under visual control during working hours and are available only to authorized investigative personnel who have a need to know and whose duties require access to the information. The Allegations Tracking System is double-password-protected and is available to only two OIG investigative employees on only one terminal.

RETENTION AND DISPOSAL:

a. *Investigative Case Files:*

1. Files containing information or allegations that are of an investigative nature but do not relate to a specific investigation—Destroy when 5 years old in accordance with NARA approved schedule N1–431–00–2, Item 1.d.

2. All other investigative files, except those that are unusually significant—Place in inactive file when case is closed. Cut off inactive file at end of fiscal year. Destroy 10 years after cutoff in accordance with NARA approved schedule N1–431–00–2, Item 1.c.

3. Significant cases (those that result in national media attention, congressional investigation, or substantive changes in agency policy or procedures). PERMANENT. Cut off closed cases annually. Transfer to National Archives of the United States 20 years after cut off in accordance with NARA approved schedule N1–431–00–2, Item 1.b.

b. *Index/Indices.* Destroy or delete with the related records or sooner if no longer needed.

c. *Text Management System.* Delete after 10 years or when no longer needed, whichever is later.

d. *Allegation Tracking System.* Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Inspector General Act, 5 U.S.C. app. 3, and the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, the individual record subject; NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(j)(2), the Commission has exempted this system of records from subsections (c)(3) and (4), (d)(1)–(4), (e)(1)–(3), (5), and (8), and (g) of the Act. This exemption applies to information in the system that relates to criminal law enforcement and meets the criteria of the (j)(2) exemption. Under 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other Government/non-Government training courses or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's educational background and training courses including training requests and authorizations, evaluations, and supporting documentation, and other related personnel information, including but not limited to, individual's name, address, telephone number, position title, organization, and grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396 (1991); 5 U.S.C. 4103 (2002); Executive Order (E.O.) 9397, November 22, 1943; E.O. 11348, April 20, 1967, as amended by E.O. 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local Government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders. Computerized training data is maintained in the Human Resources Management System (HRMS) Training Module.

RETRIEVABILITY:

Information is accessed by name, user identification number, course number, or course session number.

SAFEGUARDS:

Electronic records are maintained in a password-protected computer system,

HRMS Training Module. Paper is maintained in lockable file cabinets and file rooms. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Paper forms are retained for 5 years, then destroyed by shredding in accordance with GRS 1–29.b. Information in the HRMS Training module is maintained until no longer needed for statistical and historical reference.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Training and Development, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel, Travel Vouchers, and related documentation, which includes, but is not limited to, an individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701 (2002); 31 U.S.C. 716, 1104, 1108, 3511, 3512, 3701, 3711, 3717, 3718 (1982–2002); Federal Travel Regulations, 41 CFR parts 301–304; Federal Property Management Regulations, 41 CFR Part 101–41; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on computer media, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in key locked file cabinets in same room as users and in conserver files in a passcode locked room. Passports and visas are maintained in alarmed cashiers office. For electronic records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Paper records are retained for 6 years and 3 months after period covered by account, then destroyed through regular trash disposal system in accordance with GRS 9–1.a. Electronic records are deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Travel and Accounts Payable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents, and **Federal Register** for per diem rates.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, special Government Employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, allowance histories, and labor activities, which includes, but is not limited to, an individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996; 5 U.S.C. 6334 (1988); 31 U.S.C. 716, 1104, 1108, 1114, 3325, 3511, 3512, 3701, 3711, 3717, 3718 (1982–2002); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for financial reporting;

i. For withholding and reporting of retirement, re-employed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action;

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for purpose of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

o. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form, on microfiche, and in paper copy. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts.

RETRIEVABILITY:

Information is accessed by employee identification number, name and social security number.

SAFEGUARDS:

Records in the primary system of records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms and file cabinets after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

a. Individual employee pay record for each employee and consultant maintained in the electronic Human Resources Management System (HRMS) Time and Labor/Payroll modules is updated in accordance with GRS 2–1.a.

b. Individual employee pay records containing pay data on each employee and consultant maintained in the Annual and Quarterly Employee History Records on microfiche are transferred to the National Personnel Records Center and destroyed when 56 years old in accordance with GRS 2–1.b.

c. Copies of non-current payroll data maintained on microfiche are destroyed 15 years after close of pay year in which generated in accordance with GRS 2–2.

d. Employee and Consultant Payroll Records:

1. U.S. savings bond authorizations are destroyed when superseded or after separation of employee in accordance with GRS 2–14.a.

2. Combined Federal Campaign allotment authorizations are destroyed after Government Accounting Office (GAO) audit or when 3 years old, whichever is sooner, in accordance with GRS 2–15.a.

3. Union dues and savings allotment authorizations are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2–15.b.

4. Payroll Change Files consisting of records used to change or correct an individual's pay transaction are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2–23.a.

5. Tax Files consisting of State and Federal withholding tax exemption certificates, such as Internal Revenue Service (IRS) Form W–4 and the equivalent State form are destroyed 4 years after the form is superseded or obsolete or upon separation of employee in accordance with GRS 2–13.a.

6. Agency copy of employee wages and tax statements, such as IRS Form W–2 and State equivalents, are destroyed when 4 years old in accordance with GRS 2–13.b.

7. Leave record prepared upon transfer or separation of employee maintained in the Payroll office is destroyed when 3 years old in accordance with GRS 2–9.b.

e. Time and attendance source records maintained by Time and Attendance

clerks and certifying officials are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2–7.

f. Electronic time and attendance input records maintained in the HRMS Time and Labor/Payroll modules are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2–8.

g. Payroll system reports providing fiscal information on agency payroll consisting of hardcopy and microfiche reports generated by the HRMS Time and Labor/Payroll modules are destroyed when 3 years old, excluding the long-term Employee History Reports, in accordance with GRS 2–22.c.

h. Payroll system reports serving as error reports, ticklers, system operation reports are destroyed when related actions are completed or when no longer needed, not to exceed 2 years, in accordance with GRS 2–22.a.

i. Official notice of levy or garnishment (IRS Form 668A or equivalent), change slip, work papers, correspondence, release and other forms, and other records relating to charge against retirement funds or attachment of salary for payment of back income taxes or other debts of Federal employees are destroyed 3 years after garnishment is terminated in accordance with GRS 2–18.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll and Labor Reporting Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure''.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure''.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from sources, including but not limited to the individual to whom it pertains, the Office of Human Resources and other NRC officials, and other agencies and entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Part B: Office of Human Resources, NRC, 11545 and 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in whole or in part at the locations listed in Addendum I, except for Part B, which is stored only at Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than contractor employees, Commissioners, or temporary personnel employed for less than 1 year.

Part A: Senior Level System employees, GG–1 through GG–15 employees, hourly wage employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals, including elements and standards, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301, *et seq.* (2002); 5 U.S.C. 4311 *et seq.* (1978); 42 U.S.C. 2201(d) (1992), 5841 (1986); and 5 CFR 293.404(a) (2000).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. By agency management and the Office of Human Resources for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form and in paper copy in locking file cabinets. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts. Summary ratings are stored in a computer system protected by password and user identification codes.

RETRIEVABILITY:

Records are accessed by name. Computer records are accessed by name and social security number.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to the two Headquarters buildings in Rockville, Maryland, is controlled by a security guard force. Paper records are maintained in folders in locking file cabinets. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 4 years, then destroyed by incineration in accordance with GRS 1–23.a(4). If an employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center in accordance with GRS 1–23.a(3)(a).

Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration in accordance with GRS 1–23.b(3). If the employee separates, the records are forwarded to the next Government agency employer or to the National Personnel Records Center in accordance with GRS 1–23.b(2)(a).

Electronic records: Deleted after the expiration of the retention period authorized for the disposable hard copy file or when no longer needed, whichever is later in accordance with GRS 20–3.a.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel, at Regional Offices I-IV listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains

information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure''.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure''.

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors and any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–23

SYSTEM NAME:

Office of Investigations Indices, Files, and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Investigations, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual cases and matters of concern to the Office of Investigations and correspondence on subjects directed or referred to the Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical and numerical index files bearing individual names and identifiers, and a numerical index of case numbers. These indices provide access to associated records that are arranged by subject matter, title, or identifying number(s) or letter(s). The system incorporates the records of all Office of Investigations correspondence, cases, memoranda, materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the Office of Investigations, memoranda, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c) (1992), and 5841(f) (1986).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Investigations may be disclosed as routine use to the referring agency, group, organization, or individual.

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country under an international treaty or agreement.

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the agency.

f. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Information contained in this system is manually stored on index cards, in files, and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from indices by the name or identifier of the individual or entity, and from the files by number(s) and/or letter(s) assigned and appearing in the indices.

SAFEGUARDS:

The index is maintained in approved security containers and locking filing cabinets; and the indices, associated records, disks, tapes, etc., are located in locking metal filing cabinets, safes, storage rooms, or similar secure facilities. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

a. Investigation Case Files:

1. Significant headquarters official case files (received media attention, were of significant interest to Congress, involved extensive litigation, etc.) are retained by the Government permanently in accordance with NRCS 2–17.2.a. Hold in office for 2 years after closing, then retire to the Office of the Chief Information Officer. Transfer closed case files in 20—year blocks to the National Archives.

2. Other headquarters official case files—Hold in office 2 years after closing, then retire to the Office of the Chief Information Officer. Destroy 20 years after cases are closed in accordance with NRCS 2–17.2.b.

3. Regional office or investigator working files—Retained in regional files for 6 months. At the end 6 months, they are forwarded to headquarters and combined with the headquarters files in accordance with NRCS 2–17.2.c.

b. Index/Indices—Destroy or delete with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURES:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Commission's Policy Statement on Confidentiality,

Management Directive 8.8, ''Management of Allegations'' (formerly NRC Manual Chapter 0517), and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–24

SYSTEM NAME:

Property and Supply System (PASS)—NRC.

SYSTEM LOCATION:

Primary system—Property and Acquisition Oversight Branch, Division of Contracts, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland;

Duplicate system—Duplicate systems may exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

PASS contains records of NRC sensitive and nonsensitive equipment, which includes but is not limited to, acquisition and depreciated costs, date of acquisition, item description, manufacturer, model number, serial number, stock number, tag number, property custodians, user id, office affiliation, office location, and furniture and supply records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b), (c) (1981) and 487(a) (1994); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in paragraph numbers 1, 3, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in automated system with history files.

RETRIEVABILITY:

Accessed by NRC tag number, user id, organization, office location and stock number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Electronic records are password protected.

RETENTION AND DISPOSAL:

The hardcopy records are retained for up to 3 years after an individual's responsibility for the assigned equipment terminates; then they are destroyed by shredding or in the regular trash disposal system in accordance with GRS 8–3. The major automated records are destroyed when no longer needed, or at the same time as the hardcopy records, whichever is later. Minor automated tracking systems are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property and Acquisition Oversight Branch, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system is provided by property custodians, contract specialists, and purchase card holders and/or other individuals buying equipment or supplies on behalf of the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161(b) (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in publications on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained permanently in accordance with NRCS 1–2.2.a. Tapes

are retained until no longer needed then erased and reused.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–26

SYSTEM NAME:

Full Share Program Records—NRC.

SYSTEM LOCATION:

Office of Administration, Administrative Services Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC Federal Government employees who apply for subsidized mass transit costs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of an individual's application to participate in the program which includes, but is not limited to, the applicant's name, home address, office telephone number, social security number, and information regarding employee's commuting schedule and mass transit system(s) used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 132 (2001); 31 U.S.C. 3511 (1982); 41 CFR 101–201.104–3(a) (2001); Executive Order (E.O.) 9397, November 22, 1943; E.O. 13150, Federal Workforce Transportation; Qualified Transportation Fringe Benefits, 66 FR 2241 (2001); NRC Management Directive 3.53, Records Management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide statistical reports to the city, county, State, and Federal Government agencies;

b. To provide the basis for program approval and issue monthly subsides; and

c. For the routine uses specified in paragraph numbers 1, 4, 5, and 6 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Accessed by scanned NRC badge and name. Access by social security number when an individuals photo identification badge is scanned to record receipt of their metro check.

SAFEGUARDS:

Paper records and backup disks are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records are limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are destroyed when 3 years old in accordance with GRS 9–7. Paper copies are destroyed by shredding. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Science Applications International Corporation (SAIC), 301 Laboratory Road, Oak Ridge, Tennessee 37830.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC-licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported under 10 CFR 20.2201–20.2204 and 20.2206 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, period of employment, place and period date of exposure; name and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1992); 10 CFR 20.2106, 20.2201–20.2204, and 20.2206 (2002); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph ''Categories of individuals covered by the system'';

b. To return data provided by licensee upon request; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are computerized and maintained in a centralized database management system. Backup tapes of the database are generated and maintained at a secure, off site location for disaster recovery purposes. During the processing and data entry, paper records are temporarily stored in designated business offices that are locked when not in use and are accessible only to authorized personnel. Upon completion of data entry and processing, the paper records are stored in an off site security storage facility accessible only to authorized personnel.

RETRIEVABILITY:

Records are accessed by individual name, social security number, and by licensee name or number.

SAFEGUARDS:

Information maintained at SAIC is accessible only to the Office of Nuclear Regulatory Research, individuals that have been authorized for access by NRC, and SAIC employees that are directly involved in the REIRS project. Reports received and reviewed by the Office of Nuclear Regulatory Research are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

The data maintained in the REIRS database are protected from unauthorized access by several means. The database server resides in a protected environment with physical security barriers under key-card access control. Accounts authorizing access to the server and databases are maintained by the SAIC REIRS system administrator. In addition, SAIC maintains a computer security ''firewall'' that further restricts access to the SAIC computer network. Authorization for access must be approved by NRC, SAIC project management, and SAIC computer security. Transmittal of data via the Internet is protected by data encryption.

RETENTION AND DISPOSAL:

a. Original paper documents from which all data are entered into REIRS are destroyed 2 years after input into REIRS in accordance with NRCS 2–21.8.a;

b. Original paper documents from which only selected data are entered into REIRS are retained permanently in accordance with NRCS 2–21.8.b;

c. Log books are retained permanently;

d. Paper documents generated for QC purposes are destroyed 2 years after input into REIRS; and

e. Floppy disks and compact disks are destroyed 2 years after input into REIRS.

SYSTEM MANAGER(S) AND ADDRESS:

REIRS Project Manager, Radiation Protection, Environmental Risk, and Waste Management Branch, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from licensees required to report radiation exposure information; the subject individual; the individual's employer; the person in charge of the facility where the individual has been assigned; or NRC Form 5, Occupational Exposure Record for a Monitoring Period.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–28

SYSTEM NAME:

Recruiting, Examining, and Placement Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Office of Human Resources, NRC, One and Two White Flint North, 11555 and 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains application information of persons applying to NRC for Federal employment or merit promotion within the NRC, including application for Federal employment (OF–612, resume or similar documents); job descriptions; examination results; supervisory evaluation or performance appraisal forms; reference forms; and related correspondence. These records include applicant information relating to education, training, employment history, earnings, past performance, awards and commendations, citizenship, veteran's preference, birth date, social security number, and home address and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 5101, 7201 (1966); 42 U.S.C. 2000e (1991); 42 U.S.C. 2201(d) (1992); Executive Order (E.O.) 9397, November 22, 1943; E.O. 11478, August 8, 1969, as amended by E.O. 11590, April 23, 1971; E.O. 12106, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for a variety of internal and external sources including the Office of Personnel Management, Merit Systems Protection Board; EEOC and EEO Investigators; Union representatives and EEO Committee representatives, and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are maintained on paper in file folders and on computer media.

RETRIEVABILITY:

Records are indexed by any combination of recruitment action number, applicant name, social security number or identification number.

SAFEGUARDS:

Maintained in lockable file cabinets and in a password protected automated system, NRCareers. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Applications and related correspondence are destroyed when 2 years old in accordance with GRS 1–15;

b. Registers of eligibles are destroyed 5 years after an individual's eligibility terminates in accordance with GRS 1–33.f;

c. Canceled and ineligible applications are returned to the applicant or are destroyed 90 days after date of action in accordance with GRS 1–33.h;

d. Eligible applications are destroyed upon termination of the register unless brought forward to new register or placed on inactive register in accordance with GRS 1–33.k;

e. Electronic records contained in NRCareers are destroyed when 2 years old or when no longer needed, whichever is later; and

f. General correspondence records are destroyed when 3 years old in accordance with GRS 1–3.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Services and Operations, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For applicants to the Honor Law Graduate Program—Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, individual's current and previous supervisors within and outside NRC, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–29 [Revoked.] NRC–30

SYSTEM NAME:

Reactor Program System (RPS)/Regulatory Information Tracking System (RITS)—NRC.

SYSTEM LOCATION:

Primary system—Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to, the number of regular and non-regular hours worked, the nature of the work, work load projections, scheduling, and project assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d), 2201(p) (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer files, computer records, on tapes, and disks.

RETRIEVABILITY:

Accessed by name, NRC organization, activity code, docket number, Technical Assignment Control System (TACS) number, planned accomplishment number, and/or date range.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated system records are password protected.

RETENTION AND DISPOSAL:

Retained until no longer needed in accordance with GRS 23–8.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains, individual's supervisors, and NRC management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–31

SYSTEM NAME:

Correspondence and Records, Office of the Secretary—NRC.

SYSTEM LOCATION:

Primary system—Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part at the

locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of pre April 2000 internal NRC memoranda between NRC staff and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals and White House correspondence referred to the NRC for response as well as correspondence from representatives of industries and other groups affected by NRC regulations, and the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC. Correspondence may identify an individual's social security number, birth date, address, and employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1968).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders, on computer media, and on microfiche.

RETRIEVABILITY:

Records may be accessed by subject matter headings, author's last name, addressee's last name, activity number, date of document, and date of receipt of document or file location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in file cabinets and rolling file equipment. Computer files are password protected.

RETENTION AND DISPOSAL:

Paper records are retained permanently in accordance with NRCS 1–2.2.a and the related computer indexes are retained permanently in accordance with NRCS 2–25.4.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant for Correspondence and Records, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–32

SYSTEM NAME:

Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.

SYSTEM LOCATION:

Primary system—Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records contain payment and/or collection transaction records and background information that may duplicate some of the records in this system. These other systems include, but are not limited to:

NRC–5, Contracts Records Files—NRC;

NRC–7, Telephone Call Detail Records—NRC;

NRC–10, Freedom of Information Act (FOIA) and Privacy Act (PA) Requests—NRC;

NRC–18, Office of the Inspector General (OIG) Investigative Records—NRC;

NRC–19, Official Personnel Training Records Files—NRC;

NRC–20, Official Travel Records—NRC;

NRC–21, Payroll Accounting Records—NRC;

NRC–24, Property and Supply System (PASS)—NRC; and

NRC–41, Tort Claims and Personal Property Claims—NRC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals the NRC owes/owed money to or who receive/received a payment from NRC and those who owe/owed money to the United States. Individuals receiving payments include, but are not limited to, current and former employees, contractors, consultants, vendors, and others who travel or perform certain services for NRC. Individuals owing money include, but are not limited to, those who have received goods or services from NRC for which there is a charge or fee (NRC licensees, applicants for NRC licenses, Freedom of Information Act requesters, etc.) and those who have been overpaid and owe NRC a refund (current and former employees, contractors, consultants, vendors, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the system includes, but is not limited to, names, addresses, telephone numbers, Social Security Numbers (SSN), Taxpayer Identification Numbers (TIN), Individual Taxpayer Identification Numbers (ITIN), fee categories, application and license numbers, contract numbers, vendor numbers, amounts owed, background and supporting documentation, correspondence concerning claims and debts, credit reports, and billing and payment histories. The overall agency accounting system contains data and information integrating accounting functions such as general ledger, funds control, travel, accounts receivable, accounts payable, equipment, and appropriation of funds. Although this system of records contains information on corporations and other business entities, only those records that contain information about individuals that is retrieved by the individual's name or other personal identifier are subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(b)(12) (1999); 5 U.S.C. 5514 (1996); 15 U.S.C. 1681a(f) (1970); 26 U.S.C. 6103(m)(2) (2002); 31 U.S.C. 37, subchapters I and II; 31 U.S.C. 3701(a)(3) (2001); 31 U.S.C. 3711 (1996); 31 U.S.C. 3716 (1999); 31 U.S.C. 3717 (1996); 31 U.S.C. 3718 (1997); 31 U.S.C. 3720A (1996); 42 U.S.C. 2201 (1992); 42 U.S.C. 5841 (1996); Cash Management Improvement Act Amendments of 1992 (Pub. L. 102–589); Debt Collection Improvement Act of 1996 (Pub. L. 104–134); 31 CFR Chapter IX, Parts 900–904; 10 CFR parts 15 (2002), 16 (1991), 170 (2001), 171 (2001); Executive Order 9397, November 22, 1943; section 201 of Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) for the purpose of collecting and reporting on delinquent debts as authorized by the Debt Collection Act of 1982 or the Debt Collection Improvement Act (DCIA) of 1996;

b. To Treasury; the Defense Manpower Data Center, Department of Defense; the United States Postal Service; government corporations; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals, including Federal employees, who are delinquent in their repayment of certain debts owed to the U.S. Government, including those incurred under certain programs or services administered by the NRC, in order to collect debts under common law or under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996 which include by voluntary repayment, administrative or salary offset, and referral to debt collection contractors.

c. To the Department of Justice, United States Attorney, Treasury, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

d. To credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the DCIA, NRC may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt timely. Revisions to the Federal Claims Collection Standards (FCCS) published in the **Federal Register** on November 22, 2000 (65 FR 70404), direct agencies to report information on delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS). NRC will report this information to CAIVRS if this requirement is contained in the final rule amending the FCCS.

e. To any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal Government on NRC's behalf by counseling the debtor for voluntary repayment or by initiating administrative or salary offset procedures, or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996. Under the DCIA, NRC may garnish non-Federal wages of certain delinquent debtors so long as required due process procedures are followed. In these instances, NRC's notice to the employer will disclose only the information that may be necessary for the employer to comply with the withholding order.

f. To the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NRC against the taxpayer under 26 U.S.C. 6103(m)(2) and under 31 U.S.C. 3711, 3717, and 3718 or common law. Redisclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agent to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996, except that redisclosure of a mailing address to a reporting agency is for the limited purpose of obtaining a credit report on the particular taxpayer. Any mailing address information obtained from the IRS will not be used or shared for any other NRC purpose or disclosed by NRC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purposes.

g. To refer legally enforceable debts to the IRS or to Treasury's Debt Management Services to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

h. To prepare W–2, 1099, or other forms or electronic submittals, to forward to the IRS and applicable State and local governments for tax reporting purposes. Under the provisions of the DCIA, NRC is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on NRC's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including certain travel related payments to employees, payments made to persons not treated as employees (*e.g.*, fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

i. To banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

j. To another Federal agency that has asked the NRC to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to name, address, SSN, TIN, ITIN, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

k. To Treasury or other Federal agencies with whom NRC has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of the NRC to satisfy, in whole or in part, debts owed to the U.S. Government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, and referral to the Department of Justice. The DCIA requires agencies to transfer to Treasury or Treasury-designated Debt Collection Centers for cross servicing certain nontax debt over 180 days delinquent. Treasury has the authority to act in the Federal Government's best interest to service, collect, compromise, suspend, or terminate collection action under existing laws under which the debts arise.

l. Information on past due, legally enforceable nontax debts more than 180 days delinquent will be referred to Treasury for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the government to the debtor, or held by the

government for the debtor under the DCIA's mandatory, government-wide Treasury Offset Program (TOP). Under TOP, Treasury maintains a database of all qualified delinquent nontax debts, and works with agencies to match by computer their payments against the delinquent debtor database in order to divert payments to pay the delinquent debt. Treasury has the authority to waive the computer matching requirement for NRC and other agencies upon written certification that administrative due process notice requirements have been complied with.

m. For debt collection purposes, NRC may publish or otherwise publicly disseminate information regarding the identity of delinquent nontax debtors and the existence of the nontax debts under the provisions of the Debt Collection Improvement Act of 1996.

n. To the Department of Labor (DOL) and the Department of Health and Human Services (HHS) to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to match NRC's debtor records with records of DOL and HHS to obtain names, name controls, names of employers, addresses, dates of birth, and TINs. The DCIA requires all Federal agencies to obtain taxpayer identification numbers from each individual or entity doing business with the agency, including applicants and recipients of licenses, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, or penalties to the agency. NRC will use TINs in collecting and reporting any delinquent amounts resulting from the activity and in making payments.

o. If NRC decides or is required to sell a delinquent nontax debt under 31 U.S.C. 3711(i), information in this system of records may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

p. If NRC has current and delinquent collateralized nontax debts under 31 U.S.C. 3711(i)(4)(A), certain information in this system of records on its portfolio of loans, notes and guarantees, and other collateralized debts will be reported to Congress based on standards developed by the Office of Management and Budget, in consultation with Treasury.

q. To Treasury in order to request a payment to individuals owed money by the NRC.

r. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

s. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored on paper and microfiche, and in computer media.

RETRIEVABILITY:

Information is retrieved a number of ways, including by name, SSN, TIN, license or application number, contract or purchase order number, invoice number, voucher number, and vendor code.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Records are kept in lockable file rooms or at user's workstations in an area where access is controlled by keycard and is limited to NRC and contractor personnel who need the records to perform their official duties. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by NRC or contractor personnel.

RETENTION AND DISPOSAL:

Paper records are destroyed when six years and three months old in accordance with GRS 6–1.a except that administrative claims files, for which collection action is terminated without extension, are destroyed when ten years and three months old in accordance with GRS 6–10.b. Computer files are deleted after the expiration of the retention period authorized in accordance with GRS for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Record source categories include, but are not limited to, individuals covered by the system, their attorneys, or other representatives; NRC; collection agencies or contractors; employing agencies of debtors; and Federal, State and local agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–33

SYSTEM NAME:

Special Inquiry File—NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated

records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(c), (i) and (o) (1992).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country under an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in locking metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Paper records relating to subject files are retained permanently in accordance with NRCS 1–2.2.a. Paper records relating to case files are retained permanently in accordance with NRCS 2–20.9.a. Alphabetical indexes are retained permanently in accordance with NRCS 1–2.2.a. Microfiche records are retained permanently in accordance with NRCS 2–20.9.a.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–34 [Revoked]

NRC–35

SYSTEM NAME:

Drug Testing Program Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at contractor testing laboratories at collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, applicants, consultants, licensees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and follow-up testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, licensees, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 7301 (note) (1998); 42 U.S.C. 290dd–2 (1998); Executive Order 12564, September 15, 1986; Pub. L. 100–71, Title V Sec. 503 (July 11, 1987); Pub. L. 100–440, Title VI Sec. 628 (September 22, 1988); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Facilities and Security and NRC management:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions; and

e. For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on index cards, and on computer media. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number,

drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access, with records maintained and used with the highest regard for personal privacy. Records in the Division of Facilities and Security are stored in an approved security container under the immediate control of the Director, Division of Facilities and Security, or designee. Records at other NRC locations and in laboratory/collection/evaluation facilities will be stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

Employee acknowledgment of notice forms are destroyed when employee separates from testing designated position in accordance with GRS 1–36.b. Selection and scheduling records, chain of custody records, and test results are destroyed when three years old in accordance with GRS 1–36.c, except for records used in disciplinary actions which are destroyed four years after the case is closed. Collection and handling record books are destroyed three years after date of last entry in accordance with GRS 1–36.d. Electronic records of the Employee Drug Testing System are deleted when no longer needed in accordance with GRS 20–3.b. Index cards are destroyed with related records or sooner if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, and contractors who have been identified for drug testing who have been tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Part 1: Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 2: Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 3: Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Part 4: Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system exists, in whole or in part, in the Office of Nuclear Security and Incident Response, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system— Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to, an individual's name, address (home and business), telephone number (home, business, and pager), social security number, organization, persons to be notified in case of emergency, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1968); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for:

a. Notification (of individual identified by employee) in case of an emergency;

b. Notification of employee regarding matters of official business;

c. Verification of accuracy of and updates of payroll/personnel system files on employee home address and zip code;

d. Conducting statistical studies, and

e. The routine use specified in paragraph number 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained within computerized systems and on hardcopy listings.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Electronic records are password protected. Paper copies of records are maintained in locked files. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are destroyed when 6 months by shredding in accordance with GRS 1–17.c.

SYSTEM MANAGER(S) AND ADDRESS:

Part 1: Director, Office of Human Resources; Part 2: Chief Information Officer; Part 3: Director, Office of Administration; Part 4: Chief Financial Officer, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, NRC Form 15, ''Employee Locator Notification'', general personnel records, and other related records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Nuclear Security, Office of Nuclear Security and Incident Response, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants, licensees, and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Names of individuals who classify and/or declassify documents (*e.g.*, for the protection of information relating to the U.S. national defense and foreign relations) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C 2165 (1999) and 2201(i) (1992); Executive Order 12958, April 17, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on index cards, and on computer media.

RETRIEVABILITY:

Indexed and accessed by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate. Records are processed only on systems approved for processing classified information or accessible through password protected systems for unclassified information. The classified systems are stand alone systems located within secure facilities or with removable hard drives that are either stored in locked security containers or in alarmed vaults cleared for open storage of TOP SECRET information.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding in accordance with GRS 18–1;

b. Top Secret Accounting and Control files: Registers—retained 5 years after documents shown on form are downgraded, transferred, or destroyed by shredding; Accompanying forms—retained until related document is downgraded, transferred, or destroyed by shredding in accordance with GRS 18–5.a and 18–5.b; and

c. Automated records are updated monthly and quarterly, and are maintained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary system—Reproduction and Distribution Services Branch, Web, Publishing, and Distribution Services Division, Office of the Chief Information Officer, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including NRC staff, with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1968).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing list; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media and paper.

RETRIEVABILITY:

Records are accessed by company name, individual name, and file code identification number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

Documents requesting changes are destroyed through the regular trash disposal system after appropriate revision of the mailing list or after 3 months in accordance with GRS 13.4.a, whichever is sooner; lists are retained until cancelled or revised, then destroyed through the regular trash disposal system in accordance with GRS 13.4.b. Computer files are deleted after cancelled or revised or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Reproduction and Distribution Services Branch, Web, Publishing and Distribution Services Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

NRC staff, NRC licensees, and individuals expressing an interest in NRC activities and publications.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and the Department of Energy, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel, other persons who have been considered for a personnel clearance, special nuclear material access authorization, unescorted access to NRC buildings or nuclear power plants, NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about individuals, which include, but are not limited to, their name(s), address, date and place of birth, social security number, identifying information, citizenship, residence history, employment history, military history, financial history, foreign travel, foreign contacts, education, spouse/cohabitant and relatives, personal references, organizational membership, medical, fingerprint cards, criminal record, and security clearance history. These records also contain copies of personnel security investigative reports from other Federal agencies, summaries of investigative reports, results of Federal agency indices checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (*e.g.*, grants and terminations), access approval/disapproval actions related to NRC building access or unescorted access to nuclear plants, or access to Federal automated information systems or data, violations of laws, reports of security infraction, and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318 (1988); 42 U.S.C 2165 (1999) and 2201(i) (1992); Executive Order (E.O.) 9397, November 22, 1943; E.O. 10450, April 27, 1953; E.O. 12958, April 17, 1995; E.O. 12968, August 2, 1995; E.O. 10865, February 20, 1960; 10 CFR part 11 (2000); Pub. L. 99–399 (100 Stat. 876) August 27, 1986; OMB Circular No. A–130, November 30, 2000; 5 CFR parts 731 and 732 and authorities cited therein; Pub. L. 99–500 (100 Stat. 1783–335) October 18, 1986.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Facilities and Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Panel members, Office of Personnel Management, Central Intelligence Agency, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees criminal history information needed for their unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on tape, computer media, and microfiche.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection, as appropriate. Automated records are password protected.

RETENTION AND DISPOSAL:

a. Personnel security clearance/access authorization files—destroy case files upon notification of death or 5 years from date of termination of access authorization or final administrative action in accordance with GRS 18–22.a;

b. Request for Visit or Access Approval—maximum security areas retained 5 years after final entry or after date of document, as appropriate, in accordance with GRS 18–17.a; Other areas: Retained 2 years after final entry or after date of document, then destroyed by approved method of destruction in accordance with GRS 18–17.b;

c. Other security clearance/access authorization administration files—retained 2 years after final entry or after date of document, then destroyed by approved method of destruction in accordance with GRS 18–8; and

d. Criminal history record computer files are deleted when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.'' Some information is classified under Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent the disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, visitors and others, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–40

SYSTEM NAME:

Facility Security Access Control Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including current and former NRC employees, consultants, contractors, other Government agency personnel, and approved visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding: (1) NRC personal identification badges issued for continued access to NRC-controlled space; and (2) records regarding visitors to NRC. These records include, but are not limited to, an individual's name, social security number, electronic image, badge number, citizenship, employer, purpose of visit, person visited, date and time of visit, and other information contained on government issued credentials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 (1999) and 2201 (i), (k) and (p) (1992); 5 CFR part 2634; Executive Order (E.O.) 9397, November 22, 1943; E.O. 12958, April 20, 1995.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used to control access to NRC classified information and to NRC spaces by human or electronic means.

Information (identification badge) may also be used for tracking applications within the NRC for other than security access purposes.

The electronic image used for the NRC employee personal identification badge may be used for other than security purposes only with the written consent of the subject individual.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information and digital image contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper forms in logs and files, and on computer media.

RETRIEVABILITY:

Information is indexed and accessed by individual's name, social security number, identification badge number, employer's name, date of visit, or sponsor's name.

SAFEGUARDS:

All records are maintained in NRC-controlled space that is secured after normal duty hours or in security areas under guard presence. Automated records are protected by password.

RETENTION AND DISPOSAL:

a. Records and forms related to NRC identification badges are retained in files and destroyed when superseded or obsolete in accordance with GRS 18–23.

b. Manual visitor logs are retained in cabinets and destroyed 2 years after date of entry in accordance with GRS 18–17.b.

c. The automated access control system reflects access to controlled areas and employee/contractor/visitor identification information. These records are disposed of after the retention period for those records identified in a. and b., or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, employees of other Government agencies, and visitors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–41

SYSTEM NAME:

Tort Claims and Personal Property Claims—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, in the Office of the Chief Financial Officer (OCFO), NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland,

and at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records, including but not limited to, NRC–18, ''Office of the Inspector General (OIG) Investigative Records—NRC,'' and NRC–32, ''Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC,'' may contain some of the information in this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims with NRC under the Federal Tort Claims Act or the Military Personnel and Civilian Employees' Claims Act and individuals who have matters pending before the NRC that may result in a claim being filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to loss or damage to property and/or personal injury or death in which the U.S. Government may be liable. This information includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, claim forms and supporting documentation, police reports, witness statements, medical records, insurance information, investigative reports, repair/replacement receipts and estimates, litigation documents, court decisions, and other information necessary for the evaluation and settlement of claims and pre-claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* (2000); The Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 3721 (1996).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To third parties, including claimants' attorneys, insurance companies, witnesses, potential witnesses, local police authorities where an accident occurs, and others who may have knowledge of the matter to the extent necessary to obtain information that will be used to evaluate, settle, refer, pay, and/or adjudicate claims.

b. To the Department of Justice (DOJ) when the matter comes within their jurisdiction, such as to coordinate litigation or when NRC's authority is limited and DOJ advice or approval is required before NRC can award, adjust, compromise, or settle certain claims.

c. To the appropriate Federal agency or agencies when a claim has been incorrectly filed with NRC or when more than one agency is involved and NRC makes agreements with the other agencies as to which one will investigate the claim.

d. The Department of the Treasury to request payment of an award, compromise, or settlement of a claim.

e. Information contained in litigation records is public to the extent that the documents have been filed in a court or public administrative proceeding, unless the court or other adjudicative body has ordered otherwise. This public information, including information concerning the nature, status, and disposition of the proceeding, may be disclosed to any person, unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system of records to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system of records is stored on paper, in log books, and on computer media.

RETRIEVABILITY:

Information is indexed and accessed by the claimant's name and/or claim number.

SAFEGUARDS:

The paper records and log books are stored in locked file cabinets or locked file rooms and access is restricted to those agency personnel whose official duties and responsibilities require access. Automated records are protected by password.

RETENTION AND DISPOSAL:

a. Tort claims and employee claims are destroyed six years and three months after payment or disallowance in accordance with GRS 6–10.a.

b. Claims affected by a court order or subject to litigation are destroyed after the related action is concluded, or when six years and three months old, whichever is later, in accordance with GRS 10–6.c.

c. Log books are destroyed or deleted when no longer needed in accordance with GRS 23–8.

d. Copies of memoranda contained on electronic media are deleted when no longer needed in accordance with GRS 20–13.

e. Copies of tort claims and personal property claims that become part of NRC's Litigation Case File are retained by the Government permanently in accordance with NRCS 2–13.4.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, claimants, NRC employees involved in the incident, witnesses or others having knowledge of the matter, police reports, medical reports, investigative reports, insurance companies, and attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–42

SYSTEM NAME:

Skills Assessment and Employee Profile Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2. This system of records may contain some of the information contained in other system of records. These other systems may include, but are not limited to:

NRC–11, General Personnel Records (Official Personnel Folder and Related Records)—NRC; NRC–19, Official Personnel Training Records Files—NRC;

CATEGORIES OF INDIVIDUALS COVERED:

Current, prospective, and former NRC employees, experts, consultants, contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific information maintained on individuals includes individual skills assessments that identify the knowledge and skills possessed by the individual and the level of skills possessed, and may include a skills profile containing, but not limited to, their name; service computation date; series and grade; education; training; work and skills experience; special qualifications; licenses and certificates held; career interests, goals and objectives; and availability for travel or geographic relocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396 (1991); 5 U.S.C. 4103 (1994); 42 U.S.C. 2201 (1992); Executive Order (E.O.) 9397, November 22, 1943; E.O. 11348, February 20, 1967, as amended by E.O. 12107, December 28, 1978; Pub. L. 104–106, National Defense Authorization Act for Fiscal Year 1996, sec. 5125, Agency Chief Information Officer, February 10, 1996.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records will be to assess the knowledge and skills needed to perform the functions assigned to individuals and their organizations.

Information in the system may be used by the NRC to assess the skills of the staff to develop an organizational training plan/program; to prepare individual training plans; to develop recruitment plans; and to assign personnel. Other offices may maintain similar kinds of records relative to their specific duties, functions, and responsibilities.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, which includes disclosure to other NRC employees who have a need for the information in the performance of their duties, NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the information was collected under the following routine uses:

a. To employees and contractors of other Federal, State, local, and foreign agencies or to private entities in connection with joint projects, working groups, or other cooperative efforts in which the NRC is participating.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form (Strategic Workforce Planning System) and in paper copy. Computerized form includes information stored in memory, on disk, and on computer printouts.

RETRIEVABILITY:

Information may be retrieved in a number of ways, including but not limited to the individual's name, office, or skill level; various skills, knowledge, training, education, or work experience; or subject or key words developed for the system.

SAFEGUARDS:

Records are maintained in buildings where access is controlled by a security guard force. Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the records to perform their official duties. Access to computerized records requires use of proper password and user identification codes.

RETENTION AND DISPOSAL:

System input records are destroyed after the information is converted to electronic medium and verified in accordance with GRS 20–2.a and b. System data maintained electronically are currently unscheduled and must be retained until a records disposition schedule for this information is approved by the National Archives and Records Administration. Hard copy records documenting skills requirements, assessments, strategies, and plans for meeting the requirements are currently unscheduled and must be retained until a records disposition schedule for this information is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Workforce Planning and Information Management, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure''.

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure''.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources, including but not limited to the individual to whom it pertains, information derived from that supplied by the individual, other systems of records, supervisors and other NRC officials, contractors, and other agencies or entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–43

SYSTEM NAME:

Employee Health Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Employee Health Center, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum I, Parts 1 and 2, and/or at any other health care facilities operating

under a contract or agreement with NRC for health-related services. This system may contain some of the information maintained in other systems of records, including NRC–11, ''General Personnel Records (Official Personnel Folder and Related Records)—NRC,'' NRC–17, ''Occupational Injuries and Illness Records—NRC,'' and NRC–44, ''Employee Fitness Center Records—NRC.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of voluntary employee use of health services provided by the Health Center, and of emergency health services rendered by Health Center staff to individuals for injuries and illnesses suffered while on NRC premises. Specific information maintained on individuals may include, but is not limited to, their name, date of birth, and Social Security number; medical history and other biographical data; test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for single medical conditions or diseases); history of complaint, diagnosis, and treatment of injuries and illness rendered by the Health Center staff; immunization records; records of administration by Health Center staff of medications prescribed by personal physicians; medical consultation records; statistical records; daily log of patients; and medical documentation such as personal physician correspondence, test results submitted to the Health Center staff by the employee; and occupational health records. Forms used to obtain or provide information include, but are not limited to, the following:

(1) Employee Health Record.
(2) Immunization/Health Profile.
(3) Problem List.
(4) Progress Notes.
(5) Consent for Release of Medical Information.
(6) Against Medical Advice (AMA) Release.
(7) Patient Treatment Record.
(8) Injection Record.
(9) Allergy.
(10) Respirator Certification Form.
(11) Pre-travel Questionnaire.
(12) Flu Vaccine Form.
(13) Pneumonia Vaccine Form.
(14) TB Test Form.
(15) Office of Workers' Compensation Programs (OWCP) Occupational Injury Form.
(16) Medical History.
(17) Medical Examination.
(18) Prostate Symptoms Questionnaire.
(19) Proctosigmoidoscopy Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 (1996); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions in an effort to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

d. To Health Center staff and medical personnel under a contract or agreement with NRC who need the information in order to schedule, conduct, evaluate, or follow up on physical examinations, tests, emergency treatments, or other medical and health care services.

e. To refer information to private physicians designated by the individual when requested in writing.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, on computer media, and on file cards, logs, x-rays, and other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the individual's name, date of birth, and Social Security number, or any combination of those identifiers.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force and entry to each floor is controlled by keycard. Records in the system are maintained in lockable file cabinets with access limited to agency or contractor personnel whose duties require access. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by authorized personnel.

RETENTION AND DISPOSAL:

Records documenting an individual employee's medical history, physical condition, and visits to Government health facilities, for nonwork-related purposes, are maintained for six years from the date of the last entry as are records on consultants, contractors, other Government agency personnel, and anyone on NRC premises who requires emergency or first-aid treatment in accordance with GRS 1–19. Health Center control records such as logs or registers reflecting daily visits are destroyed three months after the last entry if the information is summarized on a statistical report in accordance with GRS 1–20a and two years after the last entry if the information is not summarized in accordance with GRS 1–20b. Occupational health records/long-term medical records are retained in accordance with GRS 1–21a. Employees are given copies of their records if requested upon separation from the agency.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9; and provide their full name, any former name(s), date of birth, and Social Security number.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources including, but not limited to, the individual to whom it pertains; laboratory reports and test results; NRC Health Center physicians, nurses, and other medical technicians or personnel who have examined, tested, or treated the individual; the individual's coworkers or supervisors; other systems of records; the individual's personal physician(s); NRC Fitness Center staff; other Federal agencies; and other Federal employee health units.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–44

SYSTEM NAME:

Employee Fitness Center Records—NRC.

SYSTEM LOCATION:

Primary system—NRC Fitness Center, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the NRC's regional and other offices listed in Addendum I, Parts 1 and 2, and/or at other facilities operating under a contract or agreement with NRC for fitness-related services. This system may contain some of the information maintained in other systems of records, including NRC–32, ''Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records-NRC.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for membership in the Fitness Center as well as current and inactive Fitness Center members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' applications to participate in NRC's Fitness Center, information on individuals' degree of physical fitness and their fitness activities and goals, and various forms, memoranda, and correspondence related to Fitness Center membership and financial/payment matters. Specific information contained in the application for membership includes the employee applicant's name, gender, age, Social Security number, height, weight, and medical information, including a history of certain medical conditions; the name of the individual's personal physician and any prescription or over-the-counter drugs taken on a regular basis; and the name and address of a person to be notified in case of emergency. Forms used to obtain or provide information include, but are not limited to, the following:

(1) Application Package.
(2) Release of Medical Information/Physician's Statement.
(3) Fitness Assessment.
(4) Pre-exercise Health Screening.
(5) Account Logs.
(6) Terminated Memberships.
(7) New Memberships.
(8) Monthly Dues Collected.
(9) Accident Report.
(10) ''Dear Participant'' Letter.
(11) Refund Request.
(12) Regional Employee Sign-in Log.
(13) Member of the Month.
(14) User Suggestion Form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 (1996) ; Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the individual listed as an emergency contact, in the event of an emergency.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 or 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media and in paper form in logs and files.

RETRIEVABILITY:

Information is indexed and accessed by an individual's name and/or Social Security number.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Access to the Fitness Center is controlled by keycard and bar code verification. Records in paper form are stored alphabetically by individuals' names in lockable file cabinets maintained in the NRC Fitness Center where access to the records is limited to agency and Fitness Center personnel whose duties require access. The records are under visual control during duty hours. Automated records are protected by screen saver. Access to automated data requires use of proper password and user identification codes. Only authorized personnel have access to areas in which information is stored.

RETENTION AND DISPOSAL:

Fitness Center records are currently unscheduled and must be retained until the National Archives and Records Administration approves a records disposition schedule for this material.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Health Program Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURE:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

Information in this system of records is principally obtained from the individuals upon whom the records are

maintained. Other sources of information include, but are not limited to, the NRC Fitness Center Director and other staff, physicians retained by the NRC, and the individuals' personal physicians.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations.

Part 1—NRC Headquarters Offices.

1. One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

2. Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852–2738.

3. Warehouse, 5000 Boiling Brook Parkway, Rockville, Maryland 20852–2738.

Part 2—NRC Regional Offices.

1. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

2. NRC Region II, Atlanta Federal Center, 23 T85, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3415.

3. NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532–4351.

4. NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064.

5. High-Level Waste Management Office, 1551 Hillshire Drive, Las Vegas, Nevada 89134.

6. NRC Technical Training Center, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee 37411–5677.

Dated in Rockville, Maryland, this 4th day of October, 2002.

For the Nuclear Regulatory Commission.

Stuart Reiter,

Chief Information Officer.

[FR Doc. 02–25994 Filed 10–11–02; 8:45 am]

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Federal Register

Tuesday,
October 15, 2002

Part IV

The President

Proclamation 7606—Columbus Day, 2002

Federal Register
Vol. 67, No. 199
Tuesday, October 15, 2002

Presidential Documents

Title 3—

The President

Proclamation 7606 of October 9, 2002

Columbus Day, 2002

By the President of the United States of America

A Proclamation

In August 1492, Christopher Columbus sailed from Palos, Spain, embarking on a westward voyage and intending to establish a new trade route from Spain to the Far East. With three ships and a crew of approximately 100 men, he journeyed across the Atlantic Ocean. Instead of finding a new route to the Indies, Columbus discovered the Bahama Islands. Today, more than five centuries later, Americans continue to celebrate Columbus' bold expedition and recognize his pioneering achievements as an enduring symbol of imagination, courage, and perseverance.

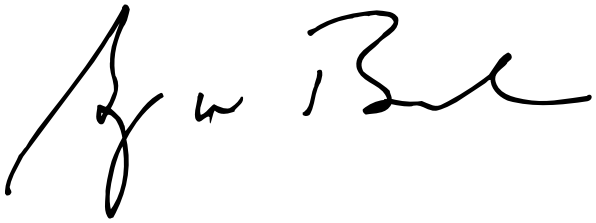
Columbus brought European settlers to North America and helped establish a new era of world exploration during his four journeys to the ''New World.'' In the years following his voyage of discovery, others such as John Cabot, Vasco da Gama, and Ferdinand Magellan followed Columbus' example to explore and discover new lands, peoples, and cultures.

Today, Columbus' spirit of innovation and discovery flourishes in America as we seek to advance knowledge and ensure prosperity and hope for all people. We challenge our young men and women particularly to reach for all their dreams as the great explorers of the past did.

In commemoration of Columbus' remarkable journey 510 years ago, the Congress, by joint resolution of April 30, 1934, and modified in 1968 (36 U.S.C. 107), as amended, has requested that the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 14, 2002, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, 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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LIST OF PUBLIC LAWS

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1–299	(869–048–00068–2)	59.00	Apr. 1, 2002
300–End	(869–048–00069–1)	43.00	Apr. 1, 2002
23	(869–048–00070–4)	40.00	Apr. 1, 2002
24 Parts:			
0–199	(869–048–00071–2)	57.00	Apr. 1, 2002
200–499	(869–048–00072–1)	47.00	Apr. 1, 2002
500–699	(869–048–00073–9)	29.00	Apr. 1, 2002
700–1699	(869–048–00074–7)	58.00	Apr. 1, 2002
1700–End	(869–048–00075–5)	29.00	Apr. 1, 2002
25	(869–048–00076–3)	68.00	Apr. 1, 2002
26 Parts:			
§§ 1.0-1–1.60	(869–048–00077–1)	45.00	Apr. 1, 2002
§§ 1.61–1.169	(869–048–00078–0)	58.00	Apr. 1, 2002
§§ 1.170–1.300	(869–048–00079–8)	55.00	Apr. 1, 2002
§§ 1.301–1.400	(869–048–00080–1)	44.00	Apr. 1, 2002
§§ 1.401–1.440	(869–048–00081–0)	60.00	Apr. 1, 2002
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501–1.640	(869–048–00083–6)	44.00	[7] Apr. 1, 2002
§§ 1.641–1.850	(869–048–00084–4)	57.00	Apr. 1, 2002
§§ 1.851–1.907	(869–048–00085–2)	57.00	Apr. 1, 2002
§§ 1.908–1.1000	(869–048–00086–1)	56.00	Apr. 1, 2002
§§ 1.1001–1.1400	(869–048–00087–9)	58.00	Apr. 1, 2002
§§ 1.1401–End	(869–048–00088–7)	61.00	Apr. 1, 2002
2–29	(869–048–00089–5)	57.00	Apr. 1, 2002
30–39	(869–048–00090–9)	39.00	Apr. 1, 2002
40–49	(869–048–00091–7)	26.00	Apr. 1, 2002
50–299	(869–048–00092–5)	38.00	Apr. 1, 2002
300–499	(869–048–00093–3)	57.00	Apr. 1, 2002
500–599	(869–048–00094–1)	12.00	[5] Apr. 1, 2002
600–End	(869–048–00095–0)	16.00	Apr. 1, 2002
27 Parts:			
1–199	(869–048–00096–8)	61.00	Apr. 1, 2002

Title	Stock Number	Price	Revision Date
200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–048–00098–4)	58.00	July 1, 2002
43-end	(869-048-00099-2)	55.00	July 1, 2002
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–048–00101–8)	21.00	July 1, 2002
500–899	(869–048–00102–6)	58.00	July 1, 2002
900–1899	(869–048–00103–4)	35.00	July 1, 2002
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–048–00107–7)	47.00	July 1, 2002
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
*1–199	(869–048–00109–3)	56.00	July 1, 2002
200–699	(869–044–00110–1)	45.00	July 1, 2001
*700–End	(869–048–00111–5)	56.00	July 1, 2002
31 Parts:			
0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
*1–190	(869–048–00114–0)	56.00	July 1, 2002
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–048–00116–6)	47.00	July 1, 2002
630–699	(869–048–00117–4)	37.00	July 1, 2002
*700–799	(869–048–00118–2)	44.00	July 1, 2002
*800–End	(869–048–00119–1)	46.00	July 1, 2002
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
*200–End	(869–048–00122–1)	47.00	July 1, 2002
34 Parts:			
*1–299	(869–048–00123–9)	45.00	July 1, 2002
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–048–00125–5)	59.00	July 1, 2002
35	(869–048–00126–3)	10.00	[6]July 1, 2002
36 Parts			
1–199	(869–048–00127–1)	36.00	July 1, 2002
200–299	(869–048–00128–0)	35.00	July 1, 2002
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
*18–End	(869–048–00132–8)	58.00	July 1, 2002
39	(869–044–00133–1)	40.00	July 1, 2002
40 Parts:			
1–49	(869–048–00134–4)	57.00	July 1, 2002
*50–51	(869–048–00135–2)	40.00	July 1, 2002
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–048–00138–7)	29.00	July 1, 2002
60 (60.1–End)	(869–048–00139–5)	56.00	July 1, 2002
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–048–00141–7)	38.00	July 1, 2002
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
*81–85	(869–048–00147–6)	47.00	July 1, 2002
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–048–00151–4)	42.00	July 1, 2002
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–044–00157–8)	41.00	July 1, 2001
*400–424	(869–048–00158–1)	54.00	July 1, 2002
425–699	(869–044–00159–4)	55.00	July 1, 2001
*700–789	(869–048–00160–3)	58.00	July 1, 2002
*790–End	(869–048–00161–1)	45.00	July 1, 2002
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–048–00163–8)	43.00	July 1, 2002
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–044–00203–5)	21.00	Oct. 1, 2001
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–0)	59.00	Jan. 1, 2002
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		290.00	2000
Complete set (one-time mailing)		247.00	1999

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2001, through April 1, 2002. The CFR volume issued as of April 1, 2001 should be retained.