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Federal Register

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH13

List of Approved Spent Fuel Storage Casks: FuelSolutions™ Cask System Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the BNFL Fuel Solutions (FuelSolutions™) cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to Certificate of Compliance Number 1026. Amendment No. 3 will modify the Technical Specifications. The current Technical Specifications require that if the W–21 canister is required to be removed from its storage cask, then the canister must be returned to the spent fuel building. The modified Technical Specifications will provide an alternative to returning the canister to the spent fuel building by returning it to the transfer cask. Specifically, Technical Specifications 3.3.2 and 3.3.3 propose returning the W–21 canister to the transfer cask while restoring normal storage conditions. The amendment also includes several editorial changes to Technical Specifications 3.1.1, 3.3.2, and 3.3.3.

DATES: The final rule is effective May 7, 2003, unless significant adverse comments are received by March 24, 2003. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* You may also provide comments via this Web site by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@nrc.gov.*

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report can be found under ADAMS Accession No. ML023310579. 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, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

CoC No. 1026, the revised Technical Specifications (TS), the underlying Safety Evaluation Report (SER) for Amendment No. 3, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, e-mail *jmm2@nrc.gov,* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72, entitled ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on January 16, 2001 (66 FR 3444), that approved the FuelSolutions™ cask design and added it to the list of NRC-approved cask designs in § 72.214 as CoC No. 1026.

Discussion

On May 28, 2002, and as supplemented October 3, 2002, the certificate holder, BNFL Fuel Solutions, submitted an application to the NRC to

amend CoC No. 1026 to change the W–21 canister Technical Specifications (TS) and bases to provide an alternative to returning the canister to the spent fuel building by returning it to the transfer cask. Specifically, TS 3.3.2 and TS 3.3.3 propose returning the W–21 canister to the transfer cask while restoring normal storage conditions. The amendment also includes several editorial changes to TS 3.1.1, TS 3.3.2, and TS 3.3.3. No other changes to the FuelSolutions™ cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there is still reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the FuelSolutions™ cask design listing in § 72.214 by adding Amendment No. 3 to CoC No. 1026. The amendment consists of changes to the TS to provide an alternative to returning the W–21 canister to the spent fuel building by returning it to the transfer casks. The amendment also includes several editorial changes. The particular Technical Specifications that are changed are identified in the NRC staff's SER for Amendment No. 3.

The amended FuelSolutions™ cask system, when used under the conditions specified in the CoC, the Technical Specifications, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

Section 72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1026 is revised by adding the effective date of Amendment Number 3.

Procedural Background

This rule is limited to the changes contained in Amendment 3 to CoC No. 1026 and does not include other aspects of the FuelSolutions™ cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on May 7, 2003. However, if the NRC receives significant adverse comments by March 24, 2003, then the NRC will publish a document that withdraws this action and will address the comments, received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**, in a subsequent rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would revise the FuelSolutions™ cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA) or the provisions of the title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the FuelSolutions™ cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Amendment No. 3 will modify the present cask system design to change the W–21 canister Technical Specifications (TS) and bases to provide an alternative to returning the canister to the spent fuel building by returning it to the transfer cask. Specifically, TS 3.3.2 and TS 3.3.3 propose returning the W–21 canister to the transfer cask while restoring normal storage conditions. The amendment also includes several editorial changes to TS 3.1.1, TS 3.3.2, and TS 3.3.3.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On January 16, 2001 (66 FR 3444), the NRC issued an amendment to part 72 that approved the FuelSolutions™ cask design by adding it to the list of NRC-approved cask designs in § 72.214. On May 28, 2002, and as supplemented October 3, 2002, the certificate holder, BNFL Fuel Solutions Corporation, submitted an application to the NRC to modify the Technical Specifications (TS). The current TS require that if the W–21 canister is required to be removed from its storage cask, then the canister must be returned to the spent fuel building. The modified TS will provide an alternative to returning the canister to the spent fuel building by returning it to the transfer cask. Specifically, TS 3.3.2 and TS 3.3.3 propose returning the W–21 canister to the transfer cask while restoring normal storage conditions. The amendment also includes several editorial changes to TS 3.1.1, TS 3.3.2, and TS 3.3.3.

The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and BNFL Fuel Solutions Corporation. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1026 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1026.

Initial Certificate Effective Date: February 15, 2001.

Amendment Number 1 Effective Date: May 14, 2001.

Amendment Number 2 Effective Date: January 28, 2002.

Amendment Number 3 Effective Date: May 7, 2003.

SAR Submitted by: BNFL Fuel Solutions Corporation.

SAR Title: Final Safety Analysis Report for the FuelSolutions™ Spent Fuel Management System.

Docket Number: 72–1026.

Certification Expiration Date: February 15, 2021.

Model Number: WSNF–220, WSNF–221, and WSNF–223 systems; W–150 storage cask; W–100 transfer cask; and the W–21 and W–74 canisters.

* * * * *

Dated in Rockville, Maryland, this 7th day of January, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–4107 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') is amending the Appliance Labeling Rule (''Rule'') to require clothes washer manufacturers to submit their annual energy data for clothes washers on October 1 rather than March 1 as currently required. This change will make FTC's reporting date consistent with that of the Canadian energy labeling program.

EFFECTIVE DATE: February 21, 2003.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202–326–2889); *hnewsome@ftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Appliance Labeling Rule in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers, among other things, eight categories of major household appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, furnaces, and central air conditioners.

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the Department of Energy (''DOE'') test procedures) at the point of sale in the form of an ''EnergyGuide'' label and in catalogs. The Rule requires manufacturers to include, on labels, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models similar to the labeled model.

The Rule requires manufacturers, after filing an initial report, to report annually the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. 16 CFR 305.8(b). Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. Under Section 305.10 of the Rule, to keep the required information on labels consistent with these changes, the Commission publishes new ranges (but not more often than annually) if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission publishes a statement that the prior ranges remain in effect for the next year.

II. Changes to Reporting Date for Clothes Washers

In a February 7, 2003 letter to Commission staff, the Association of Home Appliance Manufacturers (AHAM) requested that the Commission amend the reporting date for clothes washer data from March 1 to October 1 of each year. This change will ensure that FTC's submission deadline is consistent with the Canadian reporting period for clothes washers. The Canadian program, administered by Natural Resources Canada, provides manufacturers with a three month period to submit data, which usually begins sometime in September of each year. This amendment will allow manufacturers to compile and submit their annual reports to both agencies in the same time period.

For this year, the change in reporting date will also allow manufacturers to provide the FTC with new energy information based on the most recent DOE test procedure for these products. A new DOE test procedure for clothes washers (see 10 CFR Part 430, Subpt. B, App. J1) and a new energy standard for clothes washers will become effective on January 1, 2004.[2] For any particular model, the application of the new test procedure is likely to produce energy consumption figures different from those yielded by the existing DOE test. The current ranges of comparability for clothes washers are based on data for models that have been tested under the current DOE test. AHAM has indicated that it plans to submit data in October 2003 for clothes washers that comply with the 2004 standard and have been tested under the new procedure. This will allow the Commission to review this data and, if appropriate, publish new ranges that reflect new 2004 compliant models tested under the new procedure. Clothes washer labels printed in early 2004 would then provide energy consumption figures and ranges of comparability that reflect the new procedure. By publishing the new ranges as early as possible, the Commission hopes to reduce any confusion that may result from the transition from the old test procedure to the new one.

In its February 7, 2003 letter, AHAM also requested that the Commission allow its members to use the new test results for EnergyGuide labels printed before January 1, 2004. AHAM also proposed clarifying changes to the clothes washer label. The Commission will address these additional issues separately.

III. Non-Substantive Change to Dishwasher Reporting Date

The Commission is also amending the language in the Rule in §§ 305.8(b) and 305.10(a) to eliminate obsolete language related to the publication of ranges and the submission of data for dishwashers in 2002 (see 67 FR 35008 (May 17, 2002)).

IV. Administrative Procedure Act

The amendments published in this notice involve minor, procedural changes to the submission date for data already required by the Rule. These technical amendments merely alter the dates on which compliance is required and do not affect the requirements of the Rule nor do the amendments alter the frequency with which regulated entities must comply with these requirements. Accordingly, the Commission finds for good cause that public comment and a 30-day effective date for these technical, procedural amendments are unnecessary (5 U.S.C. 553(b)(A)(B) and (d)).

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

[2] *See* 62 FR 45484 (August 27, 1997) and 66 FR 3314 (January 12, 2001).

V. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. The amendments merely alter the dates on which compliance is required and do not affect the requirements of the rule nor do the amendments alter the frequency with which regulated entities must comply with these requirements. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

In a 1988 notice (53 FR 22113), the Commission stated that the Rule contains disclosure and reporting requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act.[3] The Commission noted that the Rule had been reviewed and approved in 1984 by the Office of Management and Budget (''OMB'') and assigned OMB Control No. 3084–0068. OMB has again reviewed the Rule and extended its approval for its recordkeeping and reporting requirements until September 30, 2004. The amendments now being adopted do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In § 305.8, paragraph (b) is revised to read as follows:

§ 305.8 Submission of data

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1
Refrigerator-freezers	Aug. 1
Freezers	Aug. 1
Central air conditioners	July 1
Heat pumps	July 1
Dishwashers	June 1
Water heaters	May 1
Room air conditioners	May 1
Furnaces	May 1
Pool heaters	May 1
Clothes washers	Oct. 1
Fluorescent lamp ballasts	Mar. 1
Showerheads	Mar. 1
Faucets	Mar. 1
Water closets	Mar. 1
Urinals	Mar. 1
Fluorescent lamps	Mar. 1 [Stayed]
Medium Base Compact Fluorescent Lamps	Mar. 1 [Stayed]
Incandescent Lamps, incl. Reflector Lamps	Mar. 1 [Stayed]

(2) All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report period.

3. In § 305.10, paragraph (a) is revised to read as follows:

§ 305.10 Ranges of estimated annual energy consumption and energy efficiency ratings.

(a) The range of estimated annual energy consumption or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets or urinals) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges annually in the **Federal Register**, if appropriate, or a statement that the specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy consumption or energy efficiency ratings of the products within the range change in a way that would alter the upper or lower estimated annual energy consumption or energy efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised range. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–4079 Filed 2–20–03; 8:45 am]

BILLING CODE 6750–01–P

[3] 44 U.S.C. 3501–3520.

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

[DFARS Case 2002–D001]

Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests

AGENCY: Department of Defense (DOD).

ACTION: Interim rule with request for comments.

SUMMARY: DOD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 1008 of the National Defense Authorization Act for Fiscal Year 2001. Section 1008 requires contractors to submit, and DOD to process, payment requests in electronic form.

DATES: *Effective date:* March 1, 2003.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before April 22, 2003.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2002–D001 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2002–D001.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule adds a new DFARS subpart and a contract clause to implement section 1008 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). The rule—

- Requires contractors to submit electronically, and DOD to process electronically, requests for payment under DOD contracts;
- Requires DOD to transmit any supporting documentation electronically within DOD;
- Identifies three acceptable electronic forms for transmission of payment requests; and
- Identifies six specific situations where using electronic payment methods is unduly burdensome.

DOD published a proposed DFARS rule in the **Federal Register** on May 31, 2002 (67 FR 38057). Seventeen respondents submitted comments on the rule. Based on an analysis of these comments, DOD has made substantive changes to the rule, and, therefore, has published an interim rule with another request for comments. The main difference between the proposed and interim rules is that one of the six exemption categories has changed. In the proposed rule, at DFARS 232.7002(a)(6), an exemption applied to cases where the Secretary of Defense determines that the requirement for using electronic means is unduly burdensome. In the interim rule, the exemption has been revised to apply in those cases where the contractor is unable to submit, or DOD is unable to receive, a payment request in electronic form, and the contracting officer, the payment office, and the contractor mutually agree to an alternative method. This revised exemption provides contracting officers the flexibility to work solutions to unique payment situations to ensure that contractors are paid on time for work they have performed. In addition, the interim rule revises the clause at DFARS 252.246–7000, Material Inspection and Receiving Report, to state that contractor submission of material inspection and receiving information by using the Wide Area WorkFlow-Receipt and Acceptance (WAWF–RA) electronic form fulfills the requirement for a material inspection and receiving report (DD Form 250).

A discussion of the comments on the proposed rule is provided below.

1. *Comment:* Completely support the rule as it will reduce administrative cost, time, and effort, and will further speed payment to the contractor. *DOD Response:* Concur.

2. *Comment:* Does the requirement to submit payment requests in electronic form apply to contracts without solicitations? *DOD Response:* Yes. ''Solicitation'' means any request to submit offers or quotations to the government, and, therefore, would cover the great majority of procurements. As indicated at DFARS 201.304(6), ''The Director of Defense Procurement and Acquisition Policy publishes changes to the DFARS in the **Federal Register** and electronically via the World Wide Web. Each change includes an effective date. Unless guidance accompanying a change states otherwise, contracting officers must include any new or revised clauses, provisions, or forms in solicitations issued on or after the effective date of the change.'' If no solicitation is issued, the rule applies to contracts issued after the effective date.

3. *Comment:* Recommend clarification in DFARS 232.7004 that the contract clause is only to be used in solicitations and contracts resulting from solicitations first issued after October 1, 2002. *DOD Response:* Do not concur. The normal practice is to cite the effective date in the **DATES** section of the **Federal Register** notice, and not in the regulations. This eliminates the need to revise the regulations later to remove obsolete dates. The effective date for this interim rule is March 1, 2003, to allow payment systems to complete the latest upgrades and provide military departments and defense agencies sufficient time to finalize implementation plans with contractors.

4. *Comment:* There are many problems with the WAWF–RA software application, such as—

a. The current version of WAWF–RA does not process Foreign Military Sales (FMS);

b. If a mistake is made when processing the electronic DD Form 250 (Material Inspection and Receiving Report), the program will not allow changes and the submitter has to initiate a completely new DD Form 250. If a change has to be made after the DD Form 250 is accepted, the payment request must be processed manually; and

c. Construction contracts should be exempt, because the percentage of completion progress payments under construction contracts require so much paperwork, and because the contracting officer needs to approve the invoice and make sure the progress payments are correct.

DOD Response: The WAWF–RA software is an evolving application and will mature over time. Various software modules/versions are currently in development that will process additional types of invoices in the future, such as FMS, construction contracts, and discounts. For example, the FMS module will be added to the WAWF–RA system in the spring of 2003. It is noted that, until such time as WAWF–RA processes the above mentioned types of invoices, the contracting officer may authorize a contractor to submit a payment request in other than electronic form (see DFARS 232.7002(a)(6)).

5. *Comment:* The respondent inquired about using WAWF–RA for a contract with the Defense Contract Management Agency (DCMA), but was advised that

WAWF–RA was still being tested. *DOD Response:* The various versions of WAWF–RA go through a number of tests before deployment. For example, WAWF–RA, Version 3.0, currently is being tested, with full deployment anticipated in the spring of 2003. The respondent needs to contact DCMA again for further guidance.

6. *Comment:* DOD has not yet put into place fully functional electronic commerce systems that interface with all DOD payment systems for all invoice types. For example, the WAWF–RA system will not currently accept the electronic submission of the following invoice types: performance-based payments, commercial financing requests, invoices containing withholds, corrected invoices, credit invoices, and classified invoices. *DOD Response:* Classified invoices are exempt from the electronic submission requirement in accordance with DFARS 232.7002(a)(3). The other types of invoices and financing requests will be addressed in a future version of WAWF–RA.

7. *Comment:* The benefits of DOD's successful ''Direct Submittal'' initiative needs to be retained. If invoices must be routed through WAWF–RA rather than directly to the payment systems, WAWF–RA functionally should enable ''Direct Submittal'' approved contracts to route automatically through to the payment office without any DCMA or Defense Contract Audit Agency (DCAA) manual intervention. To facilitate the electronic payment of invoice requests, government payment practices should be evaluated, and DCMA, DCAA, and the Defense Finance and Accounting Service (DFAS) should issue clear guidance to eliminate, wherever possible, invoice backup documentation and administrative contracting officer (ACO) approvals. *DOD Response:* Submission of invoices under ''Direct Submittal'' approved contracts will be addressed in a future WAWF–RA version, which is currently being tested.

8. *Comment:* The WAWF–RA system has a major problem, namely, it only allows for 1 MG of attachments. *DOD Response:* WAWF–RA is being modified to accept attachments up to 5 MG.

9. *Comment:* The respondent tried in the past to sign up for Web invoicing, but could not use the application because of a restriction on its use if the DD Form 250 (Material Inspection and Receiving Report) had to be signed by an ACO. Is the restriction still in effect, or is there another form of transmission that can accommodate a signed DD Form 250? *DOD Response:* DFARS 252.246–7000, Material Inspection and Receiving Report, has been revised to state that using WAWF–RA to submit material inspection and receiving information fulfills the requirement for a DD Form 250. WAWF–RA will support ACOs electronically signing material inspection and receiving information when they are accepting supplies or services or when they are approving service invoices.

10. *Comment:* There is a conflict between the proposed DFARS coverage and the existing DFARS concerning the use of DD Form 250, which can be used as a receiving report and/or invoice. Suggest that the language in existing DFARS 246.370 or DFARS Appendix F, Material Inspection and Receiving Report, be revised to conform to the objectives of the WAWF–RA program. *DOD Response:* Concur. Each delivery of supplies or services (except deliveries under Fast Payment Procedures—FAR subpart 13.4) requires evidence of acceptance, which is normally documented by a DD Form 250. Prior to implementation of this rule, DFARS 252.246–7000 required the contractor to prepare and submit the DD Form 250 by following the instructions in DFARS Appendix F. The conflict arose because the DFARS required contractors to submit a paper copy of DD Form 250, whereas the proposed DFARS rule required contractors to submit payment requests, including material inspection and receiving reports, in electronic form. To eliminate the conflict, the rule has been revised at DFARS 252.246–7000 to state that contractor submission of material inspection and receiving information by using the WAWF–RA electronic form fulfills the requirement for a material inspection and receiving report.

11. *Comment:* Exclude DD Form 250 from initial coverage under DFARS 232.7002(b). It will be more cost-effective at the outset to allocate scarce resources to comply first with the statutory requirement for electronic submission of *invoices* and then focus on developing an electronic solution for processing the DD Form 250 receiving reports and other supporting documentation. *DOD Response:* Section 1008(a) Public Law 106–398, as implemented by DFARS 232.7002(b), directs DOD officials to process payment requests and ''any additional documentation necessary to support the determination and payment'' of the payment requests (*e.g.*, material inspection and receiving information) electronically. The legislation does not permit exclusion of the information on the DD Form 250 from the electronic processing requirement, unless the contractor is not required to submit the payment request electronically.

12. *Comment:* October 1, 2002, is premature for implementation of this requirement:

a. Recommend that DOD not require electronic payment in solicitations until after June 30, 2003; this will give more time for the process to mature and for problems to be worked out.

b. The proposed implementation date of October 1, 2002, is not possible for several reasons, including that the WAWF–RA system is not sufficiently programmed to accept all contract invoices, and training will take time.

c. To avoid a huge influx of vendors on October 1, 2002, new solicitations over $100,000 should be implemented on October 1, 2002, and solicitations under $100,000 should be phased in over the next year.

d. For the past several years, the respondent's company has been in the process of converting to another electronic system, which will go live in the first quarter of 2003. The company intends to wait to switch to the government electronic data interchange (EDI) electronic invoicing system until it transitions to its new system.

e. Not all of DFAS Columbus Commercial Pay Services' entitlement systems will be capable of receiving and processing invoices and receiving reports electronically by the October 2002 implementation date.

f. DFAS Columbus systems will not be able to accommodate the variety of supporting documentation currently required to be submitted with invoices, *e.g.*, the 591 Report on contracts issued by the Defense Reutilization and Marketing Service, and non-standard supporting documentation required for Public Vouchers (SF 1034).

g. Is the date of June 30, 2001, referred to in the **Federal Register** Background **SUPPLEMENTARY INFORMATION** correct, or should it be June 30, 2002?

DOD Response: The original applicability date for compliance with the electronic invoicing legislative requirement was June 30, 2001; however, the legislation also permitted DOD to delay implementation of section 1008 to no later than October 1, 2002. Accordingly, DOD published a notice in the **Federal Register** (66 FR 43841) on August 21, 2001, which announced a delay in implementation until October 1, 2002. Because DOD's automated payment systems were limited to certain types of payment requests, DOD was unable to meet the October 1, 2002, statutory implementation date. By March 1, 2003, the systems will be capable of processing nearly 100 percent of payment requests. For those systems that are not ready, the interim rule provides the contracting officer the

flexibility to work solutions to unique payment situations to ensure that contractors are paid on time for work they have performed.

13. *Comment:* Recommend that DOD establish reasonable and flexible grace periods to enable contractors to convert from paper invoices to electronic submissions as either new DOD payment systems or invoice types are incorporated into the WAWF–RA or other electronic systems. This flexibility should also specifically include permitting a contractor to use only one payment request system for all of its covered contracts. *DOD Response:* Partially concur. Use of an electronic form other than one of the forms listed at DFARS 232.7003(a) was already permitted by DFARS 232.7003(b)(1) of the proposed rule (now DFARS 232.7003(b)). The DFARS language does not prohibit the contractor from using one payment request system for all of its covered contracts. However, DOD has revised the rule at DFARS 252.232–7003(c) to permit, *either before or after contract award*, the contractor (with the agreement of the contracting officer and the payment office) to use a nonelectronic method in certain circumstances.

14. *Comment:* There has not been any word about WAWF–RA in several years. *DOD Response:* Information on DOD's WAWF–RA is readily available from numerous sources on the Internet, including: *http://www.wawftraining.com/* for online WAWF training; *https://rmb.ogden.disa.mil* for general information on WAWF or to register; *www.dcma.mil* (click on Electronic Invoicing) for DCMA; *www.dfas.mil/ecedi* for DFAS; *www.disa.mil* and *wawf-ra@ncr.disa.mil* for the Defense Information Systems Agency; and *www.peoards.navy.mil* (click on Initiatives, WAWF) for the Department of the Navy.

15. *Comment:* Training information and other assistance should be made available, particularly to small businesses, to assist in complying with the interim DFARS rule. It would also be beneficial for DOD to schedule public meetings to discuss important implementation actions required of both DOD activities and contractors. *DOD Response:* Information and training are readily available for contractors and DOD personnel via the Internet addresses identified in DOD Response to Comment #14. Computer-based training is also available on compact disk. DOD military departments and defense agencies also may provide supplemental training.

16. *Comment:* Field activities are not provided additional manning to implement electronic invoicing. Learning to use WAWF–RA is very time consuming, but easy to use after you learn how to use it. There are insufficient travel funds to train vendors in remote Alaskan locations. *DOD Response:* Refer to DOD responses to Comments #14 and #15.

17. *Comment:* Many small businesses will be unable to submit invoices electronically on their own. There is concern about small business contractors that are not on line yet. Some small businesses do not own a computer, and the rule may deter them from doing business with the government. The government's new e-payment requirement may alienate many small businesses. There will be a great deal of difficulty for DOD contractors, particularly small businesses, to comply with the rule. *DOD Response:* DOD invited small businesses to submit comments on the proposed DFARS rule; however, none were received. There is no indication from small business concerns that they will be unable to comply with the rule. In addition, the interim rule removes the higher-level waiver request provision of the proposed rule. The new paragraph (a)(6) of DFARS 232.7002 provides authority for the contracting officer to permit the contractor to submit a payment request using an alternative method, if the contracting officer, the payment office, and the contractor mutually agree.

18. *Comment:* Recommend including a definition of ''unduly burdensome'' and to whom it applies (contractor or payment office). *DOD Response:* The interim rule removed the term ''unduly burdensome.'' Therefore, a definition is unnecessary.

19. *Comment:* DOD should acknowledge the implementation challenges and address enforcement accordingly. Initially, broad waiver polices should be issued, including requiring clear documentation as part of the contract file without the need for higher-level approvals. *DOD Response:* DOD agrees that higher-level approval of waiver requests is unnecessary. Accordingly, as indicated in DOD Response to Comment #17, the interim rule has been revised to provide authority to the contracting officer.

20. *Comment:* The following types of low volume invoices should be specifically enumerated in DFARS 232.7002(a)(6) (regarding SECDEF waiver if unduly burdensome): alternate liquidation rate billing adjustments, short payment refund requests, retroactive contract price change billings, etc. *DOD Response:* It is inappropriate to waive low volume type invoices, *e.g.*, short payment refund requests, retroactive contract price change billings, etc. (Alternate liquidation rate billing adjustments are not invoices but adjustments to prior billings.) Although current systems may not be able to accommodate electronic processing of them, it is anticipated that future editions of WAWF–RA, Web Invoicing System (WInS), or American National Standards Institute (ANSI) X.12 EDI formats will. If the government is unable to receive such payment requests in electronic form, DFARS 252.232–7003(c) permits the contractor, with the agreement of the contracting officer and the payment office, to use another method.

21. *Comment:* Recommend adding public voucher billings (SF 1034) for cost-reimbursement and time-and-materials contracts to the list of types of payment requests that the contractor must submit in electronic form. *DOD Response:* DFARS 252.232–7003(a)(3) defines payment requests as including both contract financing payments and invoice payments. DFARS 252.232–7003(a)(1) states that contract financing payments and invoice payments have the meanings given in FAR 32.001. Since public vouchers are a type of invoice payment, no change is needed to the rule.

22. *Comment:* Recommend adding a new paragraph (c) to DFARS 232.7002 to make it clear that, while submissions using electronic forms are required, the contracting officer and the contractor may authorize any individual payment request (or group of payment requests) otherwise required to use electronic forms to be submitted using other than electronic forms without constituting a violation of paragraph (b) or paragraph (d) of the 252.232–7003 contract clause. *DOD Response:* DOD agrees that the contracting officer should have discretion on whether to authorize the use of a method other than electronic form. However, rather than adding a new paragraph (c), the interim rule revises the exception at DFARS 232.7002(a)(6) to permit the contractor to submit the payment request in other than electronic form with the agreement of the contracting officer and the payment office.

23. *Comment:* Recommend adding to DFARS 232.7003(b), a description of an acceptable type of concurrence between the payment and contract administration offices, for example, MOU/MOA, or verbal. *DOD Response:* DOD believes it is preferable to provide sufficient flexibility to permit the parties (contracting officer, payment

office, and contract administration office) to use any method of documentation that the parties deem appropriate.

24. *Comment:* Recommend adding a new paragraph (7) to DFARS 232.7002(a) to exempt from the inclusion of the clause those situations where the contracting officer knows in advance of the release of the solicitation that, by the time of contract award, contractors will be unable to submit, or the Government will be unable to receive, payment requests using any of the electronic forms, or that there are invoice types for which no cost-effective electronic solution is available. In addition, recommend including a provision (identical to 252.232–7003(b)(4)) to DFARS 232.7003(a) that permits the contracting officer to authorize the use of another electronic form. This authority is particularly critical during the solicitation stage of a procurement. If used, the contracting officer must disclose in the appropriate place in the solicitation the alternatives to the electronic forms designated under 252.232–7003(b)(1) through (b)(3). Paragraph 232.7003(b) is insufficient because it only operates after contract award. *DOD Response:* DOD agrees that it is inappropriate to restrict the contracting officer's exemption authority to only those situations that occur after contract award, and that the exemption authority should apply to both solicitations (pre-award) and contracts (post-award). Accordingly, the interim rule has removed the phrase ''after contract award,'' and provides the contracting officer the authority, either pre-award or post-award, to permit the contractor to use—

a. An electronic form other than one of the forms listed at DFARS 232.7003(a) (*see* DFARS 232.7003(b) and 252.232–7003(b)(4)); or

b. A nonelectronic method (*see* DFARS 232.7002(a)(6) and 252.232–7003(c)).

25. *Comment:* Recommend substituting the word ''Government'' for the word ''DOD'' in DFARS 232.7003(b)(2) to be more accurate in assessing capabilities and to be consistent with the use of the phrase in paragraph (c) of 252.232–7003. *DOD Response:* For consistency and because the DFARS only applies to DOD, the term ''Government'' has been changed to ''DOD'' in paragraph (c) of 252.232–7003.

26. *Comment:* Recommend adding ''as designated by the contracting officer'' at the end of the first sentence of 252.232–7003(b), because the contracting officer needs to designate the acceptable format for various reasons, such as standardization at a command, and not all current forms are processed by WAWF–RA and WInS. *DOD Response:* DFARS 232.7003(a) identifies three acceptable electronic forms for the transmission of payment requests, namely, WAWF–RA, WInS, and the ANSI X.12 EDI formats. DOD believes that utilization of these standardized systems will result in more timely and efficient submission and processing of invoices, and will also facilitate timely and accurate payment. However, the proposed and the interim rules do authorize the contracting officer to permit another electronic format (*e.g.*, a locally developed electronic format) if the payment office and the contract administration office concur (*see* DFARS 232.7003(b)).

27. *Comment:* Is there a need to include the agreement of the payment office (as in DFARS 232.7003(b)) in 252.232–7003(c) in order to permit the contractor to use another method of submission of payment requests? In contrast, one respondent recommends adding ''and concurred with by the payment office'' at the end of DFARS 252.232–7003(b)(4), and another recommends adding ''and the payment office'' at the end of DFARS 252.232–7003(c). *DOD Response:* Although the contracting officer does have to obtain agreement from the DOD payment office prior to authorizing the contractor to submit a payment request using a different electronic form, this action need not be stipulated in the contract clause at DFARS 252.232–7003. Provisions contained in the contract clause apply to the parties of the contract, namely, the contractor and the contracting officer. Internal DOD procedures need only be included in the text at DFARS subpart 232.70.

28. *Comment:* Recommend adding to DFARS 232.7003(b)(1) a description of electronic forms *other* than those listed. Need clarification of the description of ''electronic form'' in DFARS 252.232–7003(a)(2). Interpretation of the current wording could lead to the submission of faxed, e-mailed, or scanned documents that are not automatically uploaded into the respective entitlement system. These forms may not have the necessary internal controls associated with receiving these forms. *DOD Response:* The acceptable electronic forms for transmission are WAWF–RA, WInS, and ANSI X.12 EDI formats, as identified in DFARS 232.7003(a) and DFARS 252.232–7003(b). It is not practicable to attempt to list all *other* acceptable electronic forms of transmission that the contracting office may authorize. However, DOD agrees that faxed, e-mail, and scanned documents are *not* considered acceptable electronic means of submission. Therefore, the interim rule revises the definition of ''electronic form'' at DFARS 252.232–7003(a)(2) by adding the following new sentence: ''Facsimile, e-mail, and scanned documents are not acceptable electronic forms.''

29. *Comment:* Recommend inserting the phrase ''except as provided in 232.7002(a)'' at the end of the sentence in DFARS 252.232–7003(a)(3) (*i.e.*, definition of payment request) to recognize that, even though the basic contract payment requests are subject to the standard requirements for using electronic formats, there may be certain specific transactions permitted under the contract where electronic payments would not be feasible or desirable. *DOD Response:* Paragraph (a)(3) of DFARS 252.232–7003 simply defines ''payment request.'' Since it does not address the electronic submission requirement, it would be inappropriate to include a reference to the exceptions in this definition.

30. *Comment:* The respondent is receiving modifications where line items have been established for incremental funding with inspection and acceptance requirements and delivery dates cited. There will not be anything delivered for this funding CLIN. The rule should specify that this type of CLIN should not be established as it impedes the closeout process, and reflects CLINs in the database that will never be satisfied and show up as delinquent line items. *DOD Response:* The comment is outside the scope of this case.

31. *Comment:* Some large businesses indicate that there will be costs for the government to pay for them to switch their method of invoicing. *DOD Response:* The costs to implement a revised method of invoicing is considered a normal cost of doing business and is usually recovered by the contractor as an indirect expense allocable to all contracts. DOD believes that the costs to implement electronic invoicing will be outweighed by the benefits received, such as reduced administrative cost, time, and effort; less payment errors; and more timely payments to contractors.

32. *Comment:* Recommend the use of a program called DESTRAP, which was developed by a local company to process Quality Deficient Reports Form 202. The government owns the rights to this program and it could be modified to use DD Form 250. *DOD Response:* Paragraph (b)(4) of DFARS 252.232–7003 permits the contracting officer to authorize the use of another electronic form.

33. *Comment:* Recommend adding the commercial item financing, FAR clauses 52.232–29 through 52.232–31, to the table in the **Federal Register**. *DOD Response:* The table in the **Federal Register** (67 FR 38057) listed five FAR clauses, currently approved by OMB, that require contractors to collect information in order to provide nonelectronic payment requests. DOD has added the commercial item financing FAR clauses at FAR 52.232–29, Terms for Financing of Purchases of Commercial Items, and FAR 52.232–30, Installment Payments for Commercial Items, to the table since these clauses include the requirement for the contractor to submit payment requests. FAR 52.232–31, Invitation to Propose Financing Terms, invites the offeror to *propose* terms under which the government will make performance-based contract financing payments during contract performance, but does not include the actual requirement for the contractor to submit payment requests, *i.e.*, performance-based financing payments. Therefore, FAR 52.232–31 has not been added to the table in paragraph C. (Paperwork Reduction Act) of the **Federal Register** notice.

34. *Comment:* Concerned that—

(a) DFAS cannot consistently process government purchase card electronic certifications for payment. How will they be consistent with contractors/vendors?

(b) DFAS's current system for receipt of RPR's, invoices, contracts (if not available through the standard procurement system-I) is not consistent; information must be sent multiple times before action/payment is made;

(c) 99 percent of payments made by the respondent's office utilize the government purchase card (an exception). Interest payments have been made to Citibank because of DFAS errors, loss of documents, etc.

DOD Response: The respondent's concerns apply to the government's internal operating procedures, not the proposed DFARS rule, and therefore are outside the scope of this case. However, results from the use of WAWF–RA so far indicate that its use substantially reduces interest payments. For example, DCMA has processed invoices valued at over $700 million using WAWF–RA, with less than $100 in interest penalties.

35. *Comment:* Prompt Payment Act implications regarding invoice receipt dates and the electronic return of improper invoices are not addressed. *DOD Response:* The provisions of the Prompt Payment Act apply to payment requests processed electronically. The Prompt Payment Act is addressed in FAR subpart 32.9 and DFARS subpart 232.9; therefore, it need not be addressed in this DFARS rule.

36. *Comment:* Recommend that DOD describe the interface(s) it will use to accommodate existing contractor systems and quickly publish a detailed implementation schedule for each invoice type, electronic solution, and DOD payment office. *DOD Response:* It is inappropriate to describe electronic interfaces in DFARS; the issue is beyond the scope of the subject case. The respondent's concern will be forwarded to the WAWF–RA Program Office for appropriate action.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DOD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because any start-up costs that contractors will incur to comply with the rule are expected to be minimal, and should be offset by the reduced administrative costs that are expected to result from the electronic submission and processing of invoices. In addition, the rule provides for an exemption to the requirement for electronic submission in cases where the contractor is unable to submit a payment request in electronic form. Therefore, DOD has not performed an initial regulatory flexibility analysis. DOD invites comments from small businesses and other interested parties. DOD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002–D001.

C. Paperwork Reduction Act

The rule does not impose any additional information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* The information collection requirements for contractors to provide nonelectronic payment requests already have been approved by OMB as indicated below.

FAR clause number	Clause title	OMB control number	Expiration date
52.216–7	Allowable Cost and Payment	9000–0069	Dec. 31, 2005
52.232–7	Payments Under Time-and-Materials and Labor-Hour Contracts	9000–0070	July 31, 2005
52.232–12	Advance Payments	9000–0073	July 31, 2005
52.232–16	Progress Payments	9000–0010	Sept. 30, 2005
52.232–29	Terms for Financing of Purchases of Commercial Items	9000–0138	Sept. 30, 2004
52.232–30	Installment Payments for Commercial Items	9000–0138	Sept. 30, 2004
52.232–32	Performance-Based Payments	9000–0138	Sept. 30, 2004

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This action is necessary to implement section 1008 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398), which requires contractors to submit, and DOD to process, payment requests in electronic form. The statutory date for implementation of the electronic invoicing requirement was October 1, 2002. However, because DOD's automated payment systems were limited to certain types of payment requests, DOD was unable to meet the October 1, 2002, implementation date. By March 1, 2003, DOD's automated systems will be capable of processing nearly 100 percent of payment requests. Comments received in response to the publication of this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 232—CONTRACT FINANCING

2. Subpart 232.70 is added to read as follows:

Subpart 232.70—Electronic Submission and Processing of Payment Requests

Sec.
232.7000 Scope of subpart.
232.7001 Definitions.
232.7002 Policy.
232.7003 Procedures.
232.7004 Contract clause.

232.7000 Scope of subpart.

This subpart prescribes policies and procedures for submitting and processing payment requests in electronic form to comply with 10 U.S.C. 2227.

232.7001 Definitions.

Electronic form and *payment request,* as used in this subpart, are defined in the clause at 252.232–7003, Electronic Submission of Payment Requests.

232.7002 Policy.

(a) Contractors shall submit payment requests in electronic form, except for—

(1) Purchases paid for with a Governmentwide commercial purchase card;

(2) Awards made to foreign vendors for work performed outside the United States;

(3) Classified contracts or purchases (see FAR 4.401) when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(4) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(7), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies;

(5) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2; and

(6) Cases where—

(i) The contractor is unable to submit, or DOD is unable to receive, a payment request in electronic form; and

(ii) The contracting officer, the payment office, and the contractor mutually agree to an alternative method.

(b) DOD officials receiving payment requests in electronic form shall process the payment requests in electronic form. Any supporting documentation necessary for payment, such as receiving reports, contracts, contract modifications, and required certifications, also shall be processed in electronic form.

232.7003 Procedures.

(a) The accepted electronic forms for transmission are—

(1) Wide Area WorkFlow-Receipt and Acceptance (*see* Web site —*https://rmb.ogden.disa.mil);*

(2) Web Invoicing System (*see* Web site—*https://ecweb.dfas.mil);* and

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats (*see* Web site—*http://www.X12.org* for information on EDI formats; *see* Web site—*http://www.dfas.mil/ecedi* for EDI implementation guides).

(b) If the payment office and the contract administration office concur, the contracting officer may authorize a contractor to submit a payment request using an electronic form other than those listed in paragraph (a) of this section.

232.7004 Contract clause.

Except as provided in 232.7002(a), use the clause at 252.232–7003, Electronic Submission of Payment Requests, in solicitations and contracts.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

3. Section 252.212–7001 is amended as follows:

a. By revising the clause date to read ''(MAR 2003)''; and

b. In paragraph (b) by adding, in numerical order, the entry ''____ 252.232–7003 Electronic Submission of Payment Requests (MAR 2003) (10 U.S.C. 2227).''.

4. Section 252.232–7003 is added to read as follows:

252.232–7003 Electronic Submission of Payment Requests.

As prescribed in 232.7004, use the following clause:

Electronic Submission of Payment Requests (MAR 2003)

(a) *Definitions.* As used in this clause—

(1) *Contract financing payment* and *invoice payment* have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) *Electronic form* means any automated system that transmits information electronically from the initiating system to all affected systems. Facsmile, e-mail, and scanned documents are not acceptable electronic forms.

(3) *Payment request* means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests using one of the following electronic forms:

(1) Wide Area WorkFlow-Receipt and Acceptance (WAWF–RA). Information regarding WAWF–RA is available on the Internet at *https://rmb.ogden.disa.mil.*

(2) Web Invoicing System (WInS). Information regarding WInS is available on the Internet at *https://ecweb.dfas.mil.*

(3) American National Standards Institute (ANSI) X.12 electronic data interchange (EDI) formats.

(i) Information regarding EDI formats is available on the Internet at *http://www.X12.org.*

(ii) EDI implementation guides are available on the Internet at *http://www.dfas.mil/ecedi.*

(4) Another electronic form authorized by the Contracting Officer.

(c) If the Contractor is unable to submit a payment request in electronic form, or DoD is unable to receive a payment request in electronic form, the Contractor shall submit the payment request using a method mutually agreed to by the Contractor, the Contracting Officer, and the payment office.

(d) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payments requests.

(End of clause)

5. Section 252.246–7000 is revised to read as follows:

252.246–7000 Material Inspection and Receiving Report.

As prescribed in 246.370, use the following clause:

Material Inspection and Receiving Report (MAR 2003)

(a) At the time of each delivery of supplies or services under this contract, the Contractor shall prepare and furnish to the Government a material inspection and receiving report in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense FAR Supplement.

(b) Contractor submission of the material inspection and receiving information required by Appendix F of the Defense FAR Supplement by using the Wide Area WorkFlow-Receipt and Acceptance (WAWF–RA) electronic form (see paragraph (b)(1) of

the clause at 252.232–7003) fulfills the requirement for a material inspection and receiving report (DD Form 250).

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222, 223 and 224

[Docket No. 000320077–2302–03; I.D. 062501B]

RIN 0648–AN62

Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

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

ACTION: Final rule.

SUMMARY: NMFS is amending the turtle excluder device (TED) regulations to enhance their effectiveness in reducing sea turtle mortality resulting from trawling in the southeastern United States. NMFS has determined that: some current approved TED designs do not adequately exclude leatherback turtles and large, immature and sexually mature loggerhead and green turtles; several approved TED designs are structurally weak and do not function properly under normal fishing conditions; and modifications to the trynet and bait shrimp exemptions to the TED requirements are necessary to decrease lethal take of sea turtles. These amendments are necessary to protect endangered and threatened sea turtles in the Atlantic Area (all waters of the Atlantic Ocean south of the North Carolina/Virginia border and adjacent seas, other than the Gulf Area, and all waters shoreward thereof) and Gulf Area (all waters of the Gulf of Mexico west of 81o W. long. and all waters shoreward thereof).

DATES: This final rule will take effect April 15, 2003, however it is not applicable in the Gulf Area until August 21, 2003.

ADDRESSES: Copies of: Epperly, S. P. and W.G. Teas. 2002. Turtle excluder devices - Are the escape openings large enough? Fish. Bull. 100:466–474, can be obtained through the following Web site: *http://fishbull.noaa.gov/fcontent.htm*, or can be requested, along with copies of an Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis, from the Protected Resources Division, Southeast Regional Office, 9721 Executive Center Drive, North, Suite 102 St. Petersburg, FL, 33702.

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

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of sea turtles as a result of trawling activities have been documented in the Gulf of Mexico and along the Atlantic Ocean seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206 and 50 CFR 224.104. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic Area, Gulf Area, and summer flounder sea turtle protection area, all as defined in 50 CFR 222.102) to have a NMFS-approved TED installed in each net that is rigged for fishing to provide for the escape of sea turtles. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, two types of special hard TEDs (the flounder TED and the Jones TED), and one type of soft TED (the Parker soft TED).

The TEDs incorporate an escape opening, usually covered by a webbing flap, that allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be at least 97 percent effective in excluding sea turtles during experimental TED testing (50 CFR 223.207(e)). The TED must meet generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape. In the Atlantic Area, these requirements are currently ≥35 inches (≥89 cm) in width and ≥12 inches (gteqt;30 cm) in height. In the Gulf Area, the requirements are ≥32 inches (81 cm) in width and ≥10 inches (≥25 cm) in height (these measurements are taken simultaneously).

The use of TEDs has contributed to population increases documented for Kemp's ridley turtles. Kemp's ridleys are the smallest sea turtle species, and adults can easily pass through the current TED opening dimensions. Once the most critically endangered sea turtle, Kemp's ridley nesting levels have increased from 700–800 per year in the mid–1980's to over 6,000 nests in 2000. Since 1990, corresponding with the more widespread use of TEDs in U.S. waters, the total annual mortality of Kemp's ridley turtles has been reduced by 44–50 percent (TEWG, 2000). NMFS believes that the use of TEDs has had a significant beneficial impact on the survival and recovery of sea turtle species.

NMFS is concerned that TEDs are not adequately protecting all species and size classes of turtles. There is new information showing that 33–47 percent of stranded loggerheads and 1–7 percent of stranded green turtles are too large to fit through the current TED openings. Comprehensive scientific data on the body depths of these turtles were not available when the original TED sizes were specified. The original TED sizes were also much too small to allow leatherback sea turtles the largest species to escape. Instead, NMFS has attempted to address the incidental catch of leatherbacks through a regime of reactive closures that has proven ineffective. There is also concern about the status of loggerhead and leatherback turtle populations: the northern nesting population of loggerheads appears to be stable or declining (TEWG, 2000) and nesting of leatherbacks is declining on several main nesting beaches in the western North Atlantic (NMFS SEFSC, 2001).

NMFS completed a biological opinion (Opinion) in December 2002, on Shrimp Trawling in the Southeastern United States, under the Sea Turtle Conservation Regulations and as managed by the Fishery Management Plans for Shrimp in the South Atlantic and Gulf of Mexico. Based on information in a NOAA technical memorandum completed in November 2002, (NOAA Technical Memorandum NMFS-SEFSC–490) the Opinion estimated that 62,000 loggerhead turtles and 2,300 leatherback turtles are killed as a result of an interaction with a shrimp trawl. Information in this Opinion also indicate that up to 75 percent of the loggerhead turtles in the Gulf of Mexico and about 2.5 percent of

the loggerheads in the Atlantic that encounter a shrimp trawl are too large to escape the current minimum openings. The implementation of this rule, however, is expected to allow all size classes of loggerhead and leatherback turtles to escape. The Opinion estimated that implementation of this rule will decrease shrimp trawl related mortality by 94 percent for loggerheads and 96 percent for leatherbacks.

To protect large green, loggerhead and leatherback turtles NMFS proposed modifying the TED regulations to ensure that TEDs are capable of releasing these large turtles (66 FR 17852, April 5, 2000; 66 FR 50148, October 2, 2001). The proposed changes would have been applicable in all inshore and offshore waters of the Southeast United States as follows: (1) Require all hard TEDs to have a grid with a minimum inside measurement of 32 inch (81 cm) by 32 inch (81 cm); (2) require the use of either the double cover flap TED, a TED with a minimum opening of 71–inch (180–cm) straight-line stretched mesh, or the Parker soft TED with a 96- inch (244–cm) opening; (3) disallow the use of the hooped hard TED; (4) disallow the use of weedless TEDs and the Jones TED; (5) disallow the use of accelerator funnels; (6) require bait shrimpers to use TEDs in states where a state-issued bait shrimp license holder can also fish for food shrimp from the same vessel; and (7) require the use of tow times on small try nets.

Public Comments

The measures in this final rule are based, in part, on comments received on the Advanced Notice of Proposed Rule Making (ANPR) (65 FR 17852, April 5, 2000), the proposed rule (66 FR 50148, October 2, 2001) and eight public hearings held throughout the southeastern United States. NMFS received 23 comments as a result of the ANPR and 8,273 comments as a result of the proposed rule and public hearings; of the 8,273 responses, 7,714 were letters from the public which were similar in content. NMFS reviewed all of the comments received. Where appropriate, comments are grouped according to general subject matter, and references are made only to some groups or individuals, and not to all groups or individuals who may have made similar comments.

Comment 1: Some fishermen believe that the economic analysis that NMFS completed for the proposed rule is flawed in the following ways: (1) The cost to retrofit TEDs is far too low; (2) the 20 percent profit margin used is too high; (3) the cumulative loss of shrimp as a result of the proposed changes in addition to existing requirements is not considered; (4) an analysis of possible shrimp loss due to the prohibition of accelerator funnels is lacking; (5) the analysis of the economic impact to small businesses is inadequate; (6) the percentage of shrimp loss is too low and should be 15 to 20 percent; (7) information on gear replacement frequency is inaccurate; and (8) the economic analysis does not consider the effects the rule will have on fishermen in combination with depressed shrimp prices.

Response: NMFS has completed a Final Regulatory Flexibility Analysis (FRFA) and Regulatory Impact Review (RIR), in conjunction with an environmental assessment, on this final rule's effects in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and Executive Order (E.O.) 12866. This EA/RIR/FRFA analyzes this final rule's effects on the shrimp fishery in combination with past TED and Bycatch Reduction Devices (BRD) rules. It also analyzes this final rule's effects on the shrimp fishery in light of current shrimp price information as well as the best available information from existing databases on profit margins, gear costs, and the durability of and cost to replace equipment. The average replacement cost for a leatherback TED was assumed to be $220, 4 TEDS were assumed necessary for small vessels and 8–10 TEDs for large vessels, and the average useful life of a TED was assumed to be 3 years. In the assessment of the proposed rule NOAA Fisheries assumed a 1–year life span for the equipment and used a cost of $45 dollars for replacement. Because the equipment was only expected to last 1 year NOAA Fisheries felt that replacement costs would be low because the fishermen would have to replace the gear anyway so the only actual cost increase would be from the difference in cost of a leatherback TED verses the current TEDs. The assumption of a 20–percent profit margin was eliminated and, instead, vessel profits were internally calculated based on expected revenues and variable costs. Shrimp loss under current regulations as well as the proposed regulations was considered and discussed in the analysis. Estimates of shrimp loss under different TED requirements were derived from test data and provided by the NMFS Southeast Fisheries Science Center (SEFSC). Testing methods are described in the responses to comments 11 and 12 of this section. The tests used currently authorized TEDs which include the use of accelerator funnels.

To incorporate the effects of the depressed shrimp prices, 2001 prices were utilized throughout the assessment. The results of the analysis indicate that, under status quo conditions including depressed shrimp prices, while profits (defined as average revenue minus average variable costs) per vessel in the Southeast shrimp trawl fishery, are expected to increase over the next 5 years, this will be accomplished due to contraction of the fishery in terms of total effort, which is expected to decline by approximately 5.4 percent. The effort contraction is comprised of growth in the small vessel fleet, coupled with reductions in the large vessel fleet. Since large vessels are more costly to operate, the resultant physical profile of the fleet is, on average, smaller with lower variable costs. The net effect is that shrimp landings per vessel increase, while variable costs per vessel decline, resulting in an increase in profits, as defined, per vessel. Revenues remain, however, on the average, insufficient to cover both operating and fixed costs. The net impact of the proposed rule is not expected to significantly adversely affect this outcome, with the change in average profits per vessel ranging from a gain of 0.5 percent to a loss of 2.4 percent from the status quo.

Comment 2: Some fishermen believe that the shrimp fishery is bearing the majority of the burden for the recovery of sea turtles. They feel the government should help them out by implementing such things as: (1) a TED buy-back program; (2) tax incentives for using TEDs; and (3) price controls and subsidies on shrimp, similar to what corn, soybean, and wheat farmers receive. Fishermen also believe that the government should provide better enforcement of Public Law 101–162 section 609(b). *Response:* Only Congress can authorize programs such as equipment buy-backs, tax incentives, and price controls and subsidies.

Public Law 101–162 section 609(b) prohibits the importation of shrimp harvested with fishing technology that may adversely affect such species of sea turtles. Under section 609, shrimp may be imported from a harvesting nation for which the U.S. government has certified that the nation has demonstrated that its regulatory program governing the incidental taking of sea turtles is comparable to that of the United States. The Court of Appeals for the Federal Circuit recently upheld the government's interpretation of section 609 allowing import of shrimp from countries that are not certified if the exporter and an official of the harvesting nation attest that the individual

shipment of shrimp was harvested under conditions that do not adversely affect sea turtles. *Turtle Island Restoration Network* v. *Evans*, 284 F.3d 1282 (Fed. Cir. March 21, 2002).

NMFS has been actively engaged with the Department of State (DOS) in enforcing section 609 of Public Law 101–162, since it was enacted in 1990. Nations with shrimp fisheries in the Atlantic, Pacific and Indian Oceans, the Caribbean Sea, and the Gulf of Mexico have faced trade restrictions on their commercially harvested shrimp exports to the United States. In most cases, these embargoes remained in place until the national government implemented a sea turtle protection program comparable in effectiveness to that of the United States. Embargoes on wild caught shrimp from nations with ineffective enforcement regimes have also been enacted. NMFS and DOS visit participating countries regularly to observe the performance of the foreign TED programs and ensure that certifications made pursuant to section 609 are based on the best information available. DOS has determined that section 609's embargo provision only applies to wild-harvested shrimp and not to aquacultured shrimp which make up the majority of U. S. imports.

Comment 3: Some fishermen commented that the larger TEDs could not be pulled by boats with small trawls and that large turtles would be unable to pass through the neck of the trawl to reach the grid. Also, a 71–inch (180–cm) opening installed in a small trawl will not properly support the TED. The TED would become wobbly, lose its angle, and may rip away from the trawl.

Response: During their June 2002, TED testing trip to Panama City, FL, NMFS gear technicians tested the 71–inch (180- cm) opening in a small trawl and found that it could be effectively used in a trawl with a 120–mesh extension. The gear technicians used a model leatherback turtle to determine if it could move through the trawl neck and reach the grid. The model turtle is an aluminum pipe frame that is made to resemble a leatherback turtle that is 40 inches wide (102 cm) by 21 inches deep (53 cm). These dimensions are based on the average measurements taken of 15 nesting leatherback turtles. The gear technicians were able to pass the model through the trawl with a 120 mesh extension to the grid and out the 71 inch (180 cm) opening. NMFS believes that the use of a 71 inch (180 cm) TED or the double cover flap TED in a small trawl will be effective for large turtle release and fishing efficiency.

Gear technicians also tested the use of a 140–mesh extension in a small trawl. The trawl's performance was not altered by the use of the larger extension. The larger extension also made the installation of the large TED easier and the extra webbing made for a stronger installation and allowed the TED to maintain its angle better. The model leatherback also passed through the trawl to the grid and out the opening more easily than it did through the trawl with the 120 mesh extension. NMFS believes that fishermen who use small trawls may want to use a 140 mesh extension with the new, larger TED to provide better fishing and turtle release performance.

Comment 4: Some fishermen and the Georgia Department of Natural Resources (GA DNR) believe that the grid size should be 32 inches (81 cm) measured from the outside of the TED frame, not the inside. This is the grid size many fishermen use.

Response: NMFS is requiring a minimum grid size of 32 inches (81 cm) by 32 inches (81 cm) outside measurement, rather than the inside measurement originally proposed. TEDs of this size can be used effectively with the larger escape opening dimensions. This change may eliminate gear replacement costs for many fishermen.

Comment 5: The GA DNR believes that the dimensions of the cuts for the new opening should be the same dimensions as those for the current leatherback TED, not the dimensions that were proposed. GA DNR reports that only 9 out of 61 captains who use the current leatherback TED claim that the TED loses shape faster than the 35 inch (89 cm) by 12 inch (30 cm) TED. They also suggest that to reduce stress in the trawl, the grid should be oval with dimensions of at least 31 inches (79 cm) by 42 inches (107 cm).

Response: NMFS disagrees that the dimensions of the new opening should be those currently required for the leatherback opening. However, NMFS agrees that the dimensions should be altered from the opening specified in the proposed rule. Based on further information from fishermen who use the current leatherback TED and additional testing of the new opening, the cuts for the new 71–inch (181–cm) TED will be as follows: Two 26 inch (66 cm) cuts forward of the TED frame and one 71–inch (181- cm) cut across the top of the opening. NOAA gear technicians tested the 71–inch (181–cm) TED with three different cuts, to determine which cut would be most capable of releasing a leatherback turtle. This testing was conducted by using the model leatherback described in the response to comment 3. The model leatherback passed through the 71–inch (181–cm) TED with an opening made with a 71–inch (181–cm) by 26–inch (66–cm) cut more easily than it did through the 71–inch TED with an opening made with a 71–inch (181 cm) by 20–inch (51–cm) cut; however, there was little to no difference between an opening made with a 71- inch (181–cm) by 26–inch (66–cm) cut and an opening made with an 83–inch (211–cm) by 26–inch (66–cm) cut (the dimensions of the current leatherback TED). NMFS believes that the 71–inch (181- cm) by 26–inch (66–cm) cut results in a stronger TED than the 83- inch (211–cm) by 26–inch (66–cm) cut because the former cut takes out less webbing.

Although an oval grid with measurements of 31 inches (79 cm) by 42 inches (107 cm) may work well with the new opening sizes, NMFS believes that other size and shaped grids will also work well. Allowing different grid sizes and shapes will allow fishermen greater flexibility in customizing their gear to help meet the demands of the different areas in which they fish.

Comment 6: Net makers, fishermen, and various state agencies are concerned with the elimination of gear that works well in their areas such as the Coulon TED, weedless TED, and accelerator funnels. Fishermen believe that the new TED requirements will minimize options to choose gear that will optimize shrimp catch while still protecting turtles.

Response: NMFS agrees and is allowing the weedless TED, hooped hard TED (of which the Coulon TED is one type), and accelerator funnels to be used in certain areas and with certain conditions. These areas and conditions are described in detail in the codified language below, and are only briefly described here. Hooped hard TEDs, of which the Coulon TED is a variety, can be modified to release large loggerhead turtles but cannot be modified to release leatherback turtles; therefore, NMFS believes that this TED, with the modifications to release large loggerheads, can be used in those inshore areas where leatherbacks are uncommon. The weedless TED can be strengthened through the use of a brace bar which will reinforce the grid bars to keep them from bending toward the back of the TED. This will eliminate the problem which caused NMFS to propose banning the weedless TED. Recent testing by gear technicians has shown that accelerator funnels with increased dimensions to allow the escape of large loggerhead and leatherback turtles can work effectively.

Comment 7: Louisiana fishermen encounter a large number of objects and debris that force open the TED flap

causing shrimp loss. They claim that contrary to NMFS statements that larger openings will allow debris to escape, the shrimp losses will be compounded with the larger opening as water pressure forces these items to stay against the grid and the same water pressure opens the flap.

Response: The experiences of fishermen on the east coast who have used the leatherback TED extensively indicate that if this TED is properly maintained it will expel debris better than TEDs with smaller openings. NMFS realizes that fishing conditions in the Atlantic may differ from the Gulf; however, NMFS believes that there is a greater chance of debris blocking the grid and holding open the flap in TEDs with smaller openings which may result in greater shrimp loss. Larger openings would prevent the debris from accummulating in front of the TED thereby allowing the flap to close.

Comment 8: Environmental organizations state that the proposed rule allows the use of the Parker soft TED which should be eliminated as an approved TED. They claim soft TEDs stretch over time and are less effective than hard grid TEDs in excluding turtles.

Response: NMFS looked at many aspects of the Parker soft TED's performance over a 30–month period in both the Gulf of Mexico and the Atlantic Ocean. Observer data show a favorable comparison between the efficiency of the Parker TED and approved hard TEDs. Information from NOAA enforcement indicates that the Parker TED is used more in the Atlantic than in the Gulf, but even in the Atlantic the use is low (<50 boats). NOAA enforcement has found that the compliance rate is good on the boats that do use the Parker TED. NMFS' gear specialists provided training to net shop owners, net manufacturers, and fishermen in the proper installation and use of the Parker TED. For these reasons, NMFS believes that this TED can be used effectively to protect turtles. However, as with all TEDs, maintenance is important. For example, netting can stretch over time which can cause a Parker soft TED to lose its shape. Similar maintenance (e.g. to maintain TED angle) is also required for hard TEDs.

Comment 9: Fishing organizations believe the Andrews-style soft TED should be re-certified for use as an approved TED.

Response: NMFS disapproved the use of the Andrews soft TED (61 FR 66933, December 19, 1996) after extensive testing demonstrated that this TED did not exclude turtles effectively. Modifications to the Andrews soft TED were tested by NMFS with direction from an industry-led TED testing advisory panel in 1996, 1997, and 1998. Most design versions of this TED did not pass the small turtle protocol with the exception of two designs tested in 1998. Following the 1997 tests, members of the industry-led soft TED advisory panel evaluated shrimp retention with the modified Andrews TED aboard a commercial shrimp trawler. The panel reported that the modified Andrews TED had an estimated shrimp loss of 20 percent when compared to a hard TED. The TED testing review committee (which is made up of representatives from the shrimp industry, environmental groups and NMFS) recommended that before pursuing final certification of the designs tested in 1998, industry should test these designs for shrimp retention. To NMFS' knowledge, these designs have not been tested for shrimp retention by industry.

Comment 10: Fishermen, environmental organizations, and state agencies believe that the double cover flap TED needs further testing to determine its ability to exclude sea turtles.

Response: Results from NMFS' testing indicate the double cover flap TED design was effective at excluding the model leatherback described in the response to comment 3. During TED testing in 2000, 2001, and 2002, a total of 71 loggerhead turtles (captive-reared 2- and 3–year olds) were exposed to the double cover flap TED under test protocols (5 minute exposure). Of the 71 turtles, 69 escaped and 2 were captured which equates to a 97 percent escape success rate. The model leatherback was sent through the double cover flap a total of 10 times, 5 times in a bottom opening version and 5 times in a top opening version. The test was performed by a diver swimming through the trawl with the model and pushing it through the TED opening. During this test, the diver was able to push the model through either opening with ease. When the model was inverted (simulating the dorsal surface of the turtle being against the TED frame) the diver was still able to push the model through the opening with ease. During offshore testing of the double cover flap TED, aboard the R/V GEORGIA BULLDOG in May 2002, a total of 7 wild turtles were videotaped escaping (all turtles were hard shell turtles and appeared to be loggerheads). The time it took for turtles to escape, once encountering the TED, ranged from 12 seconds to 1 minute and 11 seconds. Based on estimation of carapace length, NMFS believes that both adult and sub-adult turtles were represented in the sample.

Comment 11: Some shrimp fishermen believe that the shrimp loss data gathered by NMFS on the double cover flap TED are flawed in many respects, including: (1) the tests were not conducted in areas representative of where they fish; (2) sample sizes were too small to be statistically valid; (3) the tests were done outside the shrimping season with low catch rates and low loads in the bag end. Higher loads would cause more water to back up and force open the flap and cause additional shrimp loss.

Response: Since publication of the proposed rule, NMFS conducted further testing of the double cover flap TED. From January through August, 2002, the double cover flap TED has been tested against current commercially available TEDs for shrimp loss aboard 12 commercial shrimp trawlers in the Gulf Area, and one trawler in the Atlantic Area. In the Gulf Area, 7 vessels fished in inshore and near shore areas (2 in Texas, 2 in Louisiana, 1 in Mississippi, 1 in Alabama and 1 in Florida). Offshore testing was conducted along the northeast coast of Florida by one vessel, the pink shrimp grounds of southwest Florida by two vessels, Louisiana by two vessels and Texas by one vessel. In order to obtain statistically valid data, a minimum of 20 comparative tows were conducted during each trip. Testing has included the shrimp season openings in Texas, Louisiana, and Mississippi. A total of 305 comparative tows were conducted. The double cover flap TED experienced a 0.1 percent shrimp gain when compared to current commercially available TEDs, which is not statistically different from zero.

Excessive shrimp loss due to back washing and large catch loads were not experienced during the tests to date. Additionally, several vessel captains have remarked that the double cover flap appears to work better in excluding debris such as sticks, grass, and jellyfish.

Comment 12: Fishermen were concerned about missing data on shrimp loss estimates used in the proposed rule. They allege the NMFS report on shrimp loss data did not contain information from 58 tows comparing shrimp loss between the modfication and standard TEDs and that the lack of providing data from all observed tows may reflect selective reporting. They also believe the report lacked information on trawl sizes used during the tests and the size of the shrimp that were caught.

Response: The data set in question resulted from testing conducted in 2000.

That data set did not include unsuccessful tows. Unsuccessful tows are those that include problems which would bias the data in a manner unrelated to the TED, i.e., fouled tickler chain, torn nets, and catches dumped together. As a result, data gathered from such tows can not be used to make a judgment on the functioning of the TED. The 58 tows referenced in this comment had one or more of these problems and were therefore not included in the data set. However, all tows are recorded by the observer and any problems are noted. These records are archived and are available upon request.

Shrimp size is not always recorded by the observer. The database may provide shrimp size for selected trips and can be queried upon request. Trawl sizes varied depending on the captain of the vessel; however, during comparative tows, the size and type of each trawl used during a tow were the same for the control TED and the experimental TED.

Comment 13: Various state agencies and fishermen indicate that large turtles are not found in their state waters. Since 1968, three turtles were recorded caught in shrimp trawl nets during independent fishery trawl surveys conducted in state waters by Alabama, Mississippi, Louisiana and Texas.

Response: NMFS does not agree that the lack of sea turtle captures in state waters during fishery independent sampling represents an absence of sea turtles. Stranding information, observed captures, and survey data indicate that large loggerhead and leatherback turtles can be found in Alabama, Mississippi, Louisiana, and Texas state waters.

The fishery independent sampling that is the subject of these comments is conducted mostly with small trawls of 16 ft. (5 m) or less (although a small percentage were conducted with 40- ft. (12–m) trawls), with short tow times (10 to 15 minutes) which reduce the probability that the trawls would catch sea turtles. The purpose of these sampling programs is generally to record target catch and finfish bycatch and, therefore, are not necessarily representative of shrimp fishing effort and/or areas fished. However, NMFS did consider this information and researched the possibility of allowing the use of smaller TED sizes in all Gulf state waters. Based on the information below, leatherbacks occur in all offshore waters which warrants the use of a TED capable of releasing them.

Strandings in inshore waters likely are underestimated due to the difficulty in surveying areas that generally are marshlands or do not have sandy beaches. For the same reasons, offshore strandings on much of the coastline of Louisiana are underestimated.

The greatest proportion of loggerheads stranding that are too large to fit through current TED openings is in the Gulf Area, where the current minimum height opening is 10 inches (25 cm) (compared to 12 inches (31 cm) in the Atlantic Area). In the western Gulf of Mexico, an annual average of 63 percent of stranded loggerheads offshore and 48 percent of stranded loggerheads inshore were larger than the dimensions of the current minimum TED opening. In the eastern Gulf of Mexico, the values are 89 percent offshore and 80 percent inshore. The proportions are less in the Atlantic Area: 27 percent offshore and 17 percent inshore, but because the number of turtles stranding in the Atlantic Area is higher, the actual number of animals too large to fit through the openings is comparable to the number of strandings that are too large in the Gulf Area. Based on 1995–99 data, each year approximately 250 loggerheads that are too large to fit through existing TED openings strand in each area; approximately 13 percent of these occur in inshore waters. Based on strandings, reported incidental captures, NMFS Beaufort project, Cooperative Marine Turtle Tagging, N.C. public sightings, observer data (Gulf and South Atlantic Fisheries Development Foundation and NMFS), aerial surveys (SETS, Pascagoula Oil Platform Association data, GOM red drum surveys of 1987, 1995, and 1999, NEFSC 1995 and 1998 surveys, CETAP, SEAS92 and SECAS95, MATS95, GulfCet I, GulfCet II, and GoMex surveys), and telemetry tracks, loggerheads are distributed ubiquitously in the Southeast United States, generally occurring in all areas, inshore and offshore, and at all times when shrimp trawling activity is likely to occur.

Leatherback turtles are distributed throughout the Southeast United States, but are not as abundant as loggerheads. Leatherbacks are predominantly found in offshore waters but infrequently enter inshore waters. In the Gulf Area, 8 percent of leatherbacks stranding were found on inshore beaches and in the Atlantic Area 11 percent were reported from inshore waters. The actual number of turtles stranding in inshore waters, however, is small: seven in the Gulf Area from 1995–1999 and 21 in the Atlantic Area for the same time period, for an average of six leatherback turtles stranding annually in southeast inshore waters. Based on the same information used for loggerhead turtles above, leatherbacks occur offshore during all seasons when shrimp trawling activity is expected to occur. The number of strandings on offshore beaches is significantly more than in inshore waters: the average is 56 animals per year in the Atlantic and Gulf Areas offshore beaches combined.

This information is discussed in greater detail in Appendix A of the environmental assessment prepared for this final rule, which can be obtained from NMFS (see **ADDRESSES**).

Comment 14: Fishermen believe that better abundance and distribution data on sea turtles are needed, and that NMFS should identify an acceptable level of strandings. They have observed more turtles today than ever before and anticipate an increase in interactions.

Response: NMFS agrees that increases in stranding levels may be related to increases in certain turtle populations, but the populations of particular concern for this final rule -leatherbacks and northern subpopulation loggerheads- are not increasing. In addition, there are many other factors that could cause strandings to increase including a change in fishing practices. NMFS is unable to identify a stranding level that would trigger an adjustment to management measures. In their 1998 report to NMFS, the Turtle Expert Working Group (TEWG) analyzed existing data on the population status and trends of the loggerhead and Kemp's ridley turtles. The TEWG concluded that an estimation, derived from stranding data, of the maximum number of individual loggerheads or Kemp's ridleys that can be taken incidentally to commercial fishing could not be made. The TEWG determined that strandings were an underestimate of nearshore mortality and were inadequate for determining the population's actual status. Recovery goals for the Atlantic populations are identified in the joint NMFS and U.S. Fish and Wildlife ESA Recovery Plans completed in the early 1990s (see **ADDRESSES** for copies or visit *http://www.nmfs.noaa.gov/endangered.htm*). NMFS agrees that data on abundance and distribution can be improved. NMFS is currently supporting in-water population studies in Florida and North Carolina. NMFS also conducted a pilot aerial survey for loggerhead and leatherback turtles in the coastal waters of the Mid-Atlantic in July 2000, to investigate whether line transect methodology can be used to produce precise estimates of marine turtle abundance. NMFS intends to revise the existing recovery plans in the near future. These revisions will likely include additional research recommendations to improve our understanding of turtle abundance and distribution.

Comment 15: Fishermen are concerned that data are lacking on the causal relationship between strandings and shrimp fishing. For example, in May of 2000, 22 turtles stranded along the South Carolina coast while the shrimp fishery was operating. Yet in May 2001, 21 turtles stranded along that coast in the absence of shrimp fishing. They stated that recreational fishers and boaters, habitat loss, and pollution are all sources of strandings.

Response: NMFS agrees there are many causes that contribute to strandings. Causes include, but are not limited to, diseases, boat strikes, ingestion of marine debris, dredging, power plant entrainment, and incidental capture in fisheries. The cause of death can only be determined in a limited number of cases such as when gear is associated with the carcass. However, there are other sources of data that provide substantial evidence to indicate that shrimp trawling is the main contributing factor to sea turtle mortality (Magnuson *et al.*, 1990; Caillouet *et al.*, 1991, 1996; Crowder *et al.*, 1995; TEWG, 2000). In 1989, a Committee on Sea Turtle Conservation was formed under the auspices of the National Research Council (NRC). The charge to NRC was to review the scientific and technical information pertaining to the conservation of sea turtles and the causes and significance of turtle mortality. The NRC found that, ''Of all known factors, by far the most important source of death was the incidental capture of turtles (especially loggerheads and Kemp's ridleys) in shrimp trawling.'' The NRC report is based on numerous data sources including shrimping effort correlations with stranding levels, independent trawl surveys, and tags returned from turtles that were incidentally captured in shrimp trawl nets. In addition to the NRC report, NMFS' observers have documented incidental capture of sea turtles in shrimp trawl nets throughout the southeastern Atlantic Ocean and Gulf of Mexico. The NMFS Shrimp Trawl Observer Program observed 2,833 sea days between January 2000 and May 2002. During this time NMFS observers documented the incidental capture of 49 sea turtles. These turtles were captured in various locations (4 were captured in the offshore waters of Texas, 5 in the offshore waters of Alabama, 1 in the nearshore waters (state waters) of Alabama, 5 in the nearshore waters of South Carolina, 1 in the offshore waters of Louisiana, 2 in the nearshore waters of Louisiana, 2 in the nearshore waters of Mississippi, 4 in the offshore waters of eastern Florida, 14 in the nearshore waters of western Florida, and 10 in the offshore waters of western Florida).

The November 2000 TEWG report cites studies that show that the use of TEDs has significantly reduced strandings over the period 1980–1997 by an estimated 40 percent in South Carolina and 58 percent in Georgia, relative to strandings estimates without TEDs. The TEWG also indicates that a significant TED effect on strandings is detectable through the time series analysis of biweekly data, in spite of the increasing trend in annual strandings. Recent work in Georgia that takes shrimp landings into account show strandings per unit of shrimp catch were reduced 37 percent with the use of TEDs.

Comment 16: Some environmental groups and state agencies commented that data collected from key nesting beaches in the Atlantic Ocean indicate that the leatherback turtle nesting population may be declining. Globally, leatherbacks are experiencing a severe decline. They also state that the northern nesting population of loggerhead turtles has declined and the portion of the northern nesting population that nests in South Carolina has decreased by as much as 47 percent in the past 20 years. Therefore, they allege that large TEDs are essential to ensure the recovery of these species. Large TEDs allow large juvenile and sexually mature loggerheads and green turtles, as well as leatherback turtles to escape and decrease escape times for all turtles thereby making TEDs more effective.

Response: NMFS is requiring larger openings of TEDs as described in the Summary of the Final Rule and the Provisions and Justification of the Final Rule section of this notice.

Comment 17: Fishermen believe that current data do not justify the use of these larger TEDs in all areas and times. The year-round use of the leatherback TED is unnecessary. Additional research is necessary to ensure that burdens are not placed on the industry without a corresponding benefit to turtles.

Response: Data from multiple sources, including at-sea observer programs, aerial sightings, public reports, incidental captures and strandings documented through the Sea Turtle Stranding and Salvage Network (STSSN), support the use of a TED capable of releasing leatherback turtles in all offshore waters and a TED capable of releasing large loggerhead turtles throughout the southeastern Atlantic Ocean and Gulf of Mexico. Loggerheads are documented in all inshore and offshore areas, whereas leatherbacks are predominantly found in offshore waters but infrequently enter inshore waters. Additionally, both loggerheads and leatherbacks occur in shrimping areas during all seasons when shrimp trawling activity is expected to occur (see NMFS response to Comment 13).

Comment 18: The Gulf and South Atlantic Fisheries Foundation states that there must be appropriate resources to conduct a comprehensive industry review of turtle information and perform analysis of the massive data sets. This would include stock assessment evaluations and economic analysis.

Response: A significant amount of available data were reviewed by the NRC when they made their 1990 findings (see comment 15). The latest stock assessment on the leatherback and loggerhead turtles conducted by NMFS (National Marine Fisheries Service Southeast Fisheries Science Center, 2001) was extensively reviewed by an independent peer review process UM Independent System for Peer Reviews - whose findings supported the quality of the stock assessment and can be obtained upon request (see **ADDRESSES**).

Comment 19: Environmental organizations believe that the effects on sea turtle populations as a result of inadequate TEDs far outweigh the impacts that may occur on nesting beaches; whereas, fishermen believe that nesting beach and nest protection should be stressed before new regulations on fishermen take place.

Response: NMFS shares responsibility with the U.S. Fish and Wildlife Service (USFWS) for sea turtle recovery actions under the ESA. NMFS is responsible for addressing threats in the marine environment while the USFWS oversees recovery actions on the nesting beaches. As outlined in all of the Atlantic sea turtle joint ESA Recovery Plans, both threats on the nesting beaches and in the marine environment must be addressed in order to recover these listed species. Programs to protect nests and hatchlings have been ongoing for many years. A primary example is the joint Mexico/U.S. protection program for Kemp's ridleys at Rancho Nuevo that began in the late 1970s. Nesting beaches throughout the southeastern U.S. are protected by the states, Department of Interior, Department of Defense, and the public. NMFS must continue to reduce incidental capture in shrimp trawl fisheries when data support that modifications to existing TED requirements are necessary.

Comment 20: Environmental organizations feel it is illegal for NMFS to imperil threatened and endangered species by delaying the implementation of this final rule to alleviate short-term

economic impacts. They believe that the provisions of the proposed rule should be implemented as is, without the 1–year delay.

Response: This final rule will be implemented for the Atlantic Area on April 15, 2003, and for the Gulf Area 6 months after its publication in the **Federal Register**. NMFS believes that the 6–month delay in the Gulf Area is appropriate because fishermen in the Gulf Area use smaller TEDs with smaller grids than fishermen in the Atlantic Area, and the Gulf Area also has the majority of hooped hard TED users, bait shrimpers, and weedless TED users. Most fishermen in the Atlantic have been subject to the implementation of the leatherback contingency plan and likely already have the equipment to comply with the new regulations. The GA DNR reports that many shrimpers (up to 60 percent) use the leatherback TED year-round. Net shops in the Atlantic Area are more likely to stock the required equipment. Net shops in the Gulf Area will need additional time to supply the equipment necessary to comply with these new regulations. In addition, the six months will provide opportunity to evaluate preliminary results from the Gulf and South Atlantic Fisheries Foundation study on the shrimp fishery and sea turtles. In the proposed rule, NMFS had initially discussed a 12–month delay in implementation. In light of the additional time allowed for public comment, NMFS now believes that an additional 12–month delay is not warranted.

Comment 21: State agencies from Mississippi, Alabama, Louisiana and Texas believe that their bait shrimp industries are tightly regulated by state laws and additional Federal regulations are unnecessary. Texas Parks and Wildlife believes that the new regulations would require the state to make major changes to their license program to provide bait-only licenses.

Response: NMFS enforcement and gear specialists have seen an increase in boats claiming to be bait shrimpers but possessing more than 32 lb (14.5 kg) of dead shrimp. Increased tow times are necessary to land this much dead shrimp. Longer tow times would increase the likelihood of entangling a sea turtle and, without a TED installed, increase the chance of injury or mortality. When there is no incentive to limit tow times as a part of normal fishing operations, tow time limits are extremely difficult to enforce. Also, the possession of both bait and food shrimping licenses aboard the same vessel may allow such vessels to exploit the bait shrimping exemption as a loophole. Therefore, NMFS is limiting the bait shrimp TED exemption to shrimpers with a valid state bait-shrimp license for which such state license allows the licensed vessel to participate in the bait shrimp fishery only.

The new requirements for bait shrimpers should not affect state programs that have separate bait and food shrimp licenses. The new requirements do not eliminate dual-license programs; rather, dual-license holders will be required to use a TED. Texas Parks and Wildlife can decide whether or not a separate bait-only license is warranted to allow bait shrimpers to fish without a TED.

Comment 22: Environmental groups believe that TEDs should be required on all try nets. Tow time limitations do not work and are unenforceable.

Response: Sea turtles are captured in try nets. The NMFS observer program from 1992 through 1995 documented that try nets accounted for 43 percent of the observed turtle captures. In 2001, shrimpers operating in the Atlantic Area reported capturing more than 20 turtles in their smaller try nets without TEDs installed. NMFS required shrimpers deploying try nets with head rope lengths greater than 12 ft. (3.6 m) or foot rope length greater than 15 ft. (4.6 m) to have a TED installed but exempted the smaller try nets (61 FR 66933, December 19, 1996). Experimental trawling completed in 1994 and 1996 indicated that small try nets (≤ 12 ft. (3.6 m)) were less likely to catch turtles. A total of 100 tows deploying three sizes of try net, 12 ft. (3.6 m), 15 ft. (4.6 m), and 20 ft. (6.2 m), were conducted in Cape Canaveral Ship Channel. Thirty-five turtles were caught. Of these, 17 were caught in the 20–ft. (6.2–m) net, 10 in the 15–ft (4.6–m) net, and 8 in the 12–ft (3.6–m) net. NMFS believes that when used as intended, small try nets pose little threat to turtles. NMFS initially issued this exemption without tow time restrictions because it felt that this type of gear naturally lent itself to short tow times. However, information from GADNR indicates that some fishermen are using try nets as another fishing trawl, towing it for long periods of time. NMFS will continue to monitor this issue. If tow time limitations do not prevent the capture of sea turtles in try nets, then NMFS will consider other alternatives, such as requiring TEDs in all try nets.

Comment 23: Environmental organizations believe that NMFS should allocate adequate funding toward ensuring shrimpers' compliance with these regulations. They believe that one way to accomplish this is to increase enforcement personnel. They also believe that NMFS should establish a mandatory observer program to cover a representative sample of shrimp vessels in the southeastern United States.

Response: NOAA Enforcement, in partnership with the USCG and deputized state law enforcement agencies, have been successful in enforcing these regulations. Further, based on information from these agencies, the vast majority of fishermen follow the regulations.

The NMFS Shrimp Trawl Bycatch Observer Program has observed over 2,800 sea days on shrimp trawl vessels since 2000. This level of observer coverage is expected to continue in the future. NMFS is required to have observer coverage for the shrimp fishery, but the sampling is inadequate, given fleet size. Because of the massive size of the shrimp fleet and the amount of resources (funding and personnel) it would require, the establishment of a sampling program that would result in precise estimates of turtle bycatch has not been possible. Currently, limited resources are focused on specific issues that need evaluation such as testing new TED designs and BRDs.

Comment 24: Fishermen from Alabama, Mississippi, and Louisiana have complied with current TED regulations and additional burdens should not be placed on them without adequate data to support the new requirements.

Response: Shrimpers in the southeastern United States have made great contributions to the protection of endangered species through their use of TEDs over the last decade and more. Those efforts have borne fruit, as evidenced by the population increases of the critically endangered Kemp's ridley turtles, which are small enough to escape through the current TEDs. However, studies have shown that 33–47 percent of the loggerhead turtles stranded throughout the southeastern United States are too large to fit through the current TED openings. This is a much greater percentage than this size group represents in the population at large. The continued disproportionate loss of this size class will seriously hamper recovery efforts for this species, and might require change in its status from threatened to endangered. Leatherback turtles are severely endangered throughout the world. Nesting numbers on their main nesting beach in the western north Atlantic have decreased by 15 to 17 percent per year since 1987. NMFS believes that increasing the size of current TED openings is necessary to ensure the conservation and recovery of these listed species.

Comment 25: Eight years ago the shrimp fishing industry offered a well-funded plan for turtle recovery that included money to protect nesting beaches in Mexico and helped to fund the head start program, in lieu of TEDs, but NMFS would not accept it. Fishermen are willing to pay to protect sea turtles and protect eggs and nests in lieu of TEDs. The money can go to protect nesting beaches and hatch eggs to release into the wild.

Response: Nesting beach habitat conservation plays an important role in the recovery of sea turtles. However, the protection of turtles in the water is equally important. The use of TEDs is a major factor in the recent population increase of Kemp's ridley turtles. Kemp's ridleys are the smallest sea turtles, and adult size animals can pass through the current TED openings. Since 1990, corresponding with the more widespread use of TEDs in U.S. waters, the total annual mortality (including natural mortality) of Kemp's ridleys has been reduced by 44–50 percent. At the same time, nesting has gone from 700–800 nests per year in the late 1980s to approximately 6,000 nests in 2000. This kind of increase in nesting numbers could not have happened without in-water protection provided by TEDs. NMFS believes that the use of TEDs can have a significant impact on the survival and recovery of sea turtles. The majority of loggerhead turtles nesting in the United States takes place on the east coast, where there is comprehensive nesting beach and nest protection. Even with these comprehensive conservation and protection programs in place, the northern nesting population of loggerhead sea turtles (from northeast Florida north) is at best stable and possibly declining, demonstrating that in-water protection of sea turtles is still required to achieve recovery.

Comment 26: Fishermen and environmental organizations believe that NMFS should investigate the impact of recreational shrimping on sea turtles. Recreational trawls may reach 16 ft. (4.88 m) in width with a fleet estimated at 8,000 boats. At 16 ft. (4.88 m) these trawls are the same size as try nets which already require TEDs.

Response: The majority of recreational shrimp fishermen pull their trawls out of the water by hand, and this naturally limits the size of the trawl and the tow times (a large full net would not be able to be retrieved by hand). They must also use tow times as specified at 50 CFR 223.206(d)(3)(i). NMFS believes this fishery poses little threat to sea turtles because of the combination of short tow times and small trawls. Any recreational fisherman who does not pull his or her trawl in by hand must use a TED.

Comment 27: Members of the United States Congress commented that food safety is a national security issue and the proposed rule may result in the United States becoming more dependent on foreign produced foods at a time of national hazard.

Response: NMFS believes regulations to increase the size of current TED openings would allow for adequate protection of listed species, possibly avoiding the curtailment of the shrimp fishery in the southeastern United States, and thus allowing the shrimp fishery to continue to harvest shrimp.

Comment 28: Fishermen believe that NMFS' method for announcing and convening public hearings for the proposed rule was inadequate. NMFS should do direct mailings of notices to shrimpers by using lists that the state agencies have from selling shrimp licenses.

Response: While NMFS procedures for public notification satisfy legal requirements, NMFS agrees that public notification of our proposed actions could be improved. NMFS increased coordination with affected entities, by extending the public comment period on the proposed rule by 90 days, funding a major industry workshop in Tampa, FL, and participating in three industry-sponsored meetings in Louisiana. NMFS is currently developing a mailing list based on public hearing participation to distribute information on future meetings and notices to the people these actions affect.

Provisions and Justification for the Final Rule

NMFS is adopting the proposed measures as a final rule with the changes specified below, based on a review of the public comments and additional analyses of biological and commercial information. The changes to the proposed rule consist of specifying different TED-openings and configurations for inshore and offshore waters and allowing the use of accelerator funnels, hooped hard TEDs, and weedless TEDs with modifications. Once the final rule is published in the **Federal Register** the changes will be effective April 15, 2003, in the Atlantic Area and after 6 months in the Gulf Area.

Summary of the Final Rule

The final amendments to the TED regulations are applicable to trawling in all inshore and offshore waters of the southeastern United States as follows: (a) Require all hard TEDs to have a grid with a minimum outside measurement of 32 inches (81–cm) by 32 inches (81–cm); (b) require the use of either the double cover flap TED, a TED with a minimum opening of 71 inch (180 cm) straight-line stretched mesh, or the Parker soft TED with a minimum 96–inch (244–cm) opening in offshore waters (from the COLREGS demarcation line seaward) and in all inshore waters off of Georgia and South Carolina; and require a TED-opening in all inshore waters (from the COLREGS Demarcation line landward) except for the inshore waters of Georgia and South Carolina of at least 44–inch (112–cm) straight-line stretched mesh measurement with a 20–inch (51–cm) vertical taut height, with each measurement taken separately on all hard TEDs (see Figure 1) or a

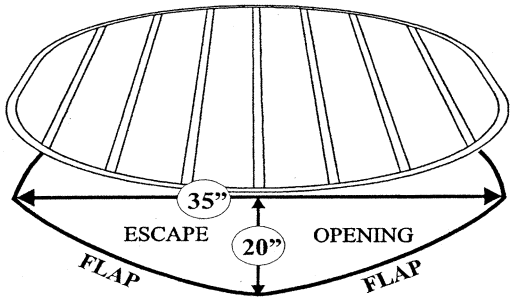
Parker soft TED with a 56–inch (142–cm) opening; (c) disallow the use of the hooped hard TED in all offshore waters and in the inshore waters of Georgia and South Carolina; and allow a hooped hard TED in inshore waters, other than Georgia and South Carolina, to have a minimum size of 35 inches (89 cm) by 27 inches (67 cm) on the top opening, with a minimum inside horizontal measurement of at least 35 inches (89 cm) and an inside vertical measurement of at least 30 inches (76 cm) on the front hoop, with a clearance between the deflector bars and the inside of the front hoop no less than 20 inches (51 cm); (d) eliminate the special regulations for the leatherback conservation zone and for flaps on bottom opening TEDs in the shrimp fishery sea turtle conservation areas (SFSTCA); (e) disallow the use of the Jones TED; (f) allow the use of the weedless TED with a brace bar; (g) require all accelerator funnels to have a stretched mesh opening of no less than 44 inches (112 cm) in the 44–inch (112–cm) TED and no less than 71 inches (180 cm) in the 71–inch (180–cm) TED and the double cover flap TED; (h) require bait shrimpers to use TEDs in states where a state-issued bait shrimp license holder can also fish for food shrimp from the same vessel;(i) require the use of tow times on small try nets; and (k) change the language of the flounder TED rule to clarify that the new escape opening sizes are not required in the Atlantic summer flounder bottom trawl fishery as a result of this rule change, although the agency is currently evaluating the need for such restrictions.

The justification for the changes and adoption of the final modifications to the TED regulations are discussed below for each measure.

BILLING CODE 3510–22–S

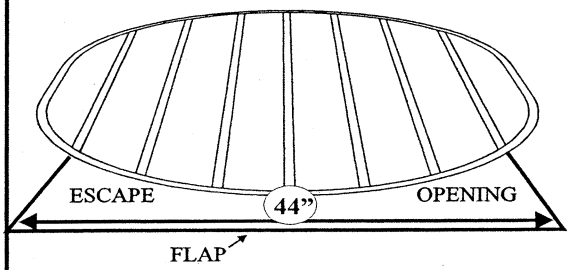
44 inch (112 cm) Inshore Opening

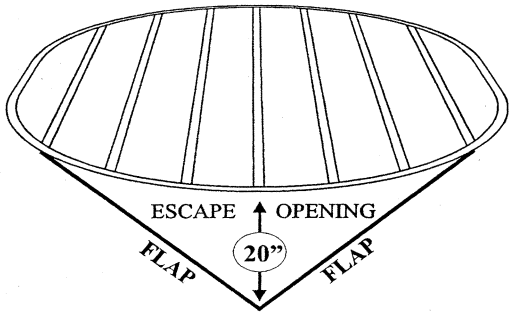
Proposed Dimensions Using the Current Simultaneous Horizontal and Vertical Measurement Method



If measured by the current method the proposed escape opening would be at least 35 inches (89 cm) in horizontal taut length and simultaneously, 20 inches (51 cm) in vertical height at the exit opening cut.

The Proposed Dimensions Using the Proposed Separate Horizontal and Vertical Measurement Method





When the horizontal and vertical dimensions of the escape opening are measured separately :

The horizontal taut length must measure at least 44 inches (112 cm) at the exit opening cut.

The vertical taught length must measure at least 20 inches (51 cm) at the exit opening cut.

Figure 1

BILLING CODE 3510–22–C

Increase of the Minimum Size of TED Grids and TED Openings in all Inshore and Offshore Waters of the Southeastern United States

The 71–inch (180–cm) TED, the double cover flap TED, the Parker soft TED with a 96–inch (244–cm) opening, the Parker soft TED with the 56–inch (142–cm) opening and the 44–inch (112–cm) TED are large enough to exclude 100 percent of nesting loggerhead and green turtles based on the information in Epperly and Teas (2002) and the measurements of nesting loggerhead turtles taken by the South Carolina Department of Natural Resources (SCDNR) in the spring and summer of 2000 as referenced in the proposed rule (66 FR 50148). This is particularly important for loggerhead turtles, as population models indicate that a reduction in mortality in these size classes would result in the greatest annual population increase rate (Crouse *et al.*, 1987; Hopewell, 1998).

Leatherback turtles are too large to fit through the current size TED openings; when mature, they can weigh between 600 and 1,300 lb (273 and 591 kg). The use of the 71–inch (180–cm) TED, the double cover flap TED, and the Parker soft TED with a 96–inch (244–cm) opening in all offshore waters in the southeastern United States and the inshore of Georgia and South Carolina will ensure the use of TEDs capable of releasing leatherback turtles in the waters where they are most commonly found and in areas and times not currently covered by the leatherback contingency plan. This final rule eliminates the unplanned, temporary actions implemented under the leatherback conservation zone which will increase predictability for the industry. NMFS believes that the inshore waters of Georgia and South Carolina have a higher potential for the presence of leatherback turtles because they are mostly open sounds with little barrier from nearshore oceanic habitat.

See NMFS response to comment 13 in this document for a summary of the aerial, standings, observer, and other data used to support this rule.

Disallowing the use of the Hooped Hard TED in all Offshore Waters in the Atlantic and Gulf Areas and Changing the Description of a Hooped Hard TED for Use in Inshore Waters

Based on information received from Louisiana fishermen and NMFS gear specialists, the hooped hard TED known as the Coulon TED may work well as a bycatch reduction device. NMFS was considering disallowing the use of hooped hard TEDs in all waters in the proposed rule because of enforcement problems seen with this type of fixed-angle TED installed backwards. Based on the information in Epperly and Teas (2002), and the measurements of nesting loggerheads conducted by the SCDNR in the summer of 2000, the modifications to the hooped hard TED that are part of this rule will give this TED an escape opening large enough to exclude large loggerhead turtles found in inshore waters, which will allow its continued use by some of the fishermen who prefer it.

NMFS is not allowing the use of the hooped hard TED in offshore waters because the design cannot be modified to be large enough to exclude leatherback turtles.

Weedless TEDs; Jones TEDs; and Accelerator Funnels

The structural integrity of the weedless and Jones TEDs does not hold up under commercial use; grid bars bend toward the back of the net. This condition has been shown to severely limit the ability of these TEDs to exclude turtles. Therefore, NMFS is requiring the use of a brace bar to increase the structural integrity of the weedless TED and is disallowing the use of the Jones TED. The brace bar for the weedless TED must be constructed of the same or stronger material as the deflector bars and must be attached across the deflector bars in an area defined by the mid point of the outer frame, and the unattached ends of the deflector bars. The horizontal brace bar may be offset from the deflector bars, using spacers constructed of the same or stronger material. The spacers may not exceed 3 inches in length. The Jones TED can not be practically strengthened with a brace bar.

In the proposed rule NMFS proposed disallowing the use of the accelerator funnel in the 71–inch (180–cm) TED and the double cover flap TED. To exclude large turtles, we felt that the funnel would have to be of such a large size that it would not accelerate water and may hang out the flap causing shrimp loss. However, based on information from fishermen and further investigation by NMFS gear technicians, NMFS found that an accelerator funnel that is large enough to release leatherback and large loggerhead turtles will work in the single grid hard TEDs approved for use in this rule. Accelerator funnels used in the 71–inch (180–cm) TED and the double cover flap TED must be attached according to the current rules and must have an opening of at least 71 inches (180 cm) stretched mesh. Accelerator funnels used in the 44–inch (112–cm) TED must also be attached according to the current rules and must have an opening of at least 44 inches (112 cm) stretched mesh.

Requiring Bait Shrimpers to use TEDs in States Where a State-issued Bait Shrimp License Holder can also Fish for Food Shrimp From the Same Vessel

NMFS enforcement and gear specialists have seen an increase in boats claiming to be bait shrimpers but possessing more than 32 lb (14.5 kg) of dead shrimp. These dead shrimp are likely sold as food shrimp. Landing this much dead shrimp was likely the result of an increase in tow times beyond the shorter tows used to catch live bait. Longer tow times would increase the likelihood of entangling a sea turtle and, without a TED installed, increase the chance of injury or mortality. When there is no incentive to limit tow times as a part of normal fishing operations, tow time limits are extremely difficult to enforce. Also, the possession of both bait and food shrimping licenses aboard the same vessel may allow such vessels to exploit the bait shrimping exemption as a loophole. Therefore, NMFS is limiting the bait shrimp TED exemption to shrimpers with a valid state bait-shrimp license for which such state license allows the licensed vessel to participate in the bait shrimp fishery only.

Requiring the Use of Tow Times on Small Try Nets

Although sea turtles have been documented as having been captured in try nets, experimental trawling completed in 1994 and 1996 indicated that small try nets were much less likely to catch turtles. However, as discussed in NMFS' response to comment 22, turtle captures in try nets may still be a problem. NMFS believes that tow time restrictions will give NMFS an enforcement mechanism to help maintain compliance by the small number of fishermen who do not use try nets as intended. However, NMFS will continue to evaluate this issue. If tow time restrictions do not prevent capture of sea turtles in try nets, then NMFS will evaluate other options, including requiring TEDs in try nets.

Classification

This final rule has been determined to be significant for purposes of Executive Order 12866.

The ESA provides the statutory basis for this final rule.

NMFS prepared a draft Environmental Assessment/Regulatory Impact Review/Regulatory Flexibility Act Analysis (EA/RIR/RFAA) for the proposed rule that discussed the impact on the

environment as a result of the proposed rule. NMFS completed a final Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) based on comments received during the comment period. A copy of the final EA/RIR/FRFA is available from NMFS (see **ADDRESSES**).

NMFS completed the FRFA, pursuant to 5 U.S.C. 604, without regard to whether the proposal would have a significant impact on a substantial number of small entities. A summary of this FRFA follows:

The Endangered Species Act provides the statutory basis for this final rule. This final rule will require the use of an approved leatherback TED in all shrimp trawl nets operated in all offshore waters and the inshore waters of Georgia and South Carolina at all times; require the use of an approved loggerhead TED in all shrimp trawls licensed or fishing for food shrimp in all inshore waters at all times; allow the use of the weedless TED with a brace bar; allow the use of hooped hard TEDs in inshore waters with modifications; allow the use of accelerator funnels with certain modifications; and require tow time restrictions on try nets.

The objectives of this final rule are to decrease the mortality of large loggerhead and green turtles; decrease the mortality of large leatherback turtles; decrease the mortality of all threatened and endangered sea turtles incidentally taken by shrimp trawl activity by eliminating TEDs that are not sufficiently effective in releasing sea turtles; improve the enforcement of existing TED regulations; and implement a more efficient and effective management scheme with respect to conserving large leatherback turtles.

An excessive number of endangered or threatened sea turtles are dying each year due to probable interaction with shrimp trawl gear. The Leatherback Contingency Plan with its required surveys and use of emergency rules that close areas to trawl activity to reduce sea turtle mortality has been shown to be inefficient. An alternative management approach is required to both address the excessive mortality of sea turtles and eliminate the need for costly and disruptive closures.

This final rule will impact the Southeast shrimp trawl fishery primarily through the imposition of increased costs associated with the purchase and maintenance of the required gear and through lost revenue opportunities through potential increased shrimp losses associated with the gear.

A fish harvesting business is considered a small business if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of $3.5 million. Based on a compilation of data from the shrimp landings file for the Gulf, Florida trip ticket data, and data from the Georgia shrimp landings system, the maximum known gross revenue for an individual fishing craft in the Gulf and South Atlantic shrimp fisheries in 1999 was approximately $723,656. While this figure could be an underestimate of the true maximum value since currently available data do not allow all shrimp landings from different parts of the region and their associated revenues to be linked to a particular fishing craft, this figure is sufficiently less than $3.5 million to support the presumption that all firms in the Gulf and South Atlantic shrimp trawl fisheries are small business entities.

It is estimated that 11,244 small vessels (vessels less than or equal to 60 ft. (18.3 m)) and 2,368 large vessels (vessels greater than 60 ft. (18.3 m)), or a total of 13,572 vessels operate in the Southeast shrimp trawl fishery. Note that this figure does not include fishing craft that are licensed or known to only participate in shrimp fisheries that use non-trawl gear (i.e., butterfly nets, channel nets, cast nets, skimmer nets, etc.) since these gear types are not subject to the existing or proposed TED requirements. Small vessels in the Southeast shrimp trawl fishery are estimated to harvest an average of 4,752 lb. (2,155.5 kg) of shrimp annually valued at $12,435 in gross revenues, with average variable cost expenditures of $8,708 and generating a profit of $3,727. Large vessels in the Southeast shrimp trawl fishery are estimated to harvest an average of 42,656 pounds of shrimp annually valued at $142,880 in gross revenues, with average variable cost expenditures of $126,089 and generating a profit of $16,089.

Although all participants in the fishery may be affected by the proposed action, it should be noted that the provisions on weedless TEDs and hooped hard TEDs will also be expected to affect specific subsets of the industry. The weedless TED is used by approximately 15 percent of Texas shrimpers in the trawl fishery. Therefore, using the estimate of the 2,355 vessels reporting landings in Texas, 353 vessels would be affected by the weedless TED specifications. With respect to the hooped hard TEDs, it is estimated that 300 vessels currently utilize this gear.

This final rule is expected to decrease annual ex-vessel shrimp gross revenues by $1.8-$7.3 million, reduce variable costs (due to the change in the relative numbers of small vessels vs. large vessels) of production by $1.4-$3.7 million, and reduce profits by $444,000-$3.6 million. Ex-vessel shrimp prices are projected to increase, due to the decline in domestic shrimp harvest, by 0.7–1.7 percent per year. The proposed action is expected to result in a less than 1.0 percent loss in landings, gross revenues and profits in the Southeast shrimp trawl fishery, and result in a maximum loss of employment opportunities of 5.1 percent in the small vessel fleet and 0.5 percent in the large vessel fleet. The small vessel fleet is expected to contract by 400–574 vessels by 2006 relative to status quo conditions as a result of the rule, while the large vessel fleet is expected to contract by up to 11 vessels, also as a result of the rule. The change in average annual profits for the average small business entity operating in the Southeast shrimp trawl fishery due to the proposed action is expected to range from a gain in profits of 0.5 percent to a loss in profits of 2.4 percent over status quo conditions.

NMFS received the following comments regarding economic impacts of the rule through public comment on the proposed rule: (1) The projected cost to retrofit TEDs is too low; (2) the 20-percent profit margin used is too high; (3) the cumulative loss of shrimp as a result of the proposed changes in addition to existing requirements is not considered; (4) an analysis of possible shrimp loss due to the prohibition of accelerator funnels is lacking; (5) the analysis of the economic impact to small businesses is inadequate; (6) the percent shrimp loss is too low and should be 15 to 20 percent; (7) information on gear replacement frequency is inaccurate; and (8) the analysis does not consider the effects the rule will have on fishermen in combination with depressed shrimp prices. In response to these comments, a new Regulatory Impact Review and Final Regulatory Flexibility Analysis were conducted which incorporated information gathered during the public comment period as well as the best available information from existing databases on profit margins, gear costs, and the durability and cost of replacement of equipment. The average replacement cost for a leatherback TED was assumed to be $220, 4 TEDS were assumed necessary for small vessels and 8–10 TEDs for large vessels, and the average useful life of a TED was assumed to be 3 years. The assumption

of a 20-percent profit margin was eliminated and, instead, vessel profits were internally calculated based on expected revenues and variable costs. Shrimp loss under current regulations as well as the proposed regulations was considered and discussed in the analysis. Estimates of shrimp loss under different TED requirements were derived from test data and provided by the NMFS SEFSC. The analysis allowed the use of an accelerator funnel, consistent with the rule. To incorporate the effects of the depressed shrimp prices, 2001 prices were utilized throughout the assessment.

Description of Significant Alternatives to the Proposed Rule and Discussion of how the Alternatives Attempt to Minimize Economic Impacts on Small Entities

Other than the status quo alternative, there were 4 alternatives analyzed including the measures in this final rule (preferred action). One of the proposed alternatives, Alternative 1, would increase the standard size opening of TEDs to 35 inches (89 cm) by 20 inches (51 cm) in all areas; change the minimum grid size to at least 32 inches (81 cm) by 32 inches (81 cm) in all areas; redescribe the current version of the leatherback modification; replace the Leatherback Contingency Plan with standardized zones and times where shrimp trawlers are required to have TEDs installed that exclude leatherback turtles; disallow the use of weedless TEDs and the Jones TED; change the requirements for hooped hard TEDs; change the requirements for accelerator funnels; require bait shrimpers to use TEDs in states where a state-issued bait shrimp license holder can also fish for food shrimp from the same vessel; and require tow time restrictions on trynets. This alternative would reduce the areal and seasonal extent of the leatherback TED requirements from that of the preferred action, but fewer endangered sea turtles would be saved and it is unclear whether costs would be materially reduced. Costs associated with this alternative could be equal to or exceed those of the preferred action.

Alternative 2 would increase the standard size opening of TEDs to 35 inches (89 cm) by 16 inches (41 cm) in all areas; change the minimum grid size to at least 30 inches (81 cm) by 30 inches (81 cm) in all areas; redescribe the current version of the leatherback modification; replace the Leatherback Contingency Plan with standardized zones and times where shrimp trawlers are required to have TEDs installed that exclude leatherback turtles; disallow the use of weedless TEDs and the Jones TED; change the requirements for hooped hard TEDs; change the requirements for accelerator funnels; require bait shrimpers to use TEDs in states where a state-issued bait shrimp license holder can also fish for food shrimp from the same vessel; and require tow time restrictions on trynets. This alternative would save even fewer sea turtles compared to the preferred action with, again, uncertainty associated with whether any cost savings could be achieved relative to the preferred action.

Alternative 3 would require the use of a TED capable of releasing a leatherback in all waters at all times; change the minimum grid size to a minimum grid size of at least 32 inches (81 cm) by 32 inches (81 cm) in all areas; redescribe the current version of the leatherback modification (71 inch TED); disallow the use of weedless TEDs and the Jones TED; disallow the use of hooped hard TEDs; disallow the use of accelerator funnels; require bait shrimpers to use TEDs in states where a state-issued bait shrimp license holder can also fish for food shrimp from the same vessel; and require tow time restrictions on trynets. This alternative has more stringent requirements and would, while saving the same number of endangered sea turtles as the preferred action, likely do so at a higher cost. The status quo alternative would not achieve the desired biological goals of the action.

Copies of the EA/RIR/FRFA are available (see **ADDRESSES**).

List of Subjects

50 CFR Part 222

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 223

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Transportation.

Dated: February 12, 2003.

John Oliver,

Deputy Assistant Administrator for Operations,National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 222, 223, and 224 are amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted.

§ 222.102 [Amended]

2. In § 222.102, the definition: ''Leatherback conservation zone'' is removed.

PART 223—THREATENED MARINE SPECIES AND ANADROMOUS SPECIES

3. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

4. In § 223.206:

a. Paragraph (d)(2)(ii)(B)(*1*) is removed and paragraphs (d)(2)(ii)(B)(*2*) and (*3*) are re-designated as paragraphs (d)(2)(ii)(B)(*1*) and (*2*), respectively.

b. Paragraph (d)(2)(iv) is removed and paragraph (d)(2)(v) is re-designated as paragraph (d)(2)(iv).

c. Paragraph (d)(5) is removed and reserved.

d. Paragraphs (d)(2)(ii)(A)(*2*) and (*4*) are revised, and new paragraph (d)(2)(ii)(A)(*5*) is added to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(A) * * *

(*2*) Is a bait shrimper that retains all live shrimp on board with a circulating seawater system, if it does not possess more than 32 lb. (14.5 kg) of dead shrimp on board, if it has a valid original state bait-shrimp license, and if the state license allows the licensed vessel to participate in the bait shrimp fishery exclusively;

* * * * *

(*4*) Is in an area during a period for which tow-time restrictions apply under paragraphs (d)(3)(ii) or (iii) of this section, if it complies with all applicable provisions imposed under those paragraphs; or

(*5*) Is using a single test net (try net) with a headrope length of 12 ft (3.6 m) or less and with a footrope length of 15 ft (4.6 m) or less, if it is pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net, in which case the exemption under this paragraph (d)(2)(ii)(A) applies to the test net.

* * * * *

5. In § 223.207, paragraph (a) introductory text, paragraphs (a)(3)(ii), (a)(4) through (a)(8), (b)(1), (b)(2), (d)(2), (d)(3), the headings of paragraphs

(c)(1)(iv)(A) and (B) are revised and a new first sentence is added to paragraph (c)(1)(iv)(A) and a new last sentence is added to paragraph (c)(1)(iv)(B) to read as follows:

§ 223.207 Approved TEDs.

* * * * *

(a) *Hard TEDs*. Hard TEDs are TEDs with rigid deflector grids and are categorized as ''hooped hard TEDs'' which may only be used in inshore waters, except for the inshore waters of Georgia and South Carolina and ''single-grid hard TEDs'' such as the Matagorda and Georgia TED (Figures 3 & 4 to this part). Hard TEDs complying with the following generic design criteria are approved TEDs:

* * * * *

(3) * * *

(ii) For any shrimp trawler fishing in the Gulf SFSTCA or the Atlantic SFSTCA, a hard TED with the position of the escape opening at the bottom of the net when the net is in its deployed position, the angle of the deflector bars from the normal, horizontal flow through the interior of the trawl, at any point, must not exceed 55°, and the angle of the bottom-most 4 inches (10.2 cm) of each deflector bar, measured along the bars, must not exceed 45° (Figures 14a and 14b to this part).

(4) *Space between bars*. The space between deflector bars and the deflector bars and the TED frame must not exceed 4 inches (10.2 cm).

(5) *Direction of bars*. The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net, except that up to four of the bottom bars and two of the top bars, including the frame, may run from side to side of the TED. The deflector bars must be permanently attached to the TED frame or to the horizontal bars, if used, at both ends.

(6) *Position of the escape opening*. The escape opening must be made by removing a rectangular section of webbing from the trawl, except for a TED with an escape opening size described at paragraph (a)(7)(ii)(A) for which the escape opening may alternatively be made by making a horizontal cut along the same plane as the TED. The escape opening must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in the deployed position. The escape opening must be at the top of the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. The passage from the mouth of the trawl through the escape opening must be completely clear of any obstruction or modification, other than those specified in paragraph (d) of this section.

(7) *Size of escape opening*—(i) *Hooped hard TED*. On a hooped hard TED, the escape opening must have a horizontal measurement no less than 35 inches (89 cm) wide and a forward measurement no less than 27 inches (69 cm). A door frame may not be used over the escape opening; however, a webbing flap may be used as provided in paragraph (d)(3)(i) of this section. The resultant opening with a webbing flap must be a minimum width of 35 inches (89 cm) and a minimum height of 20 inches (51 cm), with each measurement taken simultaneously.

(ii) *Single-grid hard TEDs*. On a single-grid hard TED, the horizontal cut(s) for the escape opening may not be narrower than the outside width of the TED frame minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. Fore-and-aft cuts to remove a rectangular piece of webbing must be made from the ends of the horizontal cuts along a single row of meshes along each side. The overall size of the escape opening must match one of the following specifications:

(A) *44–inch inshore opening*. The escape opening must have a minimum width of 44 inches (112 cm) and a minimum height of 20 inches (51 cm) with each measurement taken separately. A webbing flap, as described in paragraph (d)(3)(i) of this section, may be used with this escape hole, so long as this minimum opening size is achieved. This opening may only be used in inshore waters, except it may not be used in the inshore waters of Georgia and South Carolina.

(B) *The 71–inch offshore opening*: The two forward cuts of the escape opening must not be less than 26 inches (66 cm) long from the points of the cut immediately forward of the TED frame. The resultant length of the leading edge of the escape opening cut must be no less than 71 inches (181 cm) with a resultant circumference of the opening being 142 inches (361 cm) (Figure 12 to this part). A webbing flap, as described in paragraph (d)(3)(ii) of this section, may be used with this escape hole, so long as this minimum opening size is achieved. Either this opening or the one described in paragraph (a)(7)(ii)(C) of this section must be used in all offshore waters and in all inshore waters in Georgia and South Carolina, but may also be used in other inshore waters.

(C) *Double cover offshore opening*. The two forward cuts of the escape opening must not be less than 20 inches (51 cm) long from the points of the cut immediately forward of the TED frame. The resultant length of the leading edge of the escape opening cut must be no less than 56 inches (142 cm)(Figure 16 to this part illustrates the dimensions of these cuts). A webbing flap, as described in paragraph (d)(3)(iii) of this section, may be used with this escape hole. Either this opening or the one described in paragraph (a)(7)(ii)(B) of this section must be used in all offshore waters but also in all inshore waters in Georgia and South Carolina, and may be used in other inshore waters.

(8) *Size of hoop or grid*—(i) *Hooped hard TED*. The front hoop on a hard TED must have an inside horizontal measurement of at least 35 inches (89 cm) and an inside vertical measurement of at least 30 inches (76 cm). The minimum clearance between the deflector bars and the top of the front hoop must be at least 20 inches (51 cm).

(ii) *Single-grid hard TED*. A single-grid hard TED must have a minimum outside horizontal and vertical measurement of 32 inches (81 cm). The required outside measurements must be at the mid-point of the deflector grid.

* * * * *

(b) * * *

(1) *Flounder TED*. (Figure 10 to this part). The Flounder TED is approved for use only in the Atlantic summer flounder bottom trawl fishery. The Flounder TED is not an approved TED for use by shrimp trawlers. The Flounder TED must be constructed of at least 1 1/4 inch (3.2 cm) outside diameter aluminum or steel pipe with a wall thickness of at least 1/8 inch (0.3 cm). It must have a rectangular frame with outside dimensions which can be no less than 51 inches (129.5 cm) in length and 32 inches (81.3 cm) in width. It must have at least five vertical deflector bars, with bar spacings of no more than 4 inches (10.2 cm). The vertical bars must be connected to the top of the frame and to a single horizontal bar near the bottom. The horizontal bar must be connected at both ends to the sides of the frame and parallel to the bottom bar of the frame. There must be a space no larger than 10 inches (25.4 cm) between the horizontal bar and the bottom bar of the frame. One or more additional vertical bars running from the bottom bar to the horizontal bar must divide the opening at the bottom into two or more rectangles, each with a maximum height of 10 inches (25.4 cm) and a maximum width of 14 1/2 inches (36.8 cm). This TED must comply with paragraph (a)(2) of this section. The angle of the deflector bars must be between 30 and 55 from the normal, horizontal flow through the interior of the trawl. The entire width of the escape opening from the trawl must

be centered on and immediately forward of the frame at the top of the net when the net is in its deployed position. The escape opening must be at the top of the net and the slope of the deflector bars from forward to aft is upward. The escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft direction. The cut in the trawl webbing for the escape opening cannot be narrower than the outside width of the grid minus 4 inches (10.2 cm) on both sides of the grid, when measured as a straight line width. The resulting escape opening in the net webbing must measure at least 35 inches (88.9 cm) in horizontal taut length and, simultaneously, 12 inches (30.5 cm) in vertical taut height. The vertical measurement must be taken at the midpoint of the horizontal measurement. This TED may not be configured with a bottom escape opening. Installation of an accelerator funnel is not permitted with this TED.

(2) *Weedless TED*. The weedless TED must meet all the requirements of paragraph (a) of this section for single-grid hard TEDs, with the exception of paragraphs (a)(1) and (a)(5) of this section. The weedless TED must be constructed of at least 1–1/4 inch (3.2 cm) outside diameter aluminum with a wall thickness of at least 1/8 inch (0.3 cm). The deflector bars must run from top to bottom of the TED, as the TED is positioned in the net. The ends of the deflectors bars on the side of the frame opposite to the escape opening must be permanently attached to the frame. The ends of the deflector bars nearest the escape opening are not attached to the frame and must lie entirely forward of the leading edge of the outer frame. The ends of the unattached deflector bars must be no more than 4 inches (10.2 cm) from the frame and may not extend past the frame. A horizontal brace bar to reinforce the deflector bars, constructed of the same size or larger pipe as the deflector bars, must be permanently attached to the frame and the rear face of each of the deflector bars at a position anywhere between the vertical mid-point of the frame and the unattached ends of the deflector bars. The horizontal brace bar may be offset behind the deflector bars, using spacer bars, not to exceed 5 inches (12.7 cm) in length and constructed of the same size or larger pipe as the deflector bars. See Figure 15.

* * * * *

(c) * * *

(1) * * *

(iv) * * *

(A) *Inshore opening*. This opening is the minimum size opening that may be used in inshore waters, except it may not be used in the inshore waters of Georgia and South Carolina, in which a larger minimum opening is required.***

* * * * *

(B) *Offshore opening*. * * * This opening or one that is larger must be used in all offshore waters and in the inshore waters of Georgia and South Carolina. It also may be used in other inshore waters.

* * * * *

(d) * * *

(2) *Accelerator funnel*. An accelerator funnel may be installed in the trawl, if it is made of net webbing material with a stretched mesh size of not greater than 1 5/8 inches (4 cm), if it is inserted in the net immediately forward of the TED, and if its rear edge does not extend past the bars of the TED. The trailing edge of the accelerator funnel may be attached to the TED on the side opposite the escape opening if not more than one-third of the circumference of the funnel is attached, and if the inside horizontal opening as described above in maintained. In a bottom opening TED only the top one-third of the circumference of the funnel may be attached to the TED. In a top opening TED only the bottom one-third of the circumference of the funnel may be attached to the TED.

(i) In inshore waters, other than the inshore waters of Georgia and South Carolina in which a larger opening is required, the inside horizontal opening of the accelerator funnel must be at least 44 inches (112 cm).

(ii) In offshore waters and the inshore waters of Georgia and South Carolina, the inside horizontal opening of the accelerator funnel must be at least 71 inches (180 cm).

(3) *Webbing flap*. A webbing flap may be used to cover the escape opening under the following conditions: No device holds it closed or otherwise restricts the opening; it is constructed of webbing with a stretched mesh size no larger than 1–5/8 inches (4 cm); it lies on the outside of the trawl; it is attached along its entire forward edge forward of the escape opening; it is not attached on the sides beyond the row of meshes that lies 6 inches (15 cm) behind the posterior edge of the grid; the sides of the flap are sewn on the same row of meshes fore and aft; and the flap does not overlap the escape hole cut by more than 5 inches (13 cm) on either side.

(i) *44–inch inshore TED flap*. This flap may not extend more than 24 inches (61 cm) beyond the posterior edge of the grid.

(ii) *71–inch offshore TED Flap*. The flap must be a 133–inch (338–cm) by 52–inch (132–cm) piece of webbing. The 133–inch (338–cm) edge of the flap is attached to the forward edge of the opening (71–inch (180–cm) edge). The flap may extend no more than 24 inches (61 cm) behind the posterior edge of the grid (Figure 12 to this part illustrates this flap).

(iii) *Double cover flap offshore TED flap*. This flap must be composed of two equal size rectangular panels of webbing. Each panel must be no less than 58 inches (147 cm) wide and may overlap each other no more than 15 inches (38 cm). The panels may only be sewn together along the leading edge of the cut. The trailing edge of each panel must not extend more than 6 inches (15 cm) past the posterior edge of the grid (Figure 16 to this part). Chafing webbing described in paragraph (d)(4) of this section may not be used with this type of flap.

Figures 12 and 15 to Part 223 [Amended]

6. In part 223, Figures 1, 2 and 11 are removed and reserved; Figures 12a and 12b are removed; new Figure 12 is added; and Figure 15 is revised to read as follows:

BILLING CODE 3510–22–S

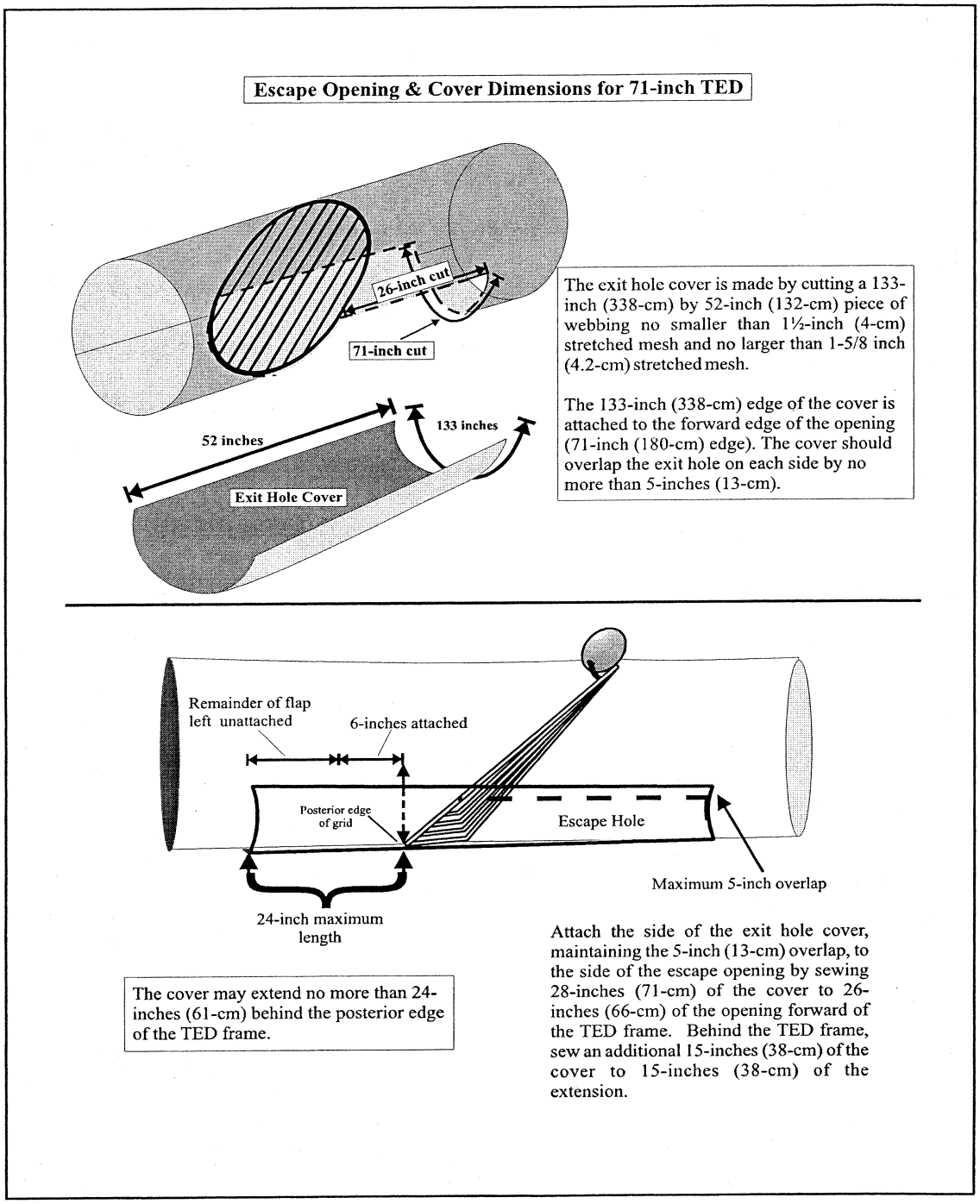


Figure 12 to Part 223

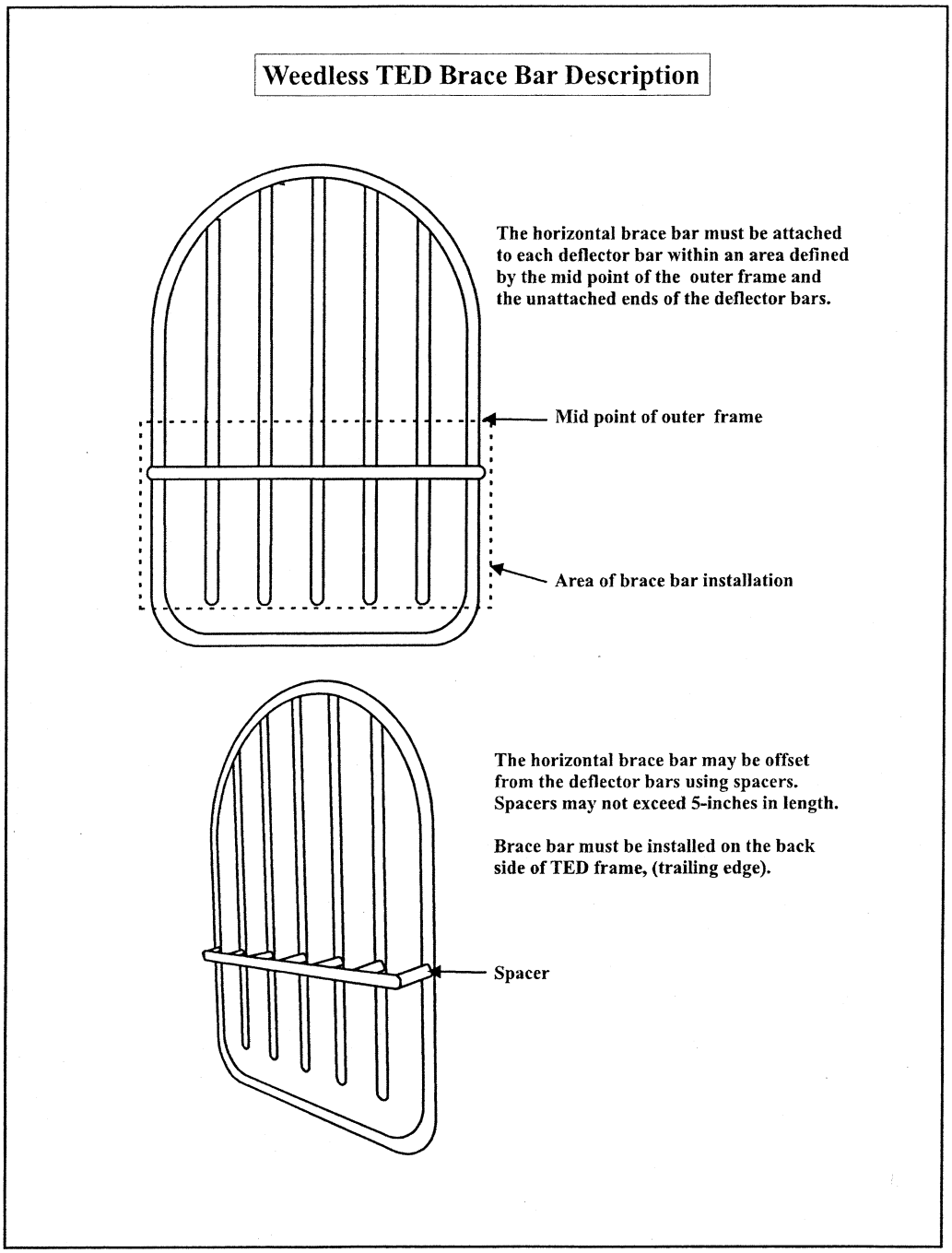


Figure 15 to Part 223

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

7. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

§ 224.104 [Amended

8. In § 224.104, paragraph (c) is removed, and paragraph (d) is redesignated as paragraph (c).

[FR Doc. 03–4136 Filed 2–20–03; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 68, No. 35
Friday, February 21, 2003

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH13

List of Approved Spent Fuel Storage Casks: FuelSolutions™ Cask System Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the BNFL Fuel Solutions (FuelSolutions™) cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 3 to Certificate of Compliance Number 1026. Amendment No. 3 would modify the Technical Specifications. The current Technical Specifications require that if the W–21 canister is required to be removed from its storage cask, then the canister must be returned to the spent fuel building. The modified Technical Specifications would provide an alternative to returning the canister to the spent fuel building by returning it to the transfer cask. Specifically, Technical Specifications 3.3.2 and 3.3.3 propose returning the W–21 canister to the transfer cask while restoring normal storage conditions. The amendment also includes several editorial changes to Technical Specifications 3.1.1, 3.3.2, and 3.3.3.

DATES: Comments on the proposed rule must be received on or before March 24, 2003.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* You may also provide comments via this Web site by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@nrc.gov.*

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report can be found under ADAMS Accession No. ML023310579. 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, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, e-mail, *jmm2@nrc.gov* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment 3 to CoC No. 1026 and does not include other aspects of the FuelSolutions™ cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on May 7, 2003. However, if the NRC receives significant adverse comments by March 24, 2003, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1026 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1026.

Initial Certificate Effective Date: February 15, 2001.

Amendment Number 1 Effective Date: May 14, 2001.

Amendment Number 2 Effective Date: January 28, 2002.

Amendment Number 3 Effective Date: May 7, 2003.

SAR Submitted by: BNFL Fuel Solutions Corporation.

SAR Title: Final Safety Analysis Report for the FuelSolutions™ Spent Fuel Management System.

Docket Number: 72–1026.

Certificate Expiration Date: February 15, 2021.

Model Number: WSNF–220, WSNF–221, and WSNF–223 systems; W–150 storage cask; W–100 transfer cask; and the W–21 and W–74 canisters.

* * * * *

Dated in Rockville, Maryland, this 7th day of January, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–4108 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–290–AD]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. This proposal would require removing the existing oxygen shutoff valve and installing a new oxygen shutoff valve. This action is necessary to prevent rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator due to a shutoff valve that can be opened quickly, which could result in overheating of the oxygen system, and consequent fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 24, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–290–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–290–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D25, Savannah, Georgia 31402. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–290–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–290–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, notified the FAA that an unsafe condition may exist on certain Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. The CAAI advises that a fire occurred in the cockpit on two airplanes during taxiing, when the co-pilot turned on the oxygen system. Investigation revealed that the existing design of the oxygen system allows high-pressure oxygen into the cockpit, which is reduced at a pressure regulator located on the airframe structure adjacent to the co-pilot. If the shutoff valve is opened quickly, a rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator occurs. This condition, if not corrected, could result in overheating of the oxygen system, and consequent fire in the cockpit.

Other Relevant Rulemaking

The oxygen systems on certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes are identical to those on the affected Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124 and 1124A series airplanes. Therefore, the FAA has issued NPRM, Rules Docket 2002–NM–281–AD, to address the identified unsafe condition on certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes as well.

Explanation of Relevant Service Information

The manufacturer has issued the following service bulletins, which describe procedures for removing the existing oxygen shutoff valve and installing a new oxygen shutoff valve:

TABLE—SERVICE BULLETINS

For model—	Service bulletin—	Including—
1121, 1121A, 1121B series airplanes.	1121 Commodore Jet (Israel Aircraft Industries) Service Bulletin 1121–35–024, dated September 23, 2002.	Service Bulletin Certificate of Compliance.
1123 series airplanes	1123–Westwind (Israel Aircraft Industries) Service Bulletin 1123–35–048, dated September 23, 2002.	Service Bulletin Certificate of Compliance.
1124 and 1124A series airplanes	1124–Westwind (Israel Aircraft Industries) Service Bulletin 1124–35–137, dated September 23, 2002.	Service Bulletin Certificate of Compliance.

Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition. The CAAI classified these service bulletins as mandatory and issued Israeli airworthiness directive 35–02–10–12, dated October 17, 2002, in order to assure the continued airworthiness of these airplanes in Israel.

FAA's Conclusions

These airplane models are manufactured in Israel and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAAI has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed AD and Israeli Airworthiness Directive

The proposed AD would differ from the parallel Israeli airworthiness directive in that it would require accomplishment of the removal and installation of the oxygen shutoff valve within 250 flight hours after the effective date of this AD. The parallel Israeli airworthiness directive recommends accomplishment of those actions within 200 flight hours. As described previously under the heading ''Other Relevant Rulemaking,'' we have issued NPRM, Rules Docket 2002–NM–281–AD, to address the identified unsafe condition on certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes. The compliance time in that NPRM, which parallels Israeli airworthiness directive 35–02–07–02, dated August 18, 2002, is within 250 flight hours after the effective date of the AD. Because the identified unsafe condition in both NPRMs and the subject oxygen systems installed on the affected airplane models are identical, we have determined that the compliance time of both of these NPRMs should be the same. In light of these factors, we find a compliance time of within 250 flight hours after the effective date of this AD for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. The compliance time has been coordinated and concurred with by the CAAI.

Differences Between Proposed AD and Relevant Service Bulletin

Operators should note that, although the referenced service bulletins describe procedures for completing a Service Bulletin Certificate of Compliance to record compliance with the service bulletin, this proposed AD would not require those actions.

Cost Impact

The FAA estimates that 300 Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $900 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $414,000, or $1,380 per airplane.

The cost impact figure discussed above is based on assumptions that no

operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this proposed AD. As a result, the costs attributable to the proposed AD may be less than stated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Israel Aircraft Industries, Ltd.: Docket 2002–NM–290–AD.

Applicability: All Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator due to a shutoff valve that can be opened quickly, which could result in overheating of the oxygen system, and consequent fire in the cockpit, accomplish the following:

Removal and Installation of Oxygen Shutoff Valve

(a) Within 250 flight hours after the effective date of this AD, remove the existing oxygen shutoff valve and install a new oxygen shutoff valve, per the Accomplishment Instructions of the applicable service bulletin specified in the following table:

TABLE—SERVICE BULLETINS

For model—	Service bulletin—	Excluding—
1121, 1121A, 1121B series airplanes.	1121 Commodore Jet (Israel Aircraft Industries) Service Bulletin 1121–35–024, dated September 23, 2002.	Service Bulletin Certificate of Compliance.
1121 series airplanes	1123–Westwind (Israel Aircraft Industries) Service Bulletin 1123–35–048, dated September 23, 2002.	Service Bulletin Certificate of Compliance.
1124 and 1124A series airplanes	1124–Westwind (Israel Aircraft Industries) Service Bulletin 1124–35–137, dated September 23, 2002.	Service Bulletin Certificate of Compliance.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Israeli airworthiness directive 35–02–10–12, dated October 17, 2002.

Issued in Renton, Washington, on February 13, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–4167 Filed 2–20–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–281–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes. This proposal would require removing the existing oxygen shutoff valve and installing a new oxygen shutoff valve. This action is necessary to prevent rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator due to a shutoff valve that can be opened quickly, which could result in overheating of the oxygen system and consequent fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 24, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–281–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–281–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D25, Savannah, Georgia 31402. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–281–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–281–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, notified the FAA that an unsafe condition may exist on certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes. The CAAI advises that a fire occurred in the cockpit on two Israel Aircraft Industries, Ltd., Model 1124 and 1124A series airplanes during taxiing, when the co-pilot turned on the oxygen system. Investigation revealed that the existing design of the oxygen system allows high-pressure oxygen into the cockpit, which is reduced at a pressure regulator located on the airframe structure adjacent to the co-pilot. If the shutoff valve is opened too quickly, a rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator may occur. This condition, if not corrected, could result in overheating of the oxygen system, and consequent fire in the cockpit.

The oxygen systems on certain Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra series airplanes are identical to those on the affected Israel Aircraft Industries, Ltd., Model 1124 and 1124A series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Other Relevant Rulemaking

The FAA has issued NPRM, Rules Docket 2002–NM–290–AD, to address the identified unsafe condition on Israel Aircraft Industries, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes.

Explanation of Relevant Service Information

The manufacturer has issued Astra (Gulfstream Aerospace Corporation) Alert Service Bulletin 1125–35A–114, dated November 28, 2001, including Service Bulletin Certificate of Compliance, which describes procedures for removing the existing oxygen shutoff valve and installing a new oxygen shutoff valve. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAAI classified this service bulletin as mandatory and issued Israeli airworthiness directive 35–02–07–02, dated August 18, 2002, in order to assure the continued airworthiness of these airplanes in Israel.

FAA's Conclusions

These airplane models are manufactured in Israel and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAAI has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same

type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Relevant Service Bulletin

Operators should note that, although the referenced service bulletin describes procedures for completing a Service Bulletin Certificate of Compliance to record compliance with the service bulletin, this proposed AD would not require that action.

Cost Impact

The FAA estimates that 100 Model Astra SPX and 1125 Westwind Astra series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $900 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $138,000, or $1,380 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this proposed AD. As a result, the costs attributable to the proposed AD may be less than stated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Gulfstream Aerospace LP (Formerly Israel Aircraft Industries, Ltd.): Docket 2002–NM–281–AD.

Applicability: Model Astra SPX series airplanes having serial numbers 073 and 079 through 131 inclusive; and Model 1125 Westwind Astra series airplanes having serial numbers 004 though 072 inclusive, and 074 through 078 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent rapid adiabatic compression within the oxygen line between the oxygen shutoff valve and the pressure regulator due to a shutoff valve that can be opened quickly, which could result in overheating of the oxygen system, and consequent fire in the cockpit, accomplish the following:

Removal and Installation of Oxygen Shutoff Valve

(a) Within 250 flight hours after the effective date of this AD, remove the existing oxygen shutoff valve and install a new oxygen shutoff valve, per the Accomplishment Instructions of Astra (Gulfstream Aerospace Corporation) Alert Service Bulletin 1125–35A–114, dated November 28, 2001, excluding Service Bulletin Certificate of Compliance.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Israeli airworthiness directive 35–02–07–02, dated August 18, 2002.

Issued in Renton, Washington, on February 13, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–4166 Filed 2–20–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–331–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, and –500 Series Airplanes; and Model ATR72–102, –202, –212, and –212A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, —320, and –500 series airplanes; and Model ATR72–102, –202, –212, and –212A series airplanes. This proposal would require modification of the flight attendant's seat located in the front of the cabin, and follow-on actions. This action is necessary to prevent release of the forward flight attendant's shoulder restraint harness, which could result in injury to the flight attendant in case of turbulence. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by March 24, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–331–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–331–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–331–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–331–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72–102, –202, –212, and –212A series airplanes. The DGAC advises that the inertia-reel harness installed on the forward flight attendant's seat does not ensure effective restraint of the flight attendant's shoulders against the backrest of the seat, and does not adequately restrain head movement. Investigation indicates that such a condition is attributed to the design of the inertia-reel harness. Consequently, in case of turbulence, there is a risk that the head of the flight attendant could hit the partitions located on either side of the forward flight attendant's seat. This condition, if not corrected, could result in injury to the flight attendant.

Explanation of Relevant Service Information

Avions de Transport Regional (ATR) has issued Service Bulletin ATR42–25–0141, dated October 15, 2002 (for certain Model ATR42–200, –300, –320, and –500 series airplanes), and Service Bulletin ATR72–25–1082, dated October 15, 2002 (for certain Model ATR72–102, –202, –212, and –212A series airplanes). These service bulletins specify procedures for modifying the flight attendant's seat located in the front of the cabin. The modification includes replacing the inertia-reel harness with a new fixed harness, and replacing the backrest cover and backrest cushion with new components. Follow-on actions include replacing the seat identification placard with a new placard, and installing a new modification placard near the seat identification placard.

ATR Service Bulletins ATR42–25–0141 and ATR72–25–1082 both reference SICMA Service Bulletin 138–25–008, dated September 18, 2002, as an additional source of service information for procedures to modify the forward flight attendant's seat, and perform follow-on actions.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 2002–539(B), dated October 30, 2002, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

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

Difference Between Proposed Rule and French Airworthiness Directive

The French airworthiness directive specifies certain Aerospatiale Model ATR42–400 series airplanes. However, the applicability of this proposed rule does not include that airplane model because the FAA has not issued a type certificate for that model; therefore, that model is not included on the most recent type certificate data sheet for the affected models.

Cost Impact

The FAA estimates that approximately 80 Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes, and Model ATR72–102, –202, –212, and –212A series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,786 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $147,680, or $1,846 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospatiale: Docket 2002–NM–331–AD.

Applicability: Airplanes listed in the following table, certificated in any category:

Airplane models—	Including models on which these modifications have been installed—	Including models on which these modifications have not been installed—
ATR42–200, –300, and –320 series airplanes.	0384, 1685, or 1991; or modifications per Service Bulletins ATR42–25–0082, ATR42–98–331A, or ATR42–98–409C.	5328 per Service Bulletin ATR42–25–0141, or 619 (*i.e.,* 0619). 8023 per Service Bulletin ATR42–98–025A.
ATR42–500 series airplanes	4181 or 5042	5301 per Service Bulletin ATR42–98–524D. 5328 per Service Bulletin ATR42–25–0141.
ATR72–102, –202, –212, and –212A series airplanes.	None	5328 (replacement of the inertia-reel harness with a fixed harness) per Service Bulletin ATR72–25–1082.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent release of the forward flight attendant's shoulder restraint harness, which could result in injury to the flight attendant in case of turbulence; accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD: Modify the forward flight attendant's seat located in the front of the cabin (including replacing the inertia-reel harness with a new fixed harness, and replace the backrest cover and backrest cushion with new components), per Avions de Transport Regional (ATR) Service Bulletin ATR42–25–0141, dated October 15, 2002 (for Model ATR42–200, –300, –320, and –500 series airplanes); or Service Bulletin ATR72–25–1082, dated October 15, 2002 (for Model ATR72–102, –202, –212, and –212A series airplanes); as applicable.

Follow-on Actions

(b) Before further flight following accomplishment of the modification required by paragraph (a) of this AD: Accomplish paragraphs (b)(1) and (b)(2) of this AD per ATR Service Bulletin ATR42–25–0141, dated October 15, 2002; or ATR Service Bulletin ATR72–25–1082, dated October 15, 2002; as applicable.

(1) Replace the seat identification placard with a new placard having a new part number (P/N).

(2) Install a new modification placard to indicate accomplishment of the SICMA Service Bulletin 138–25–008, dated September 18, 2002.

Note 2: ATR Service Bulletins ATR42–25–0141 and ATR72–25–1082 reference SICMA Service Bulletin 138–25–008 as an additional source of service information for procedures to modify the forward flight attendant's seat, and to perform follow-on actions (including replacing the seat identification placard with a new placard, and installing a new modification placard).

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in French airworthiness directive 2002–539(B), dated October 30, 2002.

Issued in Renton, Washington, on February 13, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–4168 Filed 2–20–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC75

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Safety Measures and Procedures for Pipeline Modifications and Repairs

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: MMS withdraws a proposed rule that was published in the **Federal Register** on August 28, 2001 (66 FR 45236). The proposed rule required all lessees, lease operators, and pipeline right-of-way holders to submit in writing the measures they plan to take and the procedures they plan to follow to ensure the safety of offshore workers and to prevent pollution before beginning any operation that involves cutting into a pipeline or opening a pipeline at a flange. Issues raised during the comment period for the proposed rule led MMS to reevaluate its pipeline permitting procedures. MMS determined that a rewrite of its Subpart J pipeline regulations is a more appropriate course of action. Based on this determination, MMS is withdrawing the proposed rule.

DATES: The proposed rule is withdrawn as of February 21, 2003.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Operations Analysis Branch, at (703) 787–1608 or e-mail at *carl.anderson@mms.gov.*

SUPPLEMENTARY INFORMATION: MMS is authorized to issue and enforce rules to promote safe operations, environmental protection, and resource conservation on the Outer Continental Shelf (OCS). (The OCS Lands Act (43 U.S.C. 1331 *et seq.*) defines the OCS.) Under this authority, MMS regulates pipeline transportation of mineral production and rights-of-way for pipelines and associated facilities. MMS approves all OCS pipeline applications, regardless of whether a pipeline is built and operated under Department of the Interior (DOI) or Department of Transportation (DOT) regulatory requirements. MMS also has sole authority to grant rights-of-way for OCS pipelines.

We received comments from five respondents on the proposed rule. They were the Offshore Operators Committee, Duke Energy Gas Transmission, CMS Panhandle Pipeline Companies, Shell Exploration & Production Company, and Enron Transportation Services Company. They raised a number of questions that gave us reason to reconsider our existing pipeline regulations and internal permitting procedures. We reviewed our regulations regarding platform piping systems under 30 CFR part 250, subpart H—Oil and Gas Production Safety Systems; industry response in emergency repair situations; and the impacts that MMS permitting procedures for pipeline modifications and repairs have on production operations and transportation pipeline operations.

The comments we received on this rule have been helpful in calling attention to certain aspects of our pipeline regulatory program that need upgrading and redefining. Moreover, the review of our internal permitting procedures pointed out the need for increased clarification regarding our overlapping responsibilities with DOT for OCS pipelines. The respective responsibilities of DOI and DOT regarding OCS pipelines are defined in a 1996 Memorandum of Understanding between the two Departments.

Therefore, we concluded that rather than continue with this rulemaking, we should review and rewrite our regulations under 30 CFR part 250, subpart J—Pipelines and Pipeline Rights-of-Way. MMS will rewrite the new subpart J in close cooperation with DOT's Office of Pipeline Safety to ensure, to the extent possible, that the two agencies have compatible regulations governing OCS pipelines. MMS will subsequently publish the new subpart J as a proposed rule. The withdrawal of this rule will not diminish the safety of offshore operations.

Dated: February 6, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–4149 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA28

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is issuing this proposed rule to prescribe minimum standards applicable to dealers in precious metals, stones, or jewels pursuant to the provisions in the U.S.A. Patriot Act of 2001 that require financial institutions to establish anti-money laundering programs.

DATES: Written comments may be submitted on or before April 22, 2003.

ADDRESSES: Commenters are encouraged to submit comments by electronic mail because paper mail in the Washington, DC area may be delayed. Comments submitted by electronic mail may be sent to *regcomments@fincen.treas.gov* with the caption in the body of the text, ''Attn: section 352—Jewelry Dealer Regulations.'' Comments also may be submitted by paper mail to FinCEN, PO

Box 39, Vienna, VA 22183–0039, ''Attn: section 352—Jewelry Dealer Regulations.'' Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905–3590; the Office of the General Counsel, (202) 622–1927; or the Office of the Assistant General Counsel (Banking and Finance), (202) 622–0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (U.S.A. Patriot Act) of 2001 (Pub. L. 107–56) (the ''Act''). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), which are codified in subchapter II of chapter 53 of title 31, United States Code.[1] These amendments are intended to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism.

Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) The development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test programs. Section 352(c) of the Act directs the Secretary of the Treasury (''Secretary'') to prescribe regulations for anti-money laundering programs that are ''commensurate with the size, location, and activities'' of the financial institutions to which such regulations apply.

Although a dealer ''in precious metals, stones, or jewels'' (''dealer'') is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(N), FinCEN has not previously defined the term or issued regulations regarding dealers. On April 29, 2002, FinCEN deferred the anti-money laundering program requirement contained in 31 U.S.C. 5318(h) that would have applied to the industry. The purpose of the deferral was to provide FinCEN with time to study the industry and to consider how anti-money laundering controls could best be applied to the industry.[2] This rule defines the term dealer and provides guidance, tailored to the industry, to such entities in complying with section 352.

The industry of dealers encompasses various segments, including: (1) Those who trade in precious metals, including large scale metal suppliers and large and small scale refiners; (2) those who trade loose gemstones; (3) large and small scale manufacturers of jewelry; and (4) retail stores, including independent and chain stores of varying sizes, selling jewelry products to, and buying jewelry products from, the consuming public. The size of businesses in each segment of the industry varies substantially from a single artisan goldsmith to publicly traded commercial manufacturers employing hundreds of people and producing millions of finished pieces every year. The sources of supply vary as well, from large scale producers of fabricated precious metals materials to small dealers selling unique and rare gemstones on an individualized basis. Further, there is an active secondary market for jewelry, loose gemstones, and precious metals, with small firms selling used or antique pieces for scrap value or as unique works of art.

Because dealers are not generally regulated as financial institutions, the industry traditionally has been subject to limited federal financial regulation. Federal laws governing this industry, such as the National Gold and Silver Stamping Act (15 U.S.C. 291–300) and the Lanham Act (15 U.S.C. 1117, 1125), are generally intended to protect consumers against misleading descriptions of the fineness of precious metals or the identity and quality of precious stones and jewels. Similarly, state regulation of the industry is focused on consumer protection.

II. The Anti-Money Laundering Program

The Congressional mandate that all financial institutions establish an anti-money laundering program is a key element in the national effort to prevent and detect money laundering and the financing of terrorism. The mandate recognizes that financial institutions other than depository institutions (which have long been subject to BSA requirements) are vulnerable to money laundering. The legislative history of the Act explains that the anti-money laundering program is not a one-size-fits-all requirement. The general nature of the requirement reflects Congress' intent that each financial institution have the flexibility to tailor its program to fit its business, taking into account factors such as size, location, activities, and risks or vulnerabilities to money laundering. This flexibility is designed to ensure that all firms subject to the anti-money laundering program requirement, from the largest to the smallest firms, have in place policies and procedures appropriate to monitor for anti-money laundering compliance.[3]

Although dealers do not perform the same functions as banking institutions, the industry presents identifiable money laundering risks. Precious metals, precious stones, and jewels constitute easily transportable, highly concentrated forms of wealth. They serve as international mediums of exchange that can be converted into cash anywhere in the world. In addition, precious metals, especially gold, silver, and platinum, have a ready, actively traded market, and can be melted and poured into various forms, thereby obliterating refinery marks and leaving them virtually untraceable. For these reasons, precious metals, precious stones, and jewels can be highly attractive to money launderers and other criminals, including those involved in the financing of terrorism.

In addition, significant incentives currently exist for dealers to minimize financial losses caused by fraud in connection with the valuable products in which they deal. By their very nature, precious metals, precious stones, and jewels are extremely valuable by weight and volume, and fraud perpetrators attempt to incorrectly identify the mass, quality, or fineness of these products. Theft of such items, through the use of counterfeit checks, forged signatures, or other means, is likewise a risk. As such, this industry has long been aware that rigorous anti-fraud measures are a necessity in order to remain economically viable. This proposed rule

[1] Regulations implementing the BSA appear at 31 CFR part 103. The authority of the Secretary the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

[2] *See* 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002), as amended at 67 FR 67547 (November 6, 2002) and corrected at 67 FR 68935 (November 14, 2002).

[3] *See* U.S.A. Patriot Act of 2001: Consideration of H.R. 3162 Before the Senate (October 25, 2001) (statement of Sen. Sarbanes); Financial Anti-Terrorism act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives (October 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the Act).

seeks to take advantage of those existing practices by focusing the due diligence conducted by dealers to include the potential for money laundering or terrorist financing.

A. Definitions

Section 103.140(a) defines the key terms used in the proposed rule. Paragraph 103.140(a)(1)(i) defines ''dealer'' as any person who is ''engaged in the business of purchasing and selling jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones.'' The proposed definition of dealer reflects Treasury's determination that all segments of the industry are vulnerable to money laundering and terrorist financing. Thus, the anti-money laundering requirement contained in the proposed rule covers entities including manufacturers, refiners, wholesalers, retailers, and any other entity engaged in the business of purchasing and selling jewels, precious metals, precious stones, or jewelry.

The proposed definition contains an explicit minimum dollar threshold, to carve out small businesses that may, on a part-time basis, deal in precious metals, stones, jewels, or jewelry. Thus, paragraphs (a)(1)(i)(A) and (B) provide that a person is a ''dealer'' only if, during the prior calendar or tax year, the person (1) purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry, or (2) received more than $50,000 in gross proceeds from the sale of jewels, precious metals, precious stones, or jewelry. Thus, an amateur silversmith, who sells a portion of his production to finance his hobby, would not be subject to this rule if he were to remain below the proposed threshold. FinCEN specifically solicits comment on the amount of the proposed threshold, and whether an alternative threshold should be employed, such as specific physical quantities of precious metals, stones, or jewels, or other types of thresholds.

In addition to the minimum dollar threshold, the definition of ''dealer'' contains two exceptions, found in proposed paragraph (a)(1)(ii). The first exception provides that a retailer[4] is a dealer only if it purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from persons other than dealers during the prior calendar or tax year. Thus, a retailer that purchases jewels, precious metals, precious stones, or jewelry from a dealer (for example, from a wholesaler), would not fall within the definition of ''dealer,'' even if its gross sales of jewels, precious metals, stones, and jewelry exceeded $50,000 in the prior calendar or tax year. However, a retailer that, in the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from sources other than a dealer (for example, from the general public), would be a dealer for purposes of the rule. The rationale for this limited exception is that, in order to abuse this industry, a money launderer must be able to sell as well as purchase the goods. Therefore, there is substantially less risk that a retailer who purchases goods exclusively or almost exclusively from dealers subject to the proposed rule will be abused by money launderers.

The second exception, contained in proposed paragraph (a)(1)(ii)(B), carves out from the definition of ''dealer'' a person buying or selling value-added fabricated goods containing minor amounts of precious metals or gemstones. Precious metals, stones, and jewels often have minor uses in equipment for which they act as a very small component, for example, in computers or drills with industrial diamond cutting tools, or as reflective coating on windows. Similarly, sapphire bearings may be used in highly precise electronic equipment, because of the toughness exhibited by corundum. Although the amount of precious metals, stones, and jewels contained in each industrial product may be minimal, the high volume production or sale of such products could result in a high volume of sale of precious metals, stones, or jewels. FinCEN has determined that the anti-money laundering program requirement should be imposed on those sectors of the industry that pose the most significant risk of money laundering and terrorist financing, and for this reason, persons who buy and sell value-added fabricated goods containing minor amounts of precious metals or gemstones are excluded from the proposed definition of ''dealer.''

The term ''jewel'' is defined in paragraph (a)(2) to include organic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as coral, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of non-gem quality. As proposed, the definition of ''jewel'' would not include substances that are of non-gem quality.

Paragraph (a)(3) contains a definition of the term ''precious metal,'' which is defined to include gold, silver, and the platinum group of metals, when it is at a level of purity of 0.500 (50 percent) or greater, singly or in any combination. For example, an alloy of 25 percent gold and 30 percent platinum would be a precious metal under the proposed rule. Similarly, this definition excludes the products of a mining firm or refinery that does not deal in precious metals refined to that purity level, but would include 12 karat gold jewelry. The 50 percent threshold is intended to exclude materials that have incidental levels of precious metals, such as polymer resin castings that have been electroplated with gold, or antique mirrors with a thin silver foil on the back. Similarly, operations that process lead ore that may contain smaller amounts of silver or gold would also be excluded. As a result, the focus of the definition is on materials that are predominantly precious metal.

The term ''precious stone'' is defined in paragraph (a)(4) to include inorganic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as diamonds, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of industrial (or non-gem) quality. For example, diamonds are available in both industrial grades and gem quality grades. However, industrial grade diamonds cannot generally be transformed into gem quality diamonds. Similarly, a flame fusion synthetic corundum may be chemically identical to a gem quality ruby, yet not be a ''precious stone.'' Therefore, precious stones of industrial quality have been carved out of the definition of precious stones.

B. Anti-Money Laundering Program Requirements

Section 103.140(b) requires that each dealer develop and implement an anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering or the financing of terrorist activities. The program must be in writing and should set forth clearly the details of the program, including the responsibilities of the individuals and departments involved. To ensure that this requirement receives the highest level of attention throughout the company, the proposed rule requires that each dealer's program be approved in writing by its senior management.[5] A

[4] The NPRM defines a retailer as a person engaged in the business of selling to the public jewels, precious metals, or precious stones or jewelry composed of jewels, precious metals, or precious stones.

[5] This may be the sole proprietor in the case of a sole proprietorship, the board of directors, or a committee authorized for this purpose in the case of a corporation, or partners representing a majority interest in a general partnership.

dealer must make its anti-money laundering program available to Treasury or its designee upon request. While it is permissible for a dealer to delegate certain functions relating to its anti-money laundering program to a third party, the dealer remains responsible for ensuring compliance with these requirements.

Section 103.140(c) sets forth the minimum requirements of a dealer's money laundering program. Section 103.140(c)(1) requires the anti-money laundering program to incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls must also be reasonably designed to ensure compliance with BSA requirements. The only BSA regulatory requirement currently applicable to a dealer is the obligation to report on Form 8300 the receipt of cash or certain non-cash instruments totaling more than $10,000 in one transaction or two or more related transactions.[6] To assure reasonable compliance, the program should be reasonably designed to detect and report not only transactions required to be reported on Form 8300, but also activity designed to evade this reporting requirement. Such activity, commonly known as ''structuring,'' may involve payments of more than $10,000 with multiple money orders, travelers' checks, or cashiers' checks or other bank checks, each with a face amount of less than $10,000. Such methods of payment may be indicative of money laundering, particularly when the payment instruments were obtained from different sources or the payments were made at different times on the same day or were made on consecutive days or close in time. Should dealers become subject to additional requirements, their compliance programs would have to be updated to include appropriate policies, procedures, training, and testing functions relating to such requirements.

Section 103.140(c)(1)(i) provides that, for purposes of making the risk assessment required under section 103.140(c)(1), a dealer must consider all relevant factors, including those listed in the rule. First, the dealer must assess the money laundering and terrorist financing risks associated with its products, customers, suppliers, distribution channels, and geographic locations. In addition, a dealer must take into consideration the extent to which the dealer engages in transactions other than with established customers or sources of supply. Finally, a dealer must analyze the extent to which it engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified as vulnerable to terrorism or money laundering.[7] The proposed rule is intended to give a dealer the flexibility to design its program to meet the specific money laundering and terrorist financing risks presented by the dealer's business, based on the dealer's assessment of such risks.

Section 103.140(c)(1)(ii) provides that a dealer's policies, procedures, and internal controls must be reasonably designed to detect transactions that may involve use of the dealer to facilitate money laundering or terrorist financing. In addition, a dealer's program must incorporate procedures for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing. A dealer that identifies indicators that a transaction may involve money laundering or terrorist financing should take reasonable steps to determine whether its suspicions are justified and respond accordingly, including refusing to enter into, or complete, a transaction that appears designed to further illegal activity.[8] The proposed rule provides flexibility to dealers in developing procedures for making reasonable inquiries under paragraph (c)(1)(ii). For example, a dealer may appropriately determine that reasonable inquiry with respect to a transaction conducted by a new customer or supplier involves considerable scrutiny, including verification of customer identity, income source, or the purpose of a transaction. In contrast, reasonable inquiry with respect to an established customer may not involve additional steps beyond those normally required to complete the transaction, unless the transaction appears suspicious or unusual to the dealer. As explained further below, the determination whether to refuse to enter into, or to terminate, a transaction lies with the dealer. In addition, dealers are encouraged to adopt procedures for voluntarily filing Suspicious Activity Reports with FinCEN and for reporting suspected terrorist activities to FinCEN using its Financial Institutions Hotline (1–866–566–3974).

The proposed rule lists several examples of factors that may indicate that a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include: (1) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from unknown third parties; (2) unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations; (3) attempts by a customer or supplier to maintain a high and unusual degree of secrecy with respect to the transaction, such as a request that normal business records not be kept; (4) purchases or sales that are unusual for the particular customer or supplier or type of customer or supplier; and (5) purchases or sales that are not in conformity with standard industry practice. For example, one money laundering scheme observed in this industry involved a customer who ordered items, paid for them in cash, cancelled the order, and then received a large refund.[9] In one case, funds were laundered through large cash purchases of a dealer's gold at artificially inflated prices, followed by re-purchase by the dealer of the same gold at lower prices.[10] A dealer should make reasonable inquiries when transactions appear to vary from standard industry practice, or from the standard practice of an established customer or supplier. Over- or under-invoicing, structured, complex, or multiple invoice requests, and high-dollar shipments that are over- or under-insured may all be indicia that a transaction involves money laundering or terrorist financing.

The list of factors contained in the proposed rule is intended to provide

[6] *See* 31 CFR 103.30.

[7] Examples of designations to this effect include the Department of State's designation of a jurisdiction as a sponsor of international terrorism under 22 U.S.C. 2371, the FATF's designation of jurisdictions that are non-cooperative with international anti-money laundering principles, or the Secretary of the Treasury's designation pursuant to 31 U.S.C. 5318A of jurisdictions warranting special measures due to money laundering concerns.

[8] 18 U.S.C. 1956 and 1957 make it a crime for any person, including an individual or company, to engage knowingly in a financial transaction with the proceeds from any of a long list of crimes or types of ''specific unlawful activity.'' Although the standard of knowledge required is ''actual knowledge,'' actual knowledge includes ''willful blindness.'' Thus, a person could be deemed to have knowledge that proceeds were derived from illegal activity if he or she ignored ''red flags'' that indicated illegality. See, *e.g., U.S.* v. *Finkelstein,* 229 F.3d 90 (2nd Cir. 2000) (owner of jewelry/precious metals business convicted for participation in money laundering scheme; sentence enhancement based on willful blindness of certain funds received derived from narcotics trafficking).

[9] *See United States* v. *Huppert*, 917 F.2d 507 (11th Cir. 1990).

[10] *See Finkelstein, supra* n. 8.

examples of indicia of illegal activity, and is by no means exhaustive. Determinations as to whether a transaction should be refused or terminated must be based on the facts and circumstances relating to the transaction and the dealer's knowledge of the customer or supplier in question. It is not intended that dealers automatically refuse to engage in or terminate transactions simply because such transactions involve one or more of the factors listed in the rule. Rather, it is intended that dealers will develop procedures for identifying transactions involving potentially illegal activity, and procedures setting forth the actions that a dealer will take in response to such transactions.

Section 103.140(c)(2) requires that a dealer designate a compliance officer to be responsible for administering the anti-money laundering program. The person (or group of persons) should be competent and knowledgeable regarding BSA requirements and money laundering issues and risks, and should be empowered with full responsibility and authority to develop and enforce appropriate policies and procedures throughout the dealer's business. The role of the compliance officer is to ensure that (1) The program is being implemented effectively; (2) the program is updated as necessary; and (3) appropriate persons are trained in accordance with the rule. Whether the compliance officer is dedicated full time to BSA compliance would depend upon the size and complexity of the dealer's business and the risks posed. In all cases, the person responsible for the supervision of the overall program should be an officer or employee of the dealer.

Section 103.140(c)(3) requires that a dealer provide for training of appropriate persons. Employee training is an integral part of any anti-money laundering program. Employees of the dealer must be trained in BSA requirements relevant to their functions and in recognizing possible signs of money laundering that could arise in the course of their duties, so that they can carry out their responsibilities effectively. Such training could be conducted by internal or external seminars, and could include videos, computer-based training, booklets, etc. The level, frequency, and focus of the training should be determined by the responsibilities of the employees and the extent to which their functions bring them in contact with BSA requirements or possible money laundering activity. Consequently, the training program should provide both a general awareness of overall BSA requirements and money laundering issues, as well as more job-specific guidance regarding particular employees' roles and functions in the anti-money laundering program.[11] For those employees whose duties bring them in contact with BSA requirements or possible money laundering activity, the requisite training should occur when the employee assumes those duties. Moreover, these employees should receive periodic updates and refreshers regarding the anti-money laundering program.

Section 103.140(c)(4) requires that a dealer conduct periodic testing of its program, in order to ensure that the program is indeed functioning as designed. Such testing should be accomplished by personnel knowledgeable regarding BSA requirements. Testing may be accomplished either by dealer employees or unaffiliated service providers so long as those same individuals are not involved in the operation or oversight of the program. The frequency of such a review would depend upon factors such as the size and complexity of the dealer and the extent to which its business model may be more subject to money laundering than other institutions. Any useful recommendations resulting from such review should be implemented promptly or reviewed by senior management.

Section 103.140(d) provides that a dealer must develop and implement an anti-money laundering program within 90 days after enactment of a final rule based on the Notice, or not later than 90 days after the date a person becomes a dealer for purposes of the rule.

III. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. Because the requirements of the proposed rule closely parallel the requirements for anti-money laundering programs for all financial institutions mandated by section 352 of the Act, the costs associated with the establishment and implementation of anti-money laundering programs are attributable to the statute and not the proposed rule. Moreover, FinCEN believes that the definition of ''dealer'' in section 103.140(a)(1), which excludes dealers who have less than $50,000 in gross proceeds in a year, will exclude most small dealers from the requirements of the rule.

Furthermore, the proposed rule provides for substantial flexibility in how each dealer may meet its requirements. This flexibility is designed to account for differences among dealers, including size. In this regard, the costs associated with developing and implementing an anti-money laundering program will be commensurate with the size of a dealer. If a dealer is small, the burden to comply with section 352 and the proposed rule should be similarly small.

FinCEN specifically solicits comment on the impact of section 352 and the proposed rule on small dealers, particularly whether the proposed $50,000 threshold should be higher or lower, and whether an alternative threshold (such as one based upon specific physical quantities of precious metals, stones, or jewels, or other types of thresholds) would be more appropriate.

IV. Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments concerning the collection of information in the proposed rule should be sent (preferably by fax ((202)395–6974)) to the Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by the Internet to *jlackeyj@omb.eop.gov*), with a copy to FinCEN by mail or the Internet at the addresses previously specified.

FinCEN specifically invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, and whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the collection of information (see below), including the number of dealers (as defined in section 103.140(a)(1)) who will be subject to the requirements of the proposed rule; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways

[11] Appropriate topics for an anti-money laundering program include, but are not limited to: BSA requirements, a description of money laundering, how money laundering is carried out, what types of activities and transactions should raise concerns, what steps should be followed when suspicions arise, and the need to review OFAC and other government lists.

to minimize the burden of the information collection, 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 maintain the information.

The collection of information is the recordkeeping requirement in section 103.140(b). The information will be used by federal agencies to verify compliance by dealers with the provisions of sections 103.140 and 103.141. The collection of information is mandatory.

Estimated Number of Recordkeepers: 20,000.

Estimated Average Annual Burden Per Recordkeeper: The estimated average burden associated with the recordkeeping requirement in section 103.140(b) rule is 1 hour per recordkeeper.

Estimated Total Annual Recordkeeping Burden: 20,000 hours.

V. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 31 CFR Part 103

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

Authority and Issuance

For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

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

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

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 312, 313, 314, 326, 352, Pub. L. 107–56, 115 Stat. 307.

2. Subpart I of part 103 is amended by adding new § 103.140 to read as follows:

§ 103.140 Anti-money laundering programs for dealers in precious metals, precious stones, or jewels.

(a) *Definitions.* For purposes of this section:

(1) *Dealer.* (i) Except as provided in paragraph (a)(1)(ii) of this section, the term ''dealer'' means a person engaged in the business of purchasing and selling jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones, and who, during the prior calendar or tax year:

(A) Purchased more than $50,000 in jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones; or

(B) Received more than $50,000 in gross proceeds from transactions in jewels, precious metals, precious stones, and jewelry composed of jewels, precious metals, or precious stones.

(ii) The term ''dealer'' does not include:

(A) A retailer, *i.e.*, a person engaged in the business of sales to the public of jewels, precious metals, or precious stones, or jewelry composed thereof, other than a retailer that, during the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry composed of jewels, precious metals, or precious stones, from persons other than dealers (such as members of the general public or persons engaged in other businesses); or

(B) A person who engages in transactions in jewels, precious metals, or precious stones for purposes of fabricating finished goods that contain minor amounts of, or the value of which is not significantly attributable to, such precious metals, precious stones, or jewels.

(2) *Jewel* means an organic substance with gem quality market-recognized beauty, rarity, and value, and includes pearl, amber, and coral.

(3) *Precious metal* means:

(i) Gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and

(ii) An alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals listed in paragraph (a)(3)(i) of this section.

(4) *Precious stone* means an inorganic substance with gem quality market-recognized beauty, rarity, and value, and includes diamond, corundum (including rubies and sapphires), beryl (including emeralds and aquamarines), chrysoberyl, spinel, topaz, zircon, tourmaline, garnet, crystalline and cryptocrystalline quartz, olivine peridot, jadeite jade, nephrite jade, spodumene, feldspar, turquoise, lapis lazuli, and opal.

(5) *Person* shall have the same meaning as provided in § 103.11(z).

(b) *Anti-money laundering program requirement.* Each dealer shall develop and implement a written anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering and the financing of terrorist activities. The program must be approved by senior management. A dealer shall make its anti-money laundering program available to the Department of Treasury or its designee upon request.

(c) *Minimum requirements.* At a minimum, the anti-money laundering program shall:

(1) Incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls developed and implemented by a dealer under this section shall include provisions for complying with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*), and this part.

(i) For purposes of making the risk assessment required by paragraph (c)(1) of this section, a dealer shall take into account all relevant factors including the following:

(A) The type(s) of products the dealer buys and sells, as well as the nature of the dealer's customers, suppliers, distribution channels, and geographic locations;

(B) The extent to which the dealer engages in transactions other than with established customers or sources of supply; and

(C) Whether the dealer engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371; designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the United States representative or organization concurs; or designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns.

(ii) A dealer's program shall incorporate policies, procedures, and internal controls to assist the dealer in identifying transactions that may involve use of the dealer to facilitate money laundering or terrorist financing, including provisions for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing, and for refusing to consummate, withdrawing

from, or terminating such transactions. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include, but are not limited to:

(A) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from third-parties;

(B) Unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations;

(C) Attempts by a customer or supplier to maintain a high degree of secrecy with respect to the transaction, such as a request that normal business records not be kept;

(D) Purchases or sales that are unusual for the particular customer or supplier, or type of customer or supplier; and

(E) Purchases or sales that are not in conformity with standard industry practice.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in the risk assessment, current requirements of this part, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (c)(3) of this section;

(3) Provide for on-going education and training of appropriate persons concerning their responsibilities under the program; and

(4) Provide for independent testing to monitor and maintain an adequate program. The scope and frequency of the testing shall be commensurate with the risk assessment conducted by the dealer in accordance with paragraph (c)(1) of this section. Such testing may be conducted by an officer or employee of the dealer, so long as the tester is not the person designated in paragraph (c)(2) of this section or a person involved in the operation of the program.

(d) *Effective date.* A dealer must develop and implement an anti-money laundering program that complies with the requirements of this section on or before May 22, 2003, or not later than 90 days after the date a dealer becomes subject to the requirements of this section.

Dated: February 12, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 03–4171 Filed 2–20–03; 8:45 am]

BILLING CODE 4810–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–234]

Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of en banc field hearing on broadcast ownership rules.

SUMMARY: On Thursday, February 27, 2003 from 10 a.m. to 4 p.m., the Federal Communications Commission (FCC) will hold an en banc field hearing on broadcast ownership rules at the Greater Richmond Convention Center, 403 N. Third Street, Richmond, VA 23219.

DATES: The hearing will be held on Thursday, February 27, 2003, 10 a.m. to 4 p.m.

ADDRESSES: Location of hearing: The Greater Richmond Convention Center, 403 N. Fifth St. Richmond, VA 23219. Interested members of the public also may participate in this proceeding by filing comments electronically using the Commission's Electronic Comment Filing System (ECFS) and ECFS Express at *http://www.fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Amelia Brown, Consumer & Governmental Affairs Bureau, (202) 418–1400. Press inquiries should be directed to Rosemary Kimball, (202) 418–0511.

SUPPLEMENTARY INFORMATION: The hearing discussions will focus on diversity, competition and localism. (See MB Docket No. 02–277.) Attendance at this field hearing is open to the public. Seating will be available on a first-come, first-served basis. Requests for reasonable accommodations for people with disabilities should be made by sending an e-mail to: *fcc504@fcc.gov.* Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Contact the following Consumer & Governmental Affairs Bureau staff: for sign language interpreters, CART, and other reasonable accommodations, contact Helen Chang, 202–418–0424 (voice), 202–418–0432 (TTY), *hchang@fcc.gov;* for accessible format materials (braille, large print, electronic files, and audio format) contact Brian Millin, 202–418–7426 (voice), 202–418–7365 (TTY), *bmillin@fcc.gov.* Interested members of the public may also participate in this proceeding by filing comments electronically using the Commission's Electronic Comment Filing System (ECFS) and ECFS Express at *http://www.fcc.gov.*

Federal Communications Commission.

Kris A. Monteith,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 03–4264 Filed 2–20–03; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532, 538, and 552

General Services Administration Acquisition Regulation; Federal Supply Schedule Contracts; Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules; Public Meeting

AGENCIES: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of meeting.

SUMMARY: The General Services Administration (GSA) is sponsoring a second public meeting to further facilitate an open dialogue between the government and interested parties on the implementation of section 211 of the E-Government Act of 2002. A proposed rule was published in the **Federal Register** at 68 FR 3220, January 23, 2003. Section 211 authorizes the Administrator of GSA to provide for the use by States or local governments of its Federal Supply Schedule for ''automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal Supply Classification Code Group 70).''

DATES: The public meeting will be held on March 10, 2003, at 9 a.m. Eastern standard time.

ADDRESSES: The public meeting will be held in the: GSA Training Room, 1931 Jefferson Davis Highway, Crystal Mall Building #3, Room C–43, Arlington, VA 22202.

The closest Metro access is from the Crystal City station.

If you wish to attend the meeting and/or make presentations on the proposed rule, please contact and submit a copy of your presentation by March 6, 2003, to: General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4033, Attn: Linda Nelson, Washington, DC 20405, Telephone: (202) 501–1900.

Submit electronic presentation materials via e-mail to: *meeting.2002–G505@gsa.gov.*

Please submit only presentations to this e-mail address and cite Public Meeting 2002–G505 in all correspondence related to this public meeting. The submitted presentations will be the only record of the public meeting. If you intend to have your presentation considered as a public comment on the proposed rule, the presentation must be submitted separately as a public comment as instructed in the proposed rule. (See 68 FR 3220, January 23, 2003.)

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4225, for information pertaining to status or publication schedules. The TTY Federal Relay Number for further information is 1–800–877–8973. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite GSAR case 2002–G505.

Special Accommodations

The public meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Mrs. Linda Nelson (202–501–1900) at least 5 days prior to the meeting date.

Dated: February 13, 2003.

Laura G. Smith,

Director, Acquisition Policy Division.

[FR Doc. 03–4053 Filed 2–20–03; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI45

Endangered and Threatened Wildlife and Plants; Threatened Status and Special Regulation for the Mountain Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On December 5, 2002, we, the Fish and Wildlife Service (Service), published a notice of new information and reopened the comment period to propose listing the mountain plover as a threatened species (67 FR 72396), under authority of the Endangered Species Act of 1973, as amended (Act). We hereby give notice that the comment period is reopened until March 21, 2003.

DATES: The comment period on the proposed listing rule is reopened until March 21, 2003.

ADDRESSES: Written comments and materials should be sent to the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506–3946. You may send electronic mail (e-mail) comments to *fw6_mountainplover@fws.gov.* You also may obtain a copy of the 1999 proposed rule to list the mountain plover (64 FR 7587) and other pertinent documents from this office, or access them at our Web site at *http://www.r6.fws.gov/mtnplover/.* We will make comments and materials we receive available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Leachman at the above address; telephone: 970–243–2778; facsimile: 970–245–6933; or e-mail: *robert_leachman@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1999, we published a proposed rule to list the mountain plover as a threatened species (64 FR 7587). Higher priority listing actions precluded listing work on the mountain plover during Fiscal Years 2000 and 2001. On October 16, 2001, Earthjustice (representing the Biodiversity Legal Foundation, Biodiversity Associates, and Center for Native Ecosystems) submitted a 60-day notice of intent to sue to the Secretary of the Department of the Interior and the Fish and Wildlife Service Regional Director for failure to meet listing deadlines for the mountain plover, as required by section 4(b)(6)(A) of the Act. We responded by publishing a notice of new information and reopening the comment period on the listing proposal on December 5, 2002 (67 FR 72396). The comment period closed on February 3, 2003.

Section 4(b)(5)(E) of the Act requires that public hearings regarding proposals for listing be held promptly when requested by the public within 45 days of the proposal's publication in the **Federal Register**. We received public hearing requests and requests to extend the comment period during the allotted time period from California Congressman Bob Filner, the Oklahoma Farm Bureau, the Kansas Farm Bureau, and Holland and Hart LLP, representing the Petroleum Association of Wyoming. Following discussions with each of these parties, each agreed that informational meetings rather than formal hearings would be acceptable. Therefore, we scheduled, advertised, and conducted informational meetings in El Centro, California, and Elkhart, Kansas. We are also reopening the comment period in response to these requests. Comments already submitted in response to the December 5, 2002, rulemaking document need not be resubmitted and will be fully considered in our decisionmaking on this proposed rule.

Author

The author of this notice is Robert Leachman (*see* **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 11, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–4152 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 020403B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of two proposals for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the EFP applications from the University of Rhode Island (URI)

contain all the required information and warrant further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFPs would be consistent with the goals and objectives of the Northeast (NE) Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), and does not detrimentally affect the well being of any stock of fish likely to be taken during the experiment. Therefore, NMFS announces that the Regional Administrator proposes to issue two EFPs that would allow vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the NE United States. The first EFP, hereafter referred to as the summer flounder EFP, would allow for an exemption from the NE summer flounder gear restrictions specified at 50 CFR 648.104. The second EFP, hereafter referred to as the scup EFP, would allow for an exemption from the NE scup closure restrictions specified at 50 CFR 648.121.

For the summer flounder EFP, the exempted fishing activity would support research to test large mesh experimental codends to determine their ability to reduce regulatory discards and bycatch of other species when fishing for commercial summer flounder. The testing will occur off the coast of Rhode Island. For the scup EFP, the exempted fishing activity would support research to test large mesh experimental codends for their ability to reduce sublegal scup discards when fishing for commercial scup. The testing will occur off the coast of Southern New England and the inshore waters of Rhode Island. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on these documents must be received on or before March 10, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope either ''Comments on University of Rhode Island Summer Flounder Codend Mesh Size EFP Proposal,'' or ''Comments on University of Rhode Island Scup Codend Mesh Size EFP Proposal.''

FOR FURTHER INFORMATION CONTACT: Jason Blackburn, Fishery Management Specialist, (978) 281–9326, fax (978) 281–9135, e-mail: *jason.blackburn@noaa.gov*.

SUPPLEMENTARY INFORMATION: The applications for two EFPs were submitted by URI for research being funded by awards under the Mid-Atlantic Fishery Management Council's Research Set-Aside (RSA) program administered by the NMFS Northeast Region.

Summer Flounder EFP Proposal

The applicant is requesting an exemption for four commercial vessels from the NE summer flounder gear restrictions specified at 50 CFR 648.104 for 24 days of at-sea gear testing. The objective of the research is to test large mesh experimental codends to determine their ability to reduce regulatory discards and bycatch of other species. The experimental design will test the selectivity of four experimental codend mesh sizes and shapes, 6.5 and 7.0 inch diamond mesh, and 7.0 and 8.0 inch square mesh, compared to the selectivity of a control net with a 3–inch small mesh codend. The sea trials would be conducted off the coast of Rhode Island during the months of April through September 2003.

It is estimated that the total catch of summer flounder will be 24,000 lb (10886 kg), with an estimated bycatch of 5,000 lb (2268 kg) of scup, 2,000 lb (907 kg) of longfin squid, and 1,000 lb (454 kg) of black sea bass. These fish will be landed in Rhode Island. It is further estimated that 2,000 lb (907 kg) of summer flounder, 5,000 lb (2268 kg) of scup, and 1,000 lb (454 kg) of black sea bass will be discarded during the research operations. Two URI fisheries researchers would be aboard each vessel during all experimental sea trials. All the areas surveyed during this experiment will be open to fishing, and only fish from legal open seasons will be retained from the Exclusive Economic Zone.

This experimental work is important because it could lead to the development of gear that could improve the size selection of the nets for summer flounder, reduce regulatory discards, and reduce bycatch of other fish species.

Scup EFP Proposal

The applicant is requesting an exemption for one commercial vessel from the NE scup closure restrictions specified at 50 CFR 648.121 for 6 days of at-sea gear testing. The objective of the research is to compare large mesh experimental codends, to a legal sized codend, to determine their ability to reduce sublegal scup discards. The experimental design will test two experimental codend mesh sizes, 6.0 inch and 6.5 inch square mesh. The sea trials would be conducted off the coast of Rhode Island during the months of April through July 2003.

It is estimated that the total catch of scup will be 20,000 lb (9,072 kg), with an estimated bycatch of 1,000 lb (454 kg) of squid, 1,000 lb (454 kg) of summer flounder, and 1,200 lb (544 kg) of black sea bass. These fish will be landed in Rhode Island. It is further estimated that 2,000 lb (907 kg) of scup, and minimal amounts of other species, will be discarded during the research operations. Two URI fisheries researchers would be aboard each vessel during all experimental sea trials. With the exception of scup, only fish from legal open seasons will be retained from the Exclusive Economic Zone.

This experimental work is important because it could lead to the development of gear that could reduce sublegal scup discards, and thereby reduce scup mortality.

Based on the results of the EFPs, these actions could result in future rulemaking.

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

Dated: February 13, 2003.

Richard W. Surdi,

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

[FR Doc. 03–4138 Filed 2–20–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 35
Friday, February 21, 2003

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

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on March 20, 2003, at the Inn By The Lake, 3300 Lake Tahoe Blvd., South Lake Tahoe, CA. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held March 20, 2003 beginning at 10 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at Inn By The Lake, 3300 Lake Tahoe Blvd., South Lake Tahoe, CA 96150.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executives Committee. Items to be covered on the agenda include: A report on the Tahoe Intergrate Information Management System (TIIMS), Pathway 2007 science perspective, and update on the USACE Lake Tahoe Framework Study, USFS Fuels Actions Plan status, updates from the Lands and Budget Subcommittees, Cave Rock environmental decision, and public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: February 13, 2003.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 03–4163 Filed 2–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to discuss project development for 2003. Agenda topics will include project form submittals and a public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. Act 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on February 25, 2003, 6:30 p.m.

ADDRESSES: The meeting will be held at the Ravalli County Administration Building, 215 S. 4th Street, Hamilton Montana. Send written comments to Jeanne Higgins, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7424, or electronically to *jmhiggins@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Jeanne Higgins, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: February 13, 2003.

David T. Bull,

Forest Supervisor.

[FR Doc. 03–4161 Filed 2–20–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Snohomish County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Snohomish County Resource Advisory Committee (RAC) has scheduled two upcoming meetings at the Snohomish County Administration Building, 3000 Rockefeller Ave., Everett, Wa. 98201. The first meeting will be Tuesday, March 18, 2003 in the Willis Tucker Conference Room, 3rd floor. The second meeting will be Tuesday, April 1, 2003 in the Planning Conference Room, 4th floor.

Both meetings will begin at 9 a.m., and continue until about 4 p.m. The agenda item to be covered at both meetings is the review and recommendation of Title II projects for FY 2004.

All Snohomish County Resource Advisory Committee meetings are open to the public Interested citizens are encouraged to attend.

The Snohomish County Resource Advisory Committee advises Snohomish County on projects, reviews project proposals, and makes recommendations to the Forest Supervisor for projects to be funded by Title II dollars. The Snohomish County Resource Advisory Committee was established to carry out the requirements of the Secure Rural Schools and Community Self-Determination Act of 2000.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Barbara Busse, Designated Federal Official, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 74920 NE. Stevens Pass Hwy, PO Box 305, Skyhomish, WA 98288 (phone: 360–677–2414) or Terry Skorheim, District Ranger, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 1405 Emens St., Darrington, WA 98241 (phone: 360–436–1155).

Dated: February 11, 2003.

Barbara Busse,

Designated Federal Official.

[FR Doc. 03–4162 Filed 2–20–03; 8:45 am]

BILLING CODE 3410–11–M

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Sunshine Act Notice

TIME AND DATE: 2 p.m., Wednesday, March 12, 2003.

PLACE: The Reserve Officers Association, Washington, DC 20510.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Review and approval of the minutes of the March 13, 2002 Board of Trustees meeting.
2. Report on financial status of the Foundation fund.
A. Review of investment policy and current portfolio.
3. Report on results of Scholarship Review Panel.
A. Discussion and consideration of scholarship candidates.
B. Selection of Goldwater Scholars.
4. Other Business brought before the Board of Trustees.

CONTACT PERSON FOR MORE INFORMATION: Gerald J. Smith, President, Telephone: (703) 756–6012.

Gerald J. Smith,

President.

[FR Doc. 03–4335 Filed 2–19–03; 4:02 am]

BILLING CODE 4738–91–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021403A]

Proposed Information Collection; Comment Request; Deep and Shallow-Water Grouper Dealer Reporting

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before April 22, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to John Poffenberger, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149,(phone 305–361–4263).

SUPPLEMENTARY INFORMATION:

I. Abstract

Fishery quotas are established for species in the deep-water and shallow-water management units within the Gulf of Mexico Reef Fish Fishery Management Plan (see 50 CFR 622.42(a)(ii) and (iii)). Existing methods of monitoring these fishery quotas have proven to be ineffective, and for the past two years landings for the species in these management units have exceeded the quotas. The Southeast Fisheries Science Center intends to use the authority under section 50 CFR 622.5(c)(3)(ii) to require dealers to report purchases (landings) on a monthly basis and every two weeks for the last two months of the season (year).

II. Method of Collection

The Southeast Fisheries Science Center will provide a reporting form to each dealer selected to report. The dealer must provide the name and permit number of the company and provide the amount purchased (landed) for the previous month for the individual species in deep and shallow-water management units. NOAA's intent is to provide paper and electronic versions of the form. This form must be faxed or sent as an e-mail attachment to the Southeast Fisheries Science, Miami, FL, within 5 business days of the end of each reporting period (month or two-weeks). For dealers that do not have a rapidfax machine or access to e-mail, pre-addressed, pre-paid envelopes will be provided.

III. Data

OMB Number: 0648–0013.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations (seafood dealers).

Estimated Number of Respondents: 85.

Estimated Time Per Response: 20 minutes.

Estimated Total Annual Burden Hours: 397 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 12, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–4137 Filed 2–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021103A]

Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 2003 Bank-specific Harvest Guidelines

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

ACTION: Notification of no harvest guideline for crustaceans.

SUMMARY: NMFS announces that annual harvest guidelines for the commercial lobster fishery in the Northwestern Hawaiian Islands (NWHI) will not be issued for the year 2003.

ADDRESSES: Copies of background material pertaining to this action, which is identical to the action taken in 2001, may be obtained from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru at 808–973–2937.

SUPPLEMENTARY INFORMATION: Under the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region, 50 CFR 660.50(b)(2),

NMFS is required to publish the harvest guidelines for lobster Permit Area 1 around the NWHI. Although the lobster stock is not overfished, the NWHI lobster fishery has been closed since 2000: (1) as a precautionary measure to prevent overfishing of the lobster resources; (2) in compliance with an order of the U.S. District Court for the District of Hawaii to keep the crustacean fisheries closed until an environmental impact statement and a biological opinion have been prepared for the crustacean fisheries in the western Pacific region; and (3) consistent with Executive Orders 13178 and 13196, issued in December 2000 and January 2001, respectively, that appear to close indefinitely the NWHI crustacean fishery.

NMFS announces that it will not be publishing any harvest guideline for this fishery for the year 2003 and no harvest of NWHI lobster resources will be allowed. NMFS intends to conduct biological research on the status of NWHI lobster resources and to examine the resulting data for indications as to the appropriate direction for future fishery management actions.

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

Dated: February 13, 2003.

Richard W. Surdi,

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

[FR Doc. 03–4139 Filed 2–20–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110802C]

Coral, Golden Crab, Shrimp, Spiny Lobster, Red Drum, Coastal Migratory Pelagic Resources, and Snapper-Grouper Fisheries of the South Atlantic

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

ACTION: Issuance of an exempted fishing permit.

SUMMARY: NMFS announces the issuance of an exempted fishing permit (EFP) for the North Carolina Aquariums (applicant), headquartered in Raleigh, NC. The EFP would authorize the applicant, with certain conditions, to collect up to 50 red porgy and up to 500 lb (0.23 mt) of coral/live rock each year for 2 years in Federal waters off North Carolina for public display. This EFP is similar to a previously approved EFP that expired on December 31, 2002.

ADDRESSES: Copies of the EFP are available from Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727–570–5305; Fax 727–570–5583; e-mail: *peter.eldridge@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b).

The North Carolina Aquariums (NCA), is headquarted in Raleigh, NC. The EFP would authorize the applicant, with certain conditions, to collect up to 50 red porgy and up to 500 lb (0.23 mt) of coral/live rock each year for 2 years in Federal waters off North Carolina for public display.

The NCA, located at Roanoke Island, Pine Knoll Shores, and Kure Beach, are public, non-profit, self-supporting institutions established to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's ocean, estuaries, rivers, streams and other aquatic environments. The aquariums represent institutions of major educational and conservation value, offering free admission to school children in groups and extensive field study and outreach programs. The specimens will be maintained in the various NCA.

The proposed collection involves activities otherwise prohibited by regulations implementing the Fishery Management Plans of the South Atlantic Region for Coral, Coral Reefs, and Live/Hard Bottom Habitats, and Snapper-Grouper Fisheries. The applicant requires authorization to harvest and possess corals, live rock, and red porgy taken from Federal waters off North Carolina.

The EFP has a number of conditions concerning the harvest of prohibited species and corals, the gear that can be employed, and bycatch restrictions. The EFP requires an annual report that lists specimens that are taken.

A notice of receipt of the application for this permit was published in the **Federal Register** on November 21, 2002 (67 FR 70216). In addition to announcing the receipt of the application, public comments were requested. No public comments were received. Also, consistent with the requirements of 50 CFR 600.745(b)(3)(i), NMFS provided copies of the EFP application and information to the State of North Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard along with information on the EFP's effects on target species. All of the consulted entities supported the issuance of the EFP.

Failure of the permittee to comply with the terms and conditions of the EFP may be grounds for revocation, suspension or modification of this permit, as well as civil or criminal sanctions.

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

Dated: February 13, 2003.

Richard W. Surdi,

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

[FR Doc. 03–4140 Filed 2–20–03; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National Senior Service Corps; Schedule of Income Eligibility Levels

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and the Senior Companion Program (SCP) of the Corporation for National and Community Service, published in 67 FR 18593, April 16, 2002.

DATES: These guidelines go into effect on March 1, 2003.

FOR FURTHER INFORMATION CONTACT: Corporation for National and Community Service, Ruth Archie, National Senior Service Corps, Attn: Ms. Ruth Archie, 1201 New York Avenue, NW., Washington, DC 20525, by telephone at (202) 606–5000, ext. 289, or e-mail: *rarchie@cns.gov.*

SUPPLEMENTARY: The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (DHHS), published in 68 FR 6456–6458, February 7, 2003. In accordance with program regulations, the income eligibility level for each State, Puerto Rico, the Virgin Islands and the District of Columbia is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living. In such instances, the guidelines shall be 135 percent of the DHHS Poverty levels (*See* attached list of High Cost Areas). The

level of eligibility is rounded to the next higher multiple of $5.00

In determining income eligibility, consideration should be given to the following, as set forth in 45 CFR 2551–2553 dated October 1, 1999, as amended per the **Federal Register**, Vol. 67, No. 188, Friday, September 27, 2002.

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, must not exceed 15 percent of the applicable Corporation income guideline.

Annual income is counted for the past 12 months, for serving SCP and FGP volunteers, and is projected for the subsequent 12 months, for applicants to become SCP and FGP volunteers, and includes: The applicant or enrollee's income and the applicant to enrollee's spouse's income, if the spouse lives in the same residence. Sponsors must count the value of shelter, food, and clothing, if provided at no cost the applicant, enrollee or spouse.

Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs:

2003 FGP/SCP INCOME ELIGIBILITY LEVELS

[Based on 125 Percent of DHHS Poverty Guidelines]

States	Family units of			
	One	Two	Three	Four
All, except High Cost Areas, Alaska & Hawaii	$11,225	$15,150	$19,075	$23,000

For family units with more than four members, add $3,925 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii.

2003 FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 Percent of DHHS Poverty Guidelines]

States	Family units of			
	One	Two	Three	Four
All, except Alaska & Hawaii	$12,125	$16,365	$20,605	$24,840
Alaska	15,135	20,440	25,745	31,050
Hawaii	13,950	18,820	23,695	28,570

For family units with more than four members, add: $4,240 for all areas, $5,305 for Alaska, and $4,875 for Hawaii, for each additional member.

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles/Compton/San Gabriel/Long Beach/Hawthorne (Los Angeles County)
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County)
Santa Cruz/Watsonville (Santa Cruz County)
Santa Rosa/Petaluma (Sonoma County)
San Diego/El Cajon (San Diego County)
San Jose/Los Gatos (Santa Clara County)
San Francisco/San Rafael (Marin County)
San Francisco/Redwood City (San Mateo County)
San Francisco (San Francisco County)
Oakland/Berkeley (Alameda County)
Oakland/Martinez (Contra Costa County)
Anaheim/Santa Ana (Orange County)
Oxnard/Ventura (Ventura County)

Connecticut

Stamford (Fairfield)

District of Columbia/Maryland/Virginia

District of Columbia and surrounding Counties in Maryland and Virginia.
MD Counties: Anne Arundel, Calvert, Charles, Cecil, Frederick, Howard, Montgomery, Prince Georges, and Queen Anne's Counties.
Va Counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City.

Hawaii

(All Locations)

Illinois

Chicago/Des Plaines/Oak Park/Wheaton/Woodstock (Cook, DuPage and McHenry Counties)

Massachusetts

Barnstable (Barnstable)
Edgartown (Dukes)
Boston/Malden (Essex, Norfolk, Plymouth, Middlesex and Suffolk Counties)
Worcester (Worcester City)
Brockton/Wellesley/Braintree/Boston (Norfolk County)
Dorchester/Boston (Suffolk County)
Worcester (City)(Worcester County)

New Jersey

Bergen/Passaic/Patterson (Bergen and Passaic Counties)
Jersey City (Hudson)
Middlesex/Somerset/Hunterdon (Hunterdon, Middlesex and Somerset Counties)
Monmouth/Ocean/Spring Lake (Monmouth and Ocean Counties)
Newark/East Orange (Essex, Morris, Sussex and Union Counties)
Trenton (Mercer County)

New York

Nassau/Suffolk/Long Beach/Huntington (Suffolk and Nassau Counties)
New York/Bronx/Brooklyn (Bronx, King, New York, Putnam, Queens, Richmond and Rockland Counties)
Westchester/White Plains/Yonkers/Valhalla (Westchester County)

Ohio

Medina/Lorain/Elyria (Medina/Lorain County)

Pennsylvania

Philadelphia/Doylestown/West Chester/Media/Norristown (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)

Washington

Seattle (King County)

Wyoming

(All Locations)

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

2003 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family Units of			
	One	Two	Three	Four
All, except Alaska & Hawaii	$8,980	$12,120	$15,260	$18,400
Alaska	11,210	15,140	19,070	23,000
Hawaii	10,300	13,940	17,550	21,160

For family units with more than four members, add: $3,140 for all areas, $3,930 for Alaska, and $3,610 for Hawaii, for each additional member.

Authority: These programs are authorized pursuant to 42 U.S.C. 5011 and 5013 of the Domestic Volunteer Service Act of 1973, as amended. The income eligibility levels are determined by the current guidelines published by DHHS pursuant to Sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: February 13, 2003.

Tess Scannell,

Director, National Senior Service Corps.

[FR Doc. 03–4083 Filed 2–20–03; 8:45 am]

BILLING CODE 6050–$$–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 22, 2003.

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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 14, 2003.

John D. Tressler, Leader,

Regulatory Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision of a currently approved collection.

Title: Reporting Forms on Teacher Quality and Preparation.

Frequency: Annually.

Affected Public:

State, Local, or Tribal Gov't, SEAs or LEAs (primary), Not-for-profit institutions (primary).

Reporting and Recordkeeping Hour Burden: Responses: 1309; Burden Hours: 127624.

Abstract: The Higher Education Act of 1998 calls for annual reports from states and institutions of higher education on the quality of teacher education and related matters (Pub. L. 105–244, Section 207:20 U.S.C. 1027). The purpose of the reports is to provide greater accountability in the preparation of America's teaching forces and to provide information and incentives for its improvement. Most institutions of higher education that have teacher preparation programs must report annually to their states on the performance of their program completers on teacher certification tests. States, in turn, must report test performance information, institution by institution, to the Secretary of Education, along with institutional ranking. They must also report on their requirements for licensing teachers, state standards, alternative routes to certification, waivers, and related items. Annually reports form institutions are due to the states, beginning April 7 each year; reports from the states are due annually to the Secretary, beginning October 7 each year; the Secretary's report is due annually to Congress, beginning April 7 each year. These dates are one year later than the dates in the legislation.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivian.reese@ed.gov.* Requests may also be faxed to 202–708–9346. *Please specify the complete title of the information collection when making your request.*

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a

telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Federal Student Aid

Type of Review: Revision of a currently approved collection.

Title: Direct Loan Program's General Forbearance Request Form.

Frequency: On Occasion.

Affected Public: Individuals or household (primary).

Reporting and Recordkeeping Hour Burden: Responses: 1074000; Burden Hours: 214800.

Abstract: Borrowers who receive loans through the William D. Ford Federal Direct Loan Program will use this form to request forbearance on their loans when they are willing but unable to make their currently scheduled monthly payments because of a temporary financial hardship.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivian.reese@ed.gov.* Requests may also be faxed to 202–708–9346. *Please specify the complete title of the information collection when making your request.*

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–4201 Filed 2–20–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education

ACTION: Notice of open meeting and partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than February 28, 2003. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: March 6–March 8, 2003.

Times:

March 6: Assessment Development Committee: Closed Session—12 p.m.–2:30 p.m.; Ad Hoc Committee on Background Questions: Open Session–2:30 p.m. to 4:30 p.m.; Ad Hoc Committee on NAEP Sampling Studies: Open Session—2:30 p.m. to 4:30 p.m.; Executive Committee Meeting: Open Session—5 p.m.–6:15 p.m.; Closed Session 6:15 p.m. to 7 p.m.

March 7: Full Board Meeting: Open Session 8:30 a.m.–12 p.m.; Committee Meetings (Open): Assessment Development Committee 10 a.m.–12:00 p.m.; Committee on Standards, Design and Methodology, 10 a.m.–12 p.m.; Reporting and Dissemination Committee, 10 a.m.–12 p.m.; Full Board—Closed Meeting 12 p.m.–1 p.m., Open Meeting 1 p.m.–4:15 p.m.

March 8: Nominations Committee Meeting: Closed Meeting 8 a.m.–9:00 a.m.; Full Board Meeting: Open Session 9 a.m.–12 p.m.

LOCATION: Sheraton Premiere at Tysons Corner, 8661 Leesburg Pike, Arlington, Virginia 22182.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Operations Officer, National Assessment Governing Board, 800 North Capitol Street, NW., Suite 825, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994, as amended.

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include selecting subject areas to be assessed, developing assessment objectives, developing appropriate student achievement levels for each grade and subject tested, developing guidelines for reporting and disseminating results, and developing standards and procedures for interstate and national comparisons.

The Assessment Development Committee will meet in closed session on March 6 from 12 p.m. to 2:30 p.m. to review secure test items for the National Assessment of Educational Progress (NAEP) 2004 Grade 12 Foreign Language Assessment in Spanish. The meeting must be conducted in closed session as disclosure of proposed test items from the 2004 NEAP Foreign Language Assessment would significantly impede implementation of the NAEP program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

The Executive Committee will meet in partially closed session on March 6 from 6:15 p.m. to 7 p.m. to receive independent cost estimates on contract initiatives for the National Assessment of Educational Program (NAEP) program. The meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On March 7, 2003 the full Board will convene in open session from 8:30 a.m.–10 a.m. The Board will approve the agenda and hear welcoming remarks from the Superintendent of Fairfax County Public Schools, Daniel Domenech. The Board will then receive the Executive Director's report and a NAEP Update from the Associate Commissioner of NCES, Val Plisko. From 10 a.m. to 12 p.m., the Board's standing committees—the Assessment Development Committee, the Committee on Standards, Design, and Methodology, and the Reporting and Dissemination Committee will meet in open session.

The full Board will meet in partially closed session on March 7, 2003 from 12 p.m. to 1 p.m. to receive results of the 2002 NAEP Reading Assessment. This meeting must be closed because the results of the Reading Assessment are under development and have not been released to the public. Premature disclosure of the information would significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title U.S.C.

The full Board will reconvene in open session on March 7, 2003 from 1 p.m.–4:15 p.m. The Board will receive an update on the 2007 Reading Framework Project at 1 p.m. followed by an update on the NAEP Background Question Framework from 1:30 p.m. to 2:30 p.m. From 2:45 p.m. to 3:45 p.m., the Board will receive a briefing on the American

Diploma Project. This session will be followed by an ethics briefing from 3:45 p.m. to 4:15 p.m. upon which the March 7 session of the Board will adjourn.

The Nominations Committee will meet in closed session on March 8, 2003 from 8 a.m. to 9 a.m. to receive nominations for Board membership. This discussion pertains solely to internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of section 552b(c) of Title 5 U.S.C.

On March 8, 2003 the full Board will meet in open session from 9 a.m. to 12 p.m. The Board will receive an update on plans for the 12th grade NAEP Commission. This presentation will be followed by Board actions on policies and Committee reports. The March 8, 2003 session of the Board meeting will adjourn at 12 noon.

Summaries of the activities of the closed session and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington DC from 9 a.m. to 5 p.m. Eastern Standard Time.

Dated: February 14, 2003.

Charles Smith,

Executive Director, National Assessment Governing Board.

[FR Doc. 03–4151 Filed 2–20–03; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

West Virginia Department of Education; Written Findings and Compliance Agreement

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of written findings and compliance agreement.

SUMMARY: Section 457 of the General Education Provisions Act (GEPA) authorizes the U.S. Department of Education to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements. In order to enter into a compliance agreement, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements and that a compliance agreement is a viable means of bringing about such compliance. On March 29, 2002, the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) entered into a compliance agreement with the West Virginia Department of Education (WVDE). Under section 457(b)(2) of GEPA, the written findings and compliance agreement must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dr. Grace A. Ross, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., room 3W118, Washington, DC 20202. Telephone: (202) 260–0967.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: Under Title I, Part A of the Elementary and Secondary Education Act of 1965 (Title I), each State, including the District of Columbia and Puerto Rico, was required to develop or adopt, by the 1997–98 school year, challenging content standards in at least reading/language arts and mathematics that describe what the State expects all students to know and be able to do. Each State also was required to develop or adopt performance standards, aligned with its content standards that describe three levels of proficiency to determine how well students are mastering the content standards. Finally, by the 2000–2001 school year, each State was required to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of schools in enabling students to meet the State's performance standards.

WVDE submitted, and the Department approved, evidence that it has content standards in at least reading/language arts and mathematics. In August 2000, WVDE submitted evidence of its final assessment system and performance standards. The Department submitted that evidence to a panel of three assessment experts for peer review. Following that review, the Assistant Secretary for Elementary and Secondary Education concluded that WVDE's proposed final assessment system and performance standards did not meet a number of the Title I requirements.

Section 454 of GEPA, 20 U.S.C. 1234c, sets out the remedies available to the Department when it determines that a recipient ''is failing to comply substantially with any requirement of law'' applicable to Federal program funds the Department administers. Specifically, the Department is authorized to—

(1) Withhold funds;

(2) Obtain compliance through a cease and desist order;

(3) Enter into a compliance agreement with the recipient; or

(4) Take any other action authorized by law. 20 U.S.C. 1234c(a)(1) through (a)(4).

In a letter dated November 8, 2000 to Dr. David Stewart, Superintendent of Schools for the West Virginia Department of Education, the Assistant Secretary notified WVDE that, in order to remain eligible to receive Title I funds, it must enter into a compliance agreement with the Department. The purpose of a compliance agreement is ''to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.'' 20 U.S.C. 1234f(a). In order to enter into a compliance agreement with a recipient, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements, and that a compliance agreement is a viable means for bringing about such compliance.

On March 29, 2002, the Assistant Secretary issued written findings, holding that compliance by WVDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. Having submitted its assessment system for peer review in August 2000, WVDE was not able to make the significant changes to its system that the Department's review required in time to meet the spring 2001 statutory deadline to have approved assessments in place. As a result, WVDE administered its unapproved assessment system in 2001. The Assistant Secretary also determined that a compliance agreement represents a viable means of bringing about compliance because of the steps WVDE has already taken to comply, its commitment of resources, and the plan it has developed for further action. The agreement sets out the action plan that WVDE must meet to come into compliance with the Title I

requirements. This plan, coupled with specific reporting requirements, will allow the Assistant Secretary to monitor closely WVDE's progress in meeting the terms of the compliance agreement. The Superintendent of WVDE, Dr. David Stewart, signed the agreement on March 22, 2002 and the Assistant Secretary signed it on March 29, 2002.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the text of the Assistant Secretary's written findings is set forth as appendix A and the compliance agreement is set forth as appendix B of this notice.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in Text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** is available on GPO access at: *http://www.access.gpo.gov/nara/index.html.*

(Authority: 20 U.S.C. 1234c, 1234f, 6311)

Dated: February 13, 2003.

Eugene W. Hickock,

Under Secretary of Education.

Appendix A—Text of the Written Findings of the Assistant Secretary for Elementary and Secondary Education

I. Introduction

The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) of the U.S. Department of Education (Department) has determined, pursuant to 20 U.S.C. 1234c and 1234f, that the West Virginia Department of Education (WVDE) has failed to comply substantially with certain requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (Title I), 20 U.S.C. 6301 *et seq.*, and that it is not feasible for WVDE to achieve full compliance immediately. Specifically, the Assistant Secretary has determined that WVDE failed to meet a number of the Title I requirements concerning the development of performance standards and an aligned assessment system within the statutory timeframe.

For the following reasons, the Assistant Secretary has concluded that it would be appropriate to enter into a compliance agreement with WVDE to bring it into full compliance as soon as feasible. During the effective period of the compliance agreement, which ends three years from the date of these findings, WVDE will be eligible to receive Title I funds as long as it complies with the terms and conditions of the agreement as well as the provisions of Title I, Part A and other applicable Federal statutory and regulatory requirements.

II. Relevant Statutory and Regulatory Provisions

A. Title I, Part A of the Elementary and Secondary Education Act of 1965

Title I, Part A of the Elementary and Secondary Education Act of 1965 (Title I), 20 U.S.C. 6301 *et seq.*, provides financial assistance, through State educational agencies, to local educational agencies to provide services in high-poverty schools to students who are failing or at risk of failing to meet the State's student performance standards. Under Title I, each State, including the District of Columbia and Puerto Rico, was required to develop or adopt, by the 1997–98 school year, challenging content standards in at least reading/language arts and mathematics that describe what the State expects all students to know and be able to do and performance standards, aligned with those content standards, that describe three levels of proficiency to determine how well students are mastering the content standards.

By the 2000–2001 school year, Title I required each State to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of schools and school districts in enabling students to meet the State's performance standards. These assessments must meet the following requirements:

- The assessments must be aligned to a State's content and performance standards.
- They must be administered annually to students in at least one grade in each of three grade ranges: grades 3 through 5, grades 6 through 9, and grades 10 through 12.
- They must be valid and reliable for the purpose for which they are used and of high technical quality.
- They must involve multiple measures, including measures that assess higher-order thinking skills.
- They must provide for the inclusion of all students in the grades assessed, including students with disabilities and limited English proficient students.
- They must provide individual reports.
- Results from the assessments must be disaggregated and reported by major racial and ethnic groups and other categories.

20 U.S.C. 6311(b)(3).[1][1]

B. The General Education Provisions Act

The General Education Provisions Act (GEPA) provides a number of options when the Assistant Secretary determines a recipient of Department funds is ''failing to comply substantially with any requirement of law applicable to such funds.'' 20 U.S.C. 1234c. In such case, the Assistant Secretary is authorized to—

(1) Withhold funds;

(2) Obtain compliance through a cease and desist order;

(3) Enter into a compliance agreement with the recipient; or

(4) Take any other action authorized by law. 20 U.S.C. 1234c(a)(1) through (a)(4).

Under section 457 of GEPA, the Assistant Secretary may enter into a compliance agreement with a recipient that is failing to comply substantially with specific program requirements. 20 U.S.C. 1234f. The purpose of a compliance agreement is ''to bring the recipient into full compliance with the applicable requirements of the law as soon as feasible and not to excuse or remedy past violations of such requirements.'' 20 U.S.C. 1234f(a). Before entering into a compliance agreement with a recipient, the Assistant Secretary must hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. At that hearing, the recipient has the burden of persuading the Assistant Secretary that full compliance with the applicable requirements of law is not feasible until a future date and that a compliance agreement is a viable means for bringing about such compliance. 20 U.S.C. 1234f(b)(1). If, on the basis of all the available evidence, the Assistant Secretary determines that compliance until a future date is genuinely not feasible and that a compliance agreement is a viable means for bringing about such compliance, the Assistant Secretary must make written findings to that effect and publish those findings, together with the substance of any compliance agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

A compliance agreement must set forth an expiration date, not later than three years from the date of these written findings, by which time the recipient must be in full compliance with all program requirements. 20 U.S.C. 1234f(c)(1). In addition, a compliance agreement must contain the terms and conditions with which the recipient must comply during the period that agreement is in effect. 20 U.S.C. 1234f(c)(2). If the recipient fails to comply with any of the terms and conditions of the compliance agreement, the Assistant Secretary may consider the agreement no longer in effect and may take any of the compliance actions described previously. 20 U.S.C. 1234f(d).

[1] On January 8, 2002, Title I of the Elementary and Secondary Education Act was reauthorized by the No Child Left Behind Act of 2001 (NCLB) (Pub. L. 107–110). The NCLB made several significant changes to the Title I standards and assessment requirements. First, it requires that each State develop academic content and student achievement standards in science by the 2005–06 school year. Second, by the 2005–06 school year, it requires a system of aligned assessments in each of grades 3 through 8 and once during grades 10 through 12. Third, it requires science assessments in at least three grade spans by the 2007–08 school year. Fourth, the NCLB significantly changes the definition of adequate yearly progress each State must establish to hold schools and school districts accountable, based on data from the 2001–02 test administration. Finally, by the 2002–03 school year, the NCLB requires State and school district report cards that include, among other things, assessment results disaggregated by various subgroups, two-year trend data, and percent of students tested.

III. Analysis

A. Overview of Issues To Be Resolved in Determining Whether a Compliance Agreement Is Appropriate

In deciding whether a compliance agreement between the Assistant Secretary and WVDE is appropriate, the Assistant Secretary must first determine whether compliance by WVDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. 20 U.S.C. 1234f(b). The second issue that the Assistant Secretary must resolve is whether WVDE will be able, within a period of up to three years, to come into compliance with the Title I requirements. Not only must WVDE come into full compliance by the end of the effective period of the compliance agreement, it must also make steady and measurable progress toward that objective while the compliance agreement is in effect. If such an outcome is not possible, then a compliance agreement between the Assistant Secretary and WVDE would not be appropriate.

B. WVDE Has Failed To Comply Substantially With Title I Standards and Assessment Requirements

In August 2000, WVDE submitted evidence of its final assessment system. The Assistant Secretary submitted that evidence to a panel of three assessment experts for peer review. Following that review, the Assistant Secretary for Elementary and Secondary Education concluded that WVDE's proposed final assessment system did not meet a number of the Title I requirements. Specifically, the Assistant Secretary determined that WVDE must do the following:

- Develop or select an academic assessment system that represents the full range of the WVDE's academic content standards and academic achievement standards in at least reading/language arts and mathematics and is consistent with the Title I requirements for use of multiple measures of student achievement, including measures that assess higher-order thinking and understanding. Document the alignment of the assessment system with WVDE's academic content and student achievement standards.
- Provide evidence that the State assessment will be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments.
- Provide evidence of performance standards aligned to content standards.
- Clarify how reasonable accommodations are provided to students with disabilities and limited English proficient students that allow for their scores to be included in the accountability system.
- Clarify how data for students who take the alternate assessment and students administered assessments with non-standard accommodations will be incorporated into the accountability system.
- Provide complete participation data for students with disabilities and limited English proficient students so that the State's inclusion policies relating to assessment, reporting, and accountability can be evaluated.
- Provide individual reports of student achievement relative to the State performance standards.
- Provide school, district, and State level reports using disaggregated data by all the required categories.
- Provide evidence that LEAs are completing and disseminating school and district profiles that include statistically sound disaggregated results.
- Clarify how the State defines ''full academic year'' for including students in determining adequate yearly progress.

C. WVDE Cannot Correct Immediately Its Noncompliance With the Title I Standards and Assessment Requirements

Under the Title I statute, WVDE was required to implement its final assessment system no later than the 2000–2001 school year. 20 U.S.C. 6311(b)(6). WVDE submitted evidence of its assessment system in August 2000, but the Assistant Secretary determined, on the basis of that evidence, that WVDE's system did not fully meet the Title I requirements. Due to the enormity and complexity of developing a new assessment system that addressed the Assistant Secretary's concerns, WVDE was not able to complete that task between the time it submitted its system for review and the spring 2001 assessment window. Thus, in spring 2001, WVDE administered the assessment that the Assistant Secretary had determined did not meet the Title I requirements. As a result, the Assistant Secretary finds that it is not genuinely feasible for WVDE to come into compliance until a future date.

D. WVDE Can Meet the Terms and Conditions of a Compliance Agreement and Come Into Full Compliance With the Requirements of Title I Within Three Years

At the public hearing, WVDE presented evidence of its commitment and capability to come into compliance with the Title I standards and assessment requirements within three years. For example, the following have been developed in the last 18 months: content standards and objectives for core courses grades K–12; performance standards, three levels performance descriptors for those three levels performance for core courses K–12; a comprehensive, completely revised plan for a statewide assessment system that meets both the old law and the provisions of the reauthorization.

Finally, WVDE has developed a comprehensive action plan, incorporated into the compliance agreement, that sets out a very specific schedule that WVDE has agreed to meet during the next three years for attaining compliance with the Title I standards and assessment requirements. As a result, WVDE is committed not only to coming into full compliance within three years, but to meeting a stringent, but reasonable, schedule for doing so. The action plan also demonstrates that WVDE will be well on its way to meeting the new standards and assessment requirements of the No Child Left Behind Act of 2001. The compliance agreement also sets out documentation and reporting procedures that WVDE must follow. These provisions will allow the Assistant Secretary to ascertain promptly whether WVDE is meeting each of its commitments under the compliance agreement and is on schedule to achieve full compliance within the effective period of the agreement.

The task of developing an assessment system that meets the Title I requirements is not a quick or easy one. However, the Assistant Secretary has determined that, given the commitment of WVDE to comply with the terms and conditions of the compliance agreement, it is possible for WVDE to come into full compliance with the Title I standards and assessment requirements within three years.

IV. Conclusion

For the foregoing reasons, the Assistant Secretary finds the following: (1) That full compliance by WVDE with the standards and assessment requirements of Title I is not feasible until a future date; and (2) that WVDE can meet the terms and conditions of the attached compliance agreement and come into full compliance with the Title I standards and assessment requirements within three years of the date of these findings. Therefore, the Assistant Secretary has determined that it is appropriate to enter into a compliance agreement with WVDE. Under the terms of 20 U.S.C. 1234f, that compliance agreement becomes effective on the date of these findings.

Dated: March 29, 2002.

Susan B. Neuman,

Assistant Secretary, Office of Elementary and Secondary Education.

Appendix B—Text of the Compliance Agreement

Compliance Agreement Under Title I of the Elementary and Secondary Education Act Between the United States Department of Education and the West Virginia Department of Education

Introduction

Title I of the Elementary and Secondary Education Act of 1965 (Title I) required each State, including the District of Columbia and Puerto Rico, to develop or adopt, by the 1997–98 school year, challenging content standards in at least reading/language arts and mathematics that describe what the State expects all students to know and be able to do. Title I also required each State to develop or adopt performance standards, aligned with those content standards, that describe three levels of proficiency to determine how well students are mastering the content standards. By the 2000–2001 school year, Title I required each State to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of schools and school districts in enabling students to meet the State's performance standards.

The West Virginia Department of Education (WVDE) was not able to meet these requirements by the statutory deadlines. In order to be eligible to continue to receive

Title I funds while working to comply with the statutory requirements, Dr. David Stewart, Superintendent of WVDE, indicated WVDE's interest in entering into a compliance agreement with the Office of Elementary and Secondary Education (OESE) of the United States Department of Education. On February 4, 2002 OESE conducted a public hearing regarding WVDE's ability to come into compliance with the Title I standards and assessment requirements within three years. Based on testimony at that hearing, Mr. William Luff, Deputy State Superintendent, testified that compliance by WVDE with the Title I standards and assessment requirements was not possible by this school year. According to the Deputy State Superintendent, when the current State Superintendent was advised, ''by the U.S. office, in late spring, that our assumptions about use of the existing assessments were incorrect, he immediately directed the department staff to come into full compliance with the law as quickly as possible.''

Pursuant to this Compliance Agreement under 20 U.S.C. 1234f, WVDE must be in full compliance with the requirements of Title I no later than three years from the date of the Assistant Secretary's written findings, a copy of which is attached to, and incorporated by reference into, this Agreement. Specifically, WVDE must meet, and document that it has met, the following requirements:

1. Develop or select an academic assessment system that represents the full range of the WVDE's academic content standards and academic achievement standards in at least reading/language arts and mathematics and is consistent with the Title I requirements for use of multiple measures of student achievement, including measures that assess higher-order thinking and understanding. Document the alignment of the assessment system with WVDE's academic content and student achievement standards.

2. Provide evidence that the State assessment shall be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments.

3. Provide evidence of performance standards aligned to content standards.

4. Clarify how reasonable accommodations are provided to students with disabilities and limited English proficient students that allow for their scores to be included in the accountability system.

5. Clarify how data for students who take the alternate assessment and students administered assessments with non-standard accommodations will be incorporated into the accountability system.

6. Provide complete participation data for students with disabilities and LEP students so that the State's inclusion policies relating to assessment, reporting, and accountability can be evaluated.

7. Provide individual reports of student achievement relative to the state performance standards.

8. Provide school, district, and State level reports using disaggregated data by all the required categories.

9. Provide evidence that LEAs are completing and disseminating school and district profiles that include statistically sound disaggregated results.

10. Clarify how the State defines ''full academic year'' for including students in determining adequate yearly progress.

During the period that this Compliance Agreement is in effect, WVDE is eligible to receive Title I, Part A funds if it complies with the terms and conditions of this Agreement, as well as the provisions of Title I, Part A and other applicable Federal statutory and regulatory requirements. Specifically, the Compliance Agreement sets forth the action steps WVDE must meet to come into compliance with the Title I standards and assessment requirements (See attached). WVDE must submit documentation concerning its compliance with these action steps.

The action steps, hereby incorporated into this Compliance Agreement by reference may be amended by joint agreement of the parties, provided full compliance can still be accomplished by the expiration date of the Agreement.

In addition to all of the terms and conditions set forth above, WVDE agrees that its continued eligibility to receive Title I, Part A funds is predicated upon compliance with statutory and regulatory requirements of that program that have not been addressed by this Agreement, including the requirements of the No Child Left Behind Act of 2001.

If WVDE fails to comply with any of the terms and conditions of this Compliance Agreement, including the action steps attached hereto the USED may consider the Agreement no longer in effect and may take any action authorized by law, including the withholding of funds or the issuance of a cease and desist order following notice and opportunity to be heard in accordance with 20 U.S.C. § 1234d. 20 U.S.C. § 1234f(d).

For the West Virginia Department of Education:

Dated: March 22, 2002.

Dr. David Stewart,

State Superintendent of Schools.

For the United States Department of Education:

Dated: March 22, 2002.

Susan B. Neuman,

Assistant Secretary, Office of Elementary and Secondary Education.

Date this Compliance Agreement becomes effective: April 5, 2002.

TITLE I COMPLIANCE AGREEMENT—WORK PLAN/TIME LINE

	Component or measurable outcome	Public Law 103–382	Documentation	Office responsible	Date
	A Content Standards				
A1	Revise West Virginia's content standards in math and reading K–12. *Draft content standards in science.	Sec. 1111(b)(1)(c)	Office of Instructional Services Work Plan.	Instructional Services	April 30, 2002.
A2	Draft content standards sent to U.S. Department of Education.	Sec. 1111(b)(1)(A)	Policy 2520	Instructional Services	April 30, 2002.
A3	Document involvement of a broad base of education stakeholders in the development of content standards ensuring diversity in the composition of the group, especially in the areas of special education and limited English proficient expertise.	Sec. 1111(a)(1)	Committee Lists, Comment Process, Sample Comments.	Instructional Services	April 30, 2002.
A4	Document that the content standards are challenging for all students by providing conclusions from an independent review panel or organization.	Sec. 1111(b)(1)(D)-(i)(iii)	Teacher Comments, Description of Process.	Instructional Services	April 30, 2002.
A5	Document that all students are held to high standards.	Sec. 1111(b)(1)(C)	Policy 2520, Policy 2340, Policy 2510.	Instructional Services	April 30, 2002.
A6	Document that the State has formally approved the content standards. *Including Science.	Sec. 1111(b)(1)(A)	Board Minutes, Policy 2520.	Instructional Services	April 30, 2002.
A7	Send documentation to the U.S. Department of Education for formal peer review of content standards.	Sec. 1111(d)(1)(F)			April 30, 2002.
	B Peformance Descriptors				
B1	Document a process for determining the foundation for developing performance standards, including what processes will be involved in writing the descriptors.	Sec. 1111(b)(1)(C)	Descriptor development agenda, Power Point presentations by consultants, and descriptor development routine.	Instructional Services	April 30, 2002.
B2	Draft performance levels and performance descriptors for reading 3–10, and math 3–8 and 10.	Sec. 1111(b)(1)(A)	See Section A3, Above	Instructional Services	April 30, 2002.
B3	Document involvement of a broad base of education stakeholders in the development of performance descriptors ensuring diversity in the composition of the group, especially in the areas of special education and limited English proficient expertise.	Sec. 1111(a)(1)	See Section A3, Above	Instructional Services	April 30, 2002.
B4	Draft performance descriptors sent to U.S. Department of Education.	Sec. 1111(b)(1)(A)	Policy 2520	Instructional Services	April 30, 2002.
B5	Document how performance descriptors are aligned with the content standards.	Sec. 1111(b)(1)(D)(ii)(I)	Policy 2520, Description of Process.	Instructional Services	April 30, 2002.
B6	Document that the performance descriptors are challenging for all students.	Sec. 1111(b)(1)(D)(i)(II)	Policy 2520; See Section A3, Above; Description of Process.	Instructional Services	April 30, 2002.
B7	Document that all students are held to the same high performance descriptors.	Sec. 1111(b)(1)(c)	Policy 2510, Policy 2520	Instructional Services	April 30, 2002.
B8	Document that the State has formally approved the draft performance descriptors.	Sec. 1111(b)(1)(A)	Policy 2520, Board Minutes.	Instructional Services	April 30, 2002.

TITLE I COMPLIANCE AGREEMENT—WORK PLAN/TIME LINE—Continued

	Component or measurable outcome	Public Law 103–382	Documentation	Office responsible	Date
B9	Send documentation to the U.S. Department of Education for formal peer review of draft performance descriptors.	Sec. 1111(d)(1)(F)	All of above	Instructional Services	April 30, 2002.
B10	Administer assessments developed based on content standards and draft performance descriptors.	Sec. 1111(b)(3)	Test Blueprints, RFP, Copies of Reports.	Assessment and Student Services.	June 30, 2004.
B11	Review draft performance descriptors based on assessment results.	Sec. 1111(b)(3)(D)	Agenda, Committee Lists.	Instructional Services	September 30, 2004.
B12	Set cut scores to determine performance level of standards based assessment in reading, language arts and math in grades 3–8, 10 by the bookmarking procedure. —standard setting meetings; —psychometric research; —technical studies; —scaling and equating; —programming costs.	Sec. 1111(b)(3)(D)	Formulas for determining standard setting procedure, agenda of meetings Technical Manual.	Assessment and Student Services.	September 30, 2004.
B13	Document involvement of a broad base of education stakeholders in the setting of cut scores ensuring diversity in the composition of the group, especially in the areas of special education and limited English proficient expertise.	Sec. 1111(b)(3)(F) (ii)	Committee Lists, Agenda, Cut Score Recommendations.	Assessment and Student Services.	September 30, 2004.
B14	Document that cut scores for performance levels are challenging for all students;. —Three performance levels —Use bookmarking process.	Sec. 1111(b)(3)(E)	State profile of results of standards based tests by performance levels, schedule of meetings and events.	Assessment and Student Services.	September 30, 2004.
B15	Document that all students are included in the cut scores.	Sec. 1111(b)(3)(A)	Summary of participation	Technology and Information Systems.	September 30, 2004.
B16	Document that the cut scores are aligned with the draft performance descriptors and the content standards.	Sec. 1111(b)(3)(B)	Final Alignment Study Report.	Assessment and Student Services.	September 30, 2004.
B17	Document that the State has formally approved the performance cut scores.	Sec. 1111(b)(3)	Board Minutes	Assessment and Student Services.	December 31, 2004.
B18	Send documentation to the U.S. Department of Education for formal peer review of performance cut scores.	Sec. 1111(d)(1)(F)		Assessment and Student Services.	December 31, 2004.
C1	*Develop an RFP to secure services for test development, administration, scoring and reporting for grades 3–8, 10.		RFP, Committee Member Lists.	Assessment and Student Services.	June 30, 2002.
C2	Send RFP to U.S. Department of Education		RFP, Committee Member Lists.	Assessment and Student Services.	June 30, 2002.
C3	Negotiate and sign a contract for services needed to develop an assessment system.		Release of Purchase Order, RFP.	Assessment and Student Services.	June 30, 2002.
C4	Send contract to U.S. Department of Education.		Release of Purchase Order, RFP.	Assessment and Student Services.	June 30, 2002.
C5	*Complete detailed design and implementation activities required to create test items and test forms adequate to serve the purposes specified in the State's assessment ensuring validity, reliability and fairness for grades 3–8, 10.	Sec. 1111(b)(3)(V)	Test Design Document, Biasing Review, Reliability and Validity Studies.	Assessment and Student Services.	June 30, 2002–December 30, 2003.

C6	Design an approach to ensure alignment of content and performance descriptors with the assessment considering comprehensiveness, emphasis, and depth. —*Internal alignment* Teacher committees —CTB *External Alignment* Norm Webb All alignment studies will address comprehensiveness of tests in terms of gaps and weaknesses, emphasis and depth of knowledge as well as thinking skill distribution.	Sec. 1111 (b)(3)(E)	Letter to Norm Webb for Agreed Services as Vendor.	Assessment and Student Services.	June 30, 2002.
C7	Before pilot, complete an analysis of the alignment of the assessment and standards identifying any gaps and weaknesses in the alignment.	Sec. 1111 (b)(3)(B)	Report from Norm Webb, Vendor.	Assessment and Student Services.	December 30, 2003.
C8	After pilot, complete an analysis of the alignment of the assessment and standards identifying any gaps and weaknesses in the alignment.	Sec. 1111 (b)(3)(B)	Report from Norm Webb, Vendor.	Assessment and Student Services.	March 31, 2004.
C9	Complete test items and review for bias to ensure that results measured the essence of the standards and does so for students of diverse backgrounds. —Internal Bias Review Committee —CTB Bias Review Committee	Sec. 1111 (b)(3)(F)(ii)	Blueprints of Pilot Tests	Assessment and Student Services.	June 30, 2003.
C10	*Administer pilot tests in grades 3–8, 10. Production, distribution, and administration.	Sec. 1111 (b)(3)(E)	Pilot administration manual.	Assessment and Student Services.	December 30, 2003.
C11	Design an approach to ensure alignment of content and performance descriptors with the assessment considering comprehensiveness, emphasis, and depth.	Sec. 1111(b)(3)(E)	Letter to Vendor and Report re: Alignment Study.	Assessment and Student Services.	December 30, 2003.
C12	Complete any needed adjustments in the test forms. Address gaps and weakness and make adjustments.		First and Final Drafts of Test Forms.	Assessment and Student Services.	December 30, 2003.
C13	Results of alignment study sent to U.S. Department of Education.	Sec. 1111(b)(3)(B)	Alignment Study	Assessment and Student Services.	December 30, 2004.
C14	*Administer tests —Production —Distributions —Scoring	Sec. 1111(b)(3)(D)	Superintendent's letter with testing schedule.	Assessment and Student Services.	June 30, 2004.
C15	Develop reports that are technically adequate for school and district accountability.	Sec. 1111(b)(3)(H)	Copies of reports and accountability standards.	Assessment and Student Services.	December 30, 2004.
C16	*Distribution of an itemized score analysis to support instructional improvement.		Sample report based on test administered in 2001–2002.	Assessment and Student Services.	*August 31, 2003 and Annually thereafter.
C17	Develop technical manuals that contain such information as validity, reliability, fairness/accessibility, and comparability of results. —Reports —Revision of reports	Sec. 1111(b)(3)(C)	Technical manuals	Assessment and Student Services.	December 30, 2004.
C18	Develop procedures for test administration, scoring, data analysis, and reporting to meet high technical standards. —Administration manuals —Data Analysis and Technical Data	Sec. 1111(b)(3)(C)	Copies of protocol and procedures manual.	Assessment and Student Services.	December 30, 2003.

TITLE I COMPLIANCE AGREEMENT—WORK PLAN/TIME LINE—Continued

	Component or measurable outcome	Public Law 103–382	Documentation	Office responsible	Date
C19	Procedures for test administration, scoring, data analysis, and reporting to meet high technical standards sent to U.S. Department of Education.	Sec. 1111(b)(3)(C)	Copies of protocol and procedures manual.	Assessment and Student Services.	December 30, 2004.
C20	Review of technical quality sent to U.S. Department of Education.	Sec. 1111(b)(3)(C)	Technical Quality Document.	Assessment and Student Services.	June 30, 2004.
C21	Submit evidence that the assessment includes multiple measures of student performance, including measures that assess higher-order thinking skills and understanding.	Sec. 1111(b)(3)(E)	Vendor report (including matrix) Alignment study.	Assessment and Student Services.	December 30, 2004.
C22	Submit assessment system to U.S. Department of Education for peer review.	Sec. 1111(d)(1)(F)	See Above	Assessment and Student Services.	December 30, 2004.
C23	*Participation in the National Assessment of Educational Progress in 2003 and 2005 and, if selected, participation in the field test in off-years.		Consolidated State Plan	Assessment and Student Services.	May 2002.
D1	Develop policies for including LEP students in the statewide assessment system and revise guidelines for assessment for LEP guidelines.	Sec. 1111(b)(3)(F)(iii)	Policy 2340	Assessment and Student Services.	June 30, 2002.
D2	Develop policies for including students with disabilities in the statewide assessment system and revise guidelines for assessment of students with disabilities.	Sec. 1111(b)(3)(F)(ii)	Policy 2340, Policy 2419, Guidelines for assessment of special education.	Assessment and Student Services.	Policy—April 30, 2002. Guidelines—June 30, 2003.
D3	Document that all students are included in the assessment system, especially LEP and students with disabilities.	Sec. 1111(b)(3)(F)(i)	Comparison of enrolled students with those assessed.	Office of Technology and Information Systems.	December 31, 2004.
D4	Develop statewide monitoring procedures to ensure the inclusion of all students.	Sec. 1111(b)(3)(F)(i)	Policy 2320, OSE Monitoring Document.	Office Special Education	January 2003.
D5	Submit statewide monitoring procedures to ensure the inclusion of all students.	Sec. 1111(b)(3)(F)(i)	See D4	Office of Technology and Information Systems.	December 31, 2004.
D6	Clarify how reasonable accommodations are provided to students with disabilities and limited English proficient students that allow for their scores to be included in the accountability system and submit to U.S. Department of Education.	Sec. 1111(b)(3)(F)(II)	Policy 2340, Guidelines for assessment of special education and LEP students.	Assessment and Student Services.	December 2002, December 2003, December 2004.
D7	Clarify how data for students who take the alternate assessment and students administered assessments with non-standard accommodations will be incorporated into the accountability system and submit to U.S. Department of Education.	Sec. 1111(b)(3)(F)(I)	Policy 2510	Deputy Superintendent	December 2004.
D8	Provide complete participation data for students with disabilities and LEP students to that the State's inclusion policies relating to assessment, reporting, and accountability can be evaluated and submit to U.S. Department of Education.	Sec. 1111(b)(3)(F)(i)	Participation Report	Office of Technology and Information Systems.	December 2002, December 2003, December 2004.

D9	* Implementation of the English language proficiency testing required under Title I and Title III. • Identify test that will be used. • Administer to all LEP students. • Define annual measurable objectives for gains in English proficiency as required in Sec. 3122. • Report results as required by NCLB.		Instructions to schools, test administration manuals, sample reports.	Office of English as a Second Language.	* 2002–2003 and Annually thereafter.
		E Reporting			
E1	Design a reporting template for school, district, and state profiles that clearly communicates to educators, parents and stakeholders how the assessments relate to the content and performance standards and submit to U.S. Department of Education.	Sec. 1111(b)(3)(H)	Report Template	Office of Technology and Information Systems.	December 2004.
E2	* Dissemination of disaggregated data at the school and district levels from the assessments currently in use. Assessment reports to include: gender, major racial/ethnic groups, English proficiency status, migrant status, students with disabilities as compared to nondisabled students, and economically disadvantaged students as compared to students who are not economically disadvantaged.	Sec. 1111(b)(3)(I)	Disaggregation Reports	Office of Technology and Information Systems.	* August 31, 2002 (as available). August 31, 2003 (all subgroups) and annually thereafter.
E3	Describe procedures for annually reporting these results and submit to U.S. Department of Education.	Sec. 1111(b)(3)(I)	Description of reporting process (with specific examples).	Office of Technology and Information Systems.	December 2002, December 2003, December 2004.
E4	Submit reporting policies for small groups	Sec. 1111(b)(3)(I)	Policy 2340	Assessment and Student Services.	January 2004.
E5	Provide evidence that LEAs are completing and disseminating school and district profiles to all required audiences that include statistically sound disaggregated results and submit to U.S. Department of Education.	Sec. 1116(a)(3)	WV Code Citation, Letter to LEAs.	Office of Technology and Information Systems.	December 2002, December 2003, December 2004.
E6	Document that all students are included in the school profiles including exempted students, special education students taking the alternate assessment and LEP students and submit to U.S. Department of Education.	Sec. 1111(b)(3)(F)(i)	Reports	Office of Technology and Information Systems.	December 2002, December 2003, December 2004.
E7	Provide individual reports of student achievement relative to the state performance standards and submit to U.S. Department of Education.	Sec. 1111(b)(3)(F)(i)	Reports	Office of Technology and Information Systems.	December 2002 and December 2003 (Quartile), December 2004 (Performance Standards).
E8	Describe strategies to ensure that individual reports go to all parents in understandable ways and submit to U.S. Department of Education.	Sec. 1118(c)(4)(B)	Narrative describing strategies and parent committee lists.	Assessment and Student Services.	December 2002, December 2003, December 2004.
E9	Submit manuals and/or guidelines on the interpretation of these reports and submit to U.S. Department of Education.	Sec. 1118(c)(4)(B)	Manuals	Assessment and Student Services.	December 2002, December 2003, December 2004.
E10	Develop quality control procedures to check accuracy of scoring and reports and submit to U.S. Department of Education.	Sec. 1111(b)(3)(C)	TILSA Quality Control document.	Assessment and Student Services.	December 2002, December 2003, December 2004.

TITLE I COMPLIANCE AGREEMENT—WORK PLAN/TIME LINE—Continued

	Component or measurable outcome	Public Law 103–382	Documentation	Office responsible	Date
E11	* Distribution of a state report card as required under Section 1111 of Title I. State report card must include the following: • Disaggregated student achievement results by performance level. • Percent of student not tested • Comparison between annual objectives and actual performance for each student group All other report card requirements must be met as quickly as possible, consistent with implementation of final assessments. (See E1)		Copy of State Report Card.	Office of Technology and Information Systems.	* Sept. 30, 2002, * Aug. 31, 2003, * Aug. 31, 2004.
E12	* Annual report to the Secretary as described in Section 1111(h)(4). • Information on State progress in developing all required academic assessments. • Student achievement data • Disaggregated data on acquisition of English proficiency by LEP (2002–2003). • Number and names of school identified for school improvement, the reason for identification, and measures taken to address achievement problems. • Number of students and schools that participated in public school choice and supplemental services. • Information on quality of teacher and percent of classes taught by highly qualified (2002–2003).		Part of Annual Title I Performance Report.		* December 2002 and annually thereafter.
F1	Develop a definition of adequate yearly progress that requires continuous improvement toward the goal of all students reaching proficiency and submit to U.S. Department of Education.		Agreed Order Tomblin Committee Agendas PowerPoint Presentations.	Deputy Superintendent ..	December 2002, December 2003, December 2004.
F2	Describe how the State assessments are defined as the primary element in the State's definition of adequate yearly progress for schools and districts and submit to U.S. Department of Education.		See Section F1, Above	Deputy Superintendent ..	December 2002, December 2003, December 2004.
F3	Demonstrate approval of this definition of adequate yearly progress and submit to U.S. Department of Education.		See Section F1, Above Policy 2510, State Board Minutes.	Deputy Superintendent ..	December 2002, December 2003, December 2004.
F4	Clarify how the State defines ''full academic year'' for including students in determining adequate yearly progress for schools and/or districts and submit to U.S. Department of Education.		Policy 2340, See Section F1, Above.	Assessment and Student Services.	December 2002, December 2003, December 2004.
F5	Document that all students are included in the accountability system including special education students taking the alternate assessment, other special education students, 504 students, and LEP students and submit to U.S. Department of Education.		See Section F1, Above Dissagregation and Participation Report, Policy 2340, See Section D3, Above.	Office of Technology and Information Systems.	December 2002, December 2003, December 2004.

F6	Provide information regarding how the State evaluates the effectiveness of schools that do not contain any of the grades covered by the State assessment system (e.g., K–2 schools) and submit to U.S. Department of Education.		PowerPoint Presentation See Section F1, Above Overview and Excerpt from Reading Assessment.	Deputy Superintendent ..	December 2002, December 2003, December 2004.
F7	Submit the definition of adequate yearly progress to the U.S. Department of Education for peer review.			Deputy Superintendent ..	December 2004.
F8	*A. Continued identification of schools in need of improvement, based on data from the current assessment (s) for all children in the grade assessed and, to also include: • Performance of subgroups (of statistically reliable size). • Application of the 95% participation rule • HS graduation and the other indicators required by NCLB. B. Establish AYP baseline, based on data from the new assessment (s) for all children in the grades assessed. Use transitional rules under NCLB, Sec. 1116 to identify schools in need of improvement.		Description of school accountability system to include the data source (assessments) and formula or decision sequence used to determine school classification. List of schools and districts identified for improvement. Communication of baseline values and AYP design to schools and districts. List of schools and districts identified for improvement.	Deputy Superintendent ..	*Sept. 30, 2002, Aug. 31, 2003, Aug. 31, 2004.
F9	*All other requirements of NCLB pertaining to schools identified for improvement, corrective action, or restructuring during the period of the compliance agreement.		Implementation and documentation of choice, supplemental services, corrective actions, as appropriate.	Office of Instructional Services.	2002–2003 and Annually thereafter.

All items marked with * are No Child Left Behind Act of 2001 requirements. West Virginia will have six months from the date of the Compliance Agreement or 30 days after publication of final regulations (whichever comes first) to determine the specific tasks and dates required to satisfy each goal.

[FR Doc. 03–4075 Filed 2–20–03; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6637–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements filed February 10, 2003, through February 14, 2003, pursuant to 40 CFR 1506.9.

EIS No. 030054, Draft Supplement, BLM, WY, Jack Morrow Hills Coordinated Activity Plan/Draft Green River Resource Management Plan Amendment, Updated Information, Rock Springs, Portions of Sweetwater, Fremont and Subelette Counties, WY, Comment Period Ends: May 15, 2003, Contact: Joe Patti (307) 775–6101. This document is available on the Internet at: *http://www.wy.blm.com.*

EIS No. 030057, Draft Supplement, FHW, FL, FL–23 Extension (Branan Field—Chaffee Road), Construction from FL–134 (103rd Street) to FL–8 (I–10) and FL–10 (US–90/Beaver Street), NPDES and US Army COE Section 404 Permits Issuance, FM No. 209659–1 and FAP No. 9041–047–C, Clay and Duval Counties, FL, Comment Period Ends: April 7, 2003, Contact: Jose Pena (850) 942–9650 Ext. 3033.

EIS No. 230058, Final EIS, FHW, SC, James E. Clyburn Connector Project, Construction of a Two-Lane Rural Roadway Northeast of Orangeburg and Southwest of Sumter, Funding and U.S. Army COE Section 404 Permit Issuance, Calhoun, Sumter and Claredon Counties, SC, Wait Period Ends: April 1, 2003, Contact: Daniel T. Hinton (803) 253–3887.

EIS No. 030059, Final Supplement, NPS, ID, MT, WY, MT, WY, Yellowstone and Grand Teton National Parks and John D. Rockerfeller, Jr., Memorial Parkway, Winter Use Plans, Updated and New Information on New Generation of Snowmobiles that Produce fewer Emissions and are Quieter, Fremont County, ID, Gallatin and Park Counties, MT and Park and Teton Counties, WY, Wait Period Ends: March 24, 2003, Contact: Madeleine VanderHeyden (307) 739–3385.

EIS No. 030060, Final EIS, FTA, NV, Las Vegas Resort Corridor Project, Transportation Improvements, Funding, City of Las Vegas, Clark County, NV, Wait Period Ends: March 24, 2003, Contact: Ray Sukys (415) 744–3115.

EIS No. 030061, Final EIS, FHW, CA, Butte 70/149/99/191 Highway Improvement Project, Update State Route 149 to Four-Lane Expressway from 70 North of Oroville to Route 99 South of Chico, Funding, Right-of-Way Acquisition, and U.S. Army Section 404 Permit Issuance, Butte County, CA, Wait Period Ends: March 24, 2003, Contact: Maiser Khaled (916) 498–5020.

EIS No. 030062, Draft EIS, AFS, MT, Sheep Creek Range Analysis, Proposal to Reorganize Grazing and Special Use Allotments, Grazing and Special Use Permits Issue, Lewis and Clark National Forest, White Sulphur Springs Ranger District, Meagher and Cascade Counties, MT, Comment Period Ends: April 7, 2003, Contact: Eldon Rash (406) 791–7706.

EIS No. 030063, Draft EIS, FHW, MT, Interstate 15 Corridor Project, Transportation Improvements from Montana City to the Lincoln Road Interchange, Funding and U.S. Army COE Section 404 Permit Issuance, Jefferson and Lewis & Clark Counties, MT, Comment Period Ends: April 7, 2003, Contact: Carl James (406) 449–5302.

EIS No. 030064, Final EIS, FHW, IL, U.S. 34/FAP 313 Transportation Facility Improvement Project, U.S. 34 from the Intersection of Carman Road east of Gulfport to Monmouth, Funding and U.S. Army COE Section 404 and NPDES Permits Issuance, Henderson and Warren Counties, IL, Wait Period Ends: March 24, 2003, Contact: Norman R. Stoner (217)492–4600.

Dated: February 19, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–4299 Filed 2–20–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0003; FRL–7291–4]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL) Committee will be held on March 7-8, 2003, in Salt Lake City, Utah. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of AEGLs for the following chemicals: Acetone, boron trifluoride, carbon disulfide, formaldehyde, hydrogen bromide, iron pentacarbonyl, nitric acid, piperidine, titanium tetrachloride, and vinyl chloride.

DATES: A meeting of the NAC/AEGL Committee will be held from 8 a.m. to 5 p.m. on March 7, 2003, and 8 a.m. to 5 p.m. on March 8, 2003.

ADDRESSES: The meeting will be held at the Eagle Gate East and West, Best Western Salt Lake Plaza Hotel, 122 West South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0003. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* 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 and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO technical information contact, to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for June 2003 in Washington, DC.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: February 13, 2003.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 03–4244 Filed 2–20–03; 11:31 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7454–3]

National Advisory Council on Environmental Policy and Technology (NACEPT); Superfund Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory NACEPT subcommittee on Superfund; open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notices is hereby given that the Superfund Subcommittee, a subcommittee of the National Advisory Council on Environmental Policy and Technology (NACEPT), will meet on the date and time described below. The meeting is open to the public. Seating will be on a first-come basis and limited time will be provided for public comment on each day.

DATES: The meeting will be held from 1:30 p.m. to 7 p.m. on March 10, 2003; from 8 a.m. to 5:30 p.m. on March 11, 2003.

ADDRESSES: The meeting will take place at the Phoenix Pointe Hilton Squaw Peak Resort, 7677 North 16th Street Phoenix, AZ 85020.

FOR FURTHER INFORMATION CONTACT: Angelo Carasea, Designated Federal Officer for the NACEPT Superfund Subcommittee, Office of Emergency and Remedial Response, Office of Solid Waste and Emergency Response, MC 5204G, 1200 Pennsylvania Ave., NW., Washington, DC, (703) 603–8828.

SUPPLEMENTARY INFORMATION:

Agenda

This fourth meeting of the Superfund Subcommittee will involve reports from the Subcommittee's working groups about their activities since the last Subcommittee meeting in January 2003. The agenda for the meeting will be available one week prior to the meeting's occurrence.

Public Attendance

The public is welcome to attend all portion of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public sessions are encouraged to contact the Designated Federal Official. Each day will have one public comment period.

Dated: February 14, 2003.

Angelo Carasea,

Designated Federal Officer, NACEPT Superfund Subcommittee.

[FR Doc. 03–4307 Filed 2–20–03; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

Date and Time: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 19, 2003, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

—January 7, 2003 (Open)

B. Reports

—Corporate Approvals
—Informational Memoranda Issued to FCS on Flood Insurance

C. New Business

1. Regulations

—Capital Risk Weighting ABS/MBS Securities Held by FCS Institutions—Interim Final Rule

2. Other

—Unified Agenda Update and Revisions
—**Federal Register** Notice—Loan Syndication Transactions—Reopening of Comment Period
—Fiscal Year 2002 Financial Audit

Closed Session [1]

—OSMO Report

Dated: February 14, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–4077 Filed 2–19–03; 11:41 am]

BILLING CODE 6705–01–P

[1] Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

February 12, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 22, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *lesmith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0930.

Title: Implementation of the Satellite Home Viewer Improvement Act of 1999. Enforcement Procedures for Retransmission Consent Violations Conforming to section 325(e) of the Communications Act of 1934, as amended.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 8.

Estimated Time per Response: 2 hours (multiple responses/year).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 192 hours.

Total Annual Costs: $0.00.

Needs and Uses: Congress directed the Commission to adopt regulations related to retransmission consent pursuant to the changes outlined in the Satellite Home Viewer Improvement Act of 1999. Retransmission consent is the process whereby television broadcasters negotiate and consent to carriage of their signals by MVPDs. Television broadcasters will be required to make an election and make status information available for public review. The availability of such information will serve the purpose of informing the public of the method of broadcast signal carriage.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 03–4062 Filed 2–20–03; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons of the fourth, fifth, sixth and seventh meetings of the Network Reliability and Interoperability Council (Council) under its charter renewed as of December 26, 2001. The meetings will be held at the Federal Communications Commission in Washington, DC.

DATES: Friday, March 14, 2003, at 10 a.m. to 1 p.m.; June 13, 2003, at 10 a.m. to 1 p.m.; September 15, 2003, at 1 p.m. to 4 p.m.; and December 6, 2002, at 10 a.m. to 1 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp at 202–418–1096 or TTY 202–418–2989.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommend measures that will enhance network security, reliability and interoperability. At the March meeting, the Council will consider proposed network security best practices from various focus groups and review the status of others.

The Council will discuss the progress of working groups that are addressing the topics that are contained in the Council's charter and any additional issues that may come before it.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. Admittance, however, will be limited to the seating available. The public may submit written comments before the meeting to Jeffery Goldthorp, the Commission's Designated Federal Officer for the Network Reliability and Interoperability Council, by e-mail *jgoldtho@fcc.gov* or U.S. mail (7–A325, 445 12th St., SW., Washington, DC 20554). Real Audio and streaming video access to the meeting will be available at *http://www.fcc.gov*.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 03–4175 Filed 2–20–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 2003.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. The Sumitomo Trust & Banking Company, Limited, Osaka, Japan; to engage through a joint venture in trust company activities through Sumitomo Trust & Banking Co. (USA), Hobeke, New Jersey, after its conversion from a bank to a trust company. This activity will be conduted pursuant to § 225.28(5) of Regulation Y.

Board of Governors of the Federal Reserve System, February 13, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.03–4153 Filed 2–20–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Consumer Advisory Council

ACTION: Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, March 13, 2003. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, D.C., in Dining Room E on the Terrace level of the Martin Building. Anyone planning to attend the meeting should, for security purposes, register no later than Tuesday, March 11, by completing the form found on-line at: *https://www.federalreserve.gov/secure/forms/cacregistration.cfm*.

Additionally, attendees must present photo identification to enter the building.

The meeting will begin at 9 a.m. and is expected to conclude at 1 p.m. The Martin Building is located on C Street, NW., between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under various consumer financial services laws and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Check Bounce Protection: Discussion of the impact that check bounce protection programs have on consumers and possible regulatory concerns.

Predatory Lending: Discussion of the effects of state predatory lending laws on credit availability and the appropriateness of federal preemption of state laws.

Truth in Lending Act: Discussion of issues related to credit card disclosures in connection with the Board's review of Regulation Z, which implements the Truth in Lending Act.

Committee Reports: Council committees will report on their work.

Other matters initiated by Council members also may be discussed.

Persons wishing to submit views to the Council on any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Information about this meeting may be obtained from Ms. Bistay, 202–452–6470.

Board of Governors of the Federal Reserve System, February 13, 2003.

Jennifer J. Johnson

Secretary of the Board

[FR Doc. 03–4154 Filed 2–20–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03035]

Grants for National Academic Centers of Excellence on Youth Violence Prevention; Notice of Availability of Funds for Fiscal Year 2003

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301, 391, 392, and 394 of the Public Health Service Act, [42 U.S.C. 241, 280b, 280b–1, 280b–1a, and 280b–2], as amended. Program regulations are set forth in 42 CFR part 52. The Catalog of Federal Domestic Assistance number is 93.136.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a grant for National Academic Centers of Excellence on Youth Violence Prevention. This program addresses the ''Healthy People 2010'' focus area related to Injury and Violence Prevention.

The purposes of the program are to: (1) Build the scientific infrastructure necessary to support the development and widespread application of effective youth violence interventions; (2) promote interdisciplinary research strategies to address the problem of youth violence; (3) foster collaboration between academic researchers and communities; and (4) empower communities to address the problem of youth violence.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Injury Prevention and Control (NCIPC): Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence.

C. Eligible Applicants

Assistance will be limited to the following academic health centers, defined as public and private nonprofit universities, colleges, and university-associated teaching hospitals: Virginia

Commonwealth University; University of Michigan; University of Puerto Rico; University of California, Riverside; and University of California, San Diego. Only current recipients of Program Announcement 00043, National Academic Centers of Excellence on Youth Violence Prevention, are eligible to apply. The competition is limited to complete the development, collection and analysis of data from core program components in surveillance, intervention research, etiological research, multi-disciplinary collaboration, community mobilization, and training funding established during the first three years for the developing centers.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501c(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

D. Funding

Availability of Funds

Approximately $1,900,000 is available in FY 2003 to fund approximately five awards. It is expected that the average award will be $380,000, ranging from $376,000 to $393,000 (including direct or indirect costs). It is expected that the awards will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of the availability of funds and the following criteria:

(1) The accomplishments reflected in the progress report of the continuation application indicate that the applicant is meeting previously stated objectives or milestones contained in the project's annual statement of work. Progress is demonstrated through presentations at monitoring workshops.

(2) The objectives for the new budget period are realistic, specific, and measurable.

(3) The methods described will clearly lead to achievement of these objectives.

(4) The evaluation plan will allow management to monitor whether the methods are effective.

Use of Funds

Provide a budget to include funds for management functions, non-research activities, and small one-year pilot projects of less than $15,000. The budget should include items for development and implementation of a community response plan for youth violence, and development and implementation of curricula for training of health professionals.

Recipient Financial Participation

Matching funds are not required for this program.

Funding Priority

Funding priority will be given to current recipients of Program Announcement 00043, National Academic Centers of Excellence on Youth Violence Prevention. The competition is limited to complete the development, collection and analysis of data from core program components in surveillance, intervention research, etiological research, multi-disciplinary collaboration, community mobilization, and training funding established during the first three years for the developing centers.

Interested persons are invited to comment on the proposed funding priority. All comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priority is established. If the funding priority changes because of comments received, a revised announcement will be published in the **Federal Register**, and revised applications will be accepted before the final selections are made. Send comments to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the following activities:

(1) Demonstrated expertise in:

(a) Research in risk and protective factors for youth violence and/or development and evaluation of preventive interventions for youth violence.

(b) Capacity to develop and facilitate implementation of a multi-disciplinary and multi-organizational community response plan for youth violence.

(2) Provide evidence of capacity to develop, deliver, and maintain a training curriculum for health care professionals.

(3) Provide a director (Principal Investigator) who has specific authority and responsibility to carry out the project. The director must report to an appropriate institutional official, *e.g.*, dean of a school or vice president of a university. The director must have no less than 30 percent effort devoted solely to this project.

(4) Demonstrate working relationships with outside agencies and other entities which will allow for implementation of any proposed intervention activities.

(5) Provide evidence of involvement of a multi-disciplinary and multi-organizational group of specialists or experts in primary care, behavioral and/or preventive medicine, epidemiology, law and criminal justice, behavioral and social sciences, and/or public health as needed to complete the plans of the center.

(6) Demonstrate through documentation that full working partners must have established curricula and graduate training programs in disciplines relevant to youth violence prevention (*e.g.*, epidemiology, criminology, social sciences, and behavioral sciences).

(7) Demonstrate an established relationship with youth violence prevention programs through letters of commitment. Also include established relationships with organizations/individual leaders in communities where youth violence related injuries occur at high rates. A letter from an appropriate public health agency in support of the proposed center is required.

F. Content

Letter of Intent (LOI)

An LOI is not required for this program.

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 50 pages, double spaced, printed on one side, with one inch margins, and unreduced 12-point font.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget. The plan should:

(1) Provide the infrastructure for, and conduct interdisciplinary research relevant to, youth violence.

(2) Support the surveillance of youth violence in the grantees' specific communities.

(3) Develop, evaluate, and more broadly implement effective violence prevention strategies.

(4) Offer mentoring and training initiatives to prepare professionals from various backgrounds to address the issue of youth violence.

(5) Create partnerships with communities to develop plans to address youth violence.

G. Submission and Deadline

Application Forms

Submit the original and two copies of PHS 398 (OMB Number 0925–0001) and adhere to the instructions on the Errata Instruction Sheet for PHS 398. Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: (770) 488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time, April 7, 2003. Submit the application to: Technical Information Management—PA#03035, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A post card will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications that do not meet the above criteria will not be eligible for competition and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the grant. Measures of effectiveness must relate to the performance goal stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Applications will be reviewed by CDC staff for completeness and responsiveness as outlined under the eligible applicants section. Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration.

Applications which are complete and responsive may be subjected to a preliminary evaluation (streamlined review) by a peer review committee, the Injury Research Grant Review Committee (IRGRC), to determine if the application is of sufficient technical and scientific merit to warrant further review by the IRGRC. CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization. Those applications judged to be competitive will be further evaluated by a dual review process.

All awards will be determined by the director of the NCIPC based on priority scores assigned to applications by the IRGRC, recommendations by the secondary review committee of the Science and Program Review Subcommittee of the Advisory Committee for Injury Prevention and Control (ACIPC), consultation with NCIPC senior staff, and the availability of funds.

1. The primary review will be a peer review conducted by the IRGRC. All applications will be reviewed for scientific merit using current National Institutes of Health (NIH) and CDC criteria (a scoring system of 100 to 500 points) to evaluate the methods and scientific quality of the application. Factors to be considered will include:

a. Plan for the development of infrastructure and conduct of interdisciplinary research relevant to youth violence (25 percent).

(1) The application will specifically aim to address all the goals of the program, for example, the long-term objectives and intended accomplishments for the proposed center in relation to the problem of preventing youth violence and self-directed violence among the young. If the aims of the application are achieved, how will prevention of youth violence be advanced? What will be the effect of the center's activities on violence prevention efforts within the center's target community or region (*e.g.*, surveillance)?

(2) The extent to which the evaluation plan will allow for the measurement of progress toward the achievement of stated objectives of the proposed center.

(3) Qualifications, adequacy, and appropriateness of personnel to accomplish the proposed activities. Project director: Is the proposed center director appropriately trained and well-suited to carry out this work? Is the work proposed appropriate to the experience level of the proposed director and other key faculty and staff?

(4) Adequacy of institutional support and arrangements to ensure successful implementation of activities of the proposed centers, including arrangements for the center director's time commitment and authority, and documentation of relationships and understanding of roles and responsibilities between partner institutions and community organizations.

b. Implement effective violence prevention strategies (20 percent).

Adequacy of plans to conduct pilot projects relevant to the field of violence prevention including: adequacy of the setting and participants for the project, relevance of outcome measurements, expected results, and appropriateness of time lines, cost, and plans for translation/dissemination.

c. Create partnerships with communities to develop plans to address youth violence (20 percent).

Adequacy of plans and arrangements to develop and implement a community response to the problem of youth violence. Incorporate diverse perspectives (*i.e.*, health and mental health professionals, educators, the media, parents, young people, police, criminal/juvenile courts, legislators, public health specialists, and business leaders). Documentation of agreements and clear understanding of roles and responsibilities of partner organizations.

d. Training initiatives to prepare professionals from various backgrounds to address the issue of youth violence (20 percent).

Adequacy of plans and arrangements to develop and implement curricula for training of health care professionals on violent behavior identification, assessment, intervention with high risk youth. Integrate this curriculum into medical, nursing, and other health professional training program.

e. Research Factors (15 percent).

(1) *Significance.* Does this study address an important problem? If the

aims of the application are achieved, how will scientific knowledge be advanced? What will be the effect of these studies on the concepts or methods that drive this field?

(2) *Approach.* Are the conceptual framework, design, methods, and analyses adequately developed, well-integrated, and appropriate to the aims of the project? Does the applicant acknowledge potential problem areas and consider alternative tactics? Does the project include plans to measure progress toward achieving the stated objectives? Is there an appropriate work plan included?

(3) *Innovation.* Does the project employ novel concepts, approaches, or methods? Are the aims original and innovative? Does the project challenge or advance existing paradigms, or develop new methodologies or technologies?

(4) *Investigator.* Is the principal investigator appropriately trained and well-suited to carry out this work? Is the proposed work appropriate to the experience level of the principal investigator and other significant investigator participants? Is there a prior history of conducting injury-related research?

(5) *Environment.* Does the scientific environment in which the work will be done contribute to the probability of success? Does the proposed research take advantage of unique features of the scientific environment or employ useful collaborative arrangements? Is there evidence of institutional support? Is there an appropriate degree of commitment and cooperation of other interested parties as evidenced by letters detailing the nature and extent of the involvement?

(6) *Study Samples.* Are the samples sufficiently rigorously defined to permit complete independent replication at another site? Have the referral sources been described, including the definitions and criteria? What plans have been made to include women and minorities and their subgroups as appropriate for the scientific goals of the research? How will the applicant deal with recruitment and retention of subjects?

(7) *Dissemination.* What plans have been articulated for disseminating findings?

(8) *Measures of Effectiveness.* The Peer Review Panel shall assure that measures set forth in the application are in accordance with CDC's performance plans. How adequately has the applicant addressed these measures?

f. Budget and justification (reviewed, but not scored). The extent to which the proposal demonstrates appropriateness and justification of the requested budget relative to the activities proposed.

g. Performance Goal (reviewed, but not scored). The application must be aligned with the following performance goal for the National Center for Injury Prevention and Control: Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence.

h. Human Subjects Protection (reviewed, but not scored). Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects? Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

i. Does the application adequately address the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research? (reviewed, but not scored). This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification where representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

2. The secondary review will be conducted by the Science and Program Review Subcommittee (SPRS) of the ACIPC. The ACIPC federal agency experts will be invited to attend the secondary review and will receive modified briefing books (*i.e.*, abstracts, strengths and weaknesses from summary statements, and project officer's briefing materials). ACIPC federal agency experts will be encouraged to participate in deliberations when applications address overlapping areas of research interest, so that unwarranted duplication in federally-funded research can be avoided and special subject area expertise can be shared. The NCIPC Division Associate Directors for Science (ADS) or their designees will attend the secondary review in a similar capacity as the ACIPC federal agency experts to assure that research priorities of the announcement are understood and to provide background regarding current research activities. Only SPRS members will vote on funding recommendations, and their recommendations will be carried to the entire ACIPC for voting by the ACIPC members in closed session. If any further review is needed by the ACIPC, regarding the recommendations of the SPRS, the factors considered will be the same as those considered by the SPRS.

The committee's responsibility is to develop funding recommendations for the NCIPC Director based on the results of the primary review, the relevance and balance of proposed research relative to the NCIPC programs and priorities, and to assure that unwarranted duplication of federally-funded research does not occur. The secondary review committee has the latitude to recommend to the NCIPC Director, to reach over better ranked proposals in order to assure maximal impact and balance of proposed research. The factors to be considered will include:

a. The results of the primary review including the application's priority score as the primary factor in the selection process.

b. The relevance and balance of proposed research relative to the NCIPC programs and priorities.

c. The significance of the proposed activities in relation to the priorities and objectives stated in ''Healthy People 2010,'' the Institute of Medicine report, ''Reducing the Burden of Injury,'' and the ''CDC Injury Research Agenda.''

d. Budgetary considerations.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports including a data requirement that demonstrates measures of effectiveness.

2. Financial status report, no more than 90 days after the end of each budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

4. At the completion of the project, the grant recipient will submit a brief summary, 2,500 to 4,000 words written in non-scientific [laymen's] terms, highlighting the findings and their implications for injury prevention programs, policies, environmental changes, etc. The grant recipient will also include a description of the dissemination plan for research findings. This plan will include publications in peer-reviewed journals and ways in which research findings will be made available to stakeholders outside of academia (*e.g.*, state injury prevention program staff, community groups, public health injury prevention practitioners, and others). CDC will

place the summary report and each grant recipient's final report with the National Technical Information Service (NTIS) to further the agency's efforts to make the information more available and accessible to the public.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the program announcement, as posted on the CDC Web site.

AR–1 Human Subjects Requirements.
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research.
AR–9 Paperwork Reduction Act Requirements.
AR–10 Smoke-Free Workplace Requirement.
AR–11 Healthy People 2010.
AR–12 Lobbying Restrictions.
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities.
AR–20 Conference Support.

Executive Order 12372 does not apply to this program.

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.*

Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Rd., Atlanta, GA 30341–4146, *Telephone:* (770) 488–2700.

For business management and budget assistance, contact: Nancy Pillar, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2721, E-mail address: *NPillar@cdc.gov.*

For program technical assistance, contact: Candice Jackson, Project Officer, Division of Violence Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, MS K60, Atlanta, GA 30341–3724, *Telephone:* (770) 488–1571, *E-mail address: CJackson@cdc.gov.*

Dated: February 13, 2003.

Sandra R. Manning,

CGFM Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4061 Filed 2–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.–5 p.m., March 12, 2003.

8:30 a.m.–3:30 p.m., March 13, 2003.

Place: Sheraton Colony Square Hotel, 188 14th Street NE, Atlanta, Georgia 30361.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to Be Discussed: The agenda will include updates from CDC, the Centers for Medicare & Medicaid Services, and the Food and Drug Administration; a report on the recently published CLIA Quality Systems final rule; a report on rapid HIV testing; a demonstration of CytoView™; and various perspectives and discussion on direct access testing. Agenda items are subject to change as priorities dictate.

Providing Oral or Written Comments: It is the policy of the CLIAC to accept written public comments and provide a brief period for oral public comments whenever possible. *Oral Comments:* In general, each individual or group requesting to make an oral presentation will be limited to a total time of five minutes (unless otherwise indicated). Speakers must also submit their comments in writing for inclusion in the meeting's Summary Report. *Written Comments:* For individuals or groups unable to attend the meeting, the CLIAC accepts written comments until the date of the meeting (unless otherwise stated). However, the comments should be received at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration and public distribution. Written comments, one hard copy with original signature, should be provided to the contact person below. Written comments will be included in the meeting's Summary Report.

Contact Person for Additional Information: Rhonda Whalen, Chief, Laboratory Practice Standards Branch, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop F–11, Atlanta, Georgia 30341–3717; telephone (770)488–8042; fax (770)488–8279; or via e-mail at *RWhalen@cdc.gov.*

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: February 13, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4059 Filed 2–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meeting.

Name: National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFASFAE).

Times and Dates: 8:30 a.m.–4 p.m., March 13, 2003. 8:30 a.m.–11:45 a.m., March 14, 2003.

Place: Doubletree Hotel Atlanta/Buckhead, 3342 Peachtree Road, NE.,

Atlanta, Georgia 30326, telephone 404/231–1234, fax 404/231–3112.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 65 people.

Purpose: The Secretary is authorized by the Public Health Service Act, Section 399G, (42 U.S.C. Section 280f, as added by Public Law 105–392) to establish a National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect to:

(1) Foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE) research, programs and surveillance; and (2) to otherwise meet the general needs of populations actually or potentially impacted by FAS and FAE.

Matters to Be Discussed: Agenda items include: an update from the National Center on Birth Defects and Developmental Disabilities Scientific Working Group on Diagnostic Guidelines for FAS and Alcohol-Related Neurodevelopmental Disabilities (ARND); an update on activities from the Interagency Coordinating Committee on Fetal Alcohol Syndrome; new research and program updates from the CDC and other Federal agencies; and working group updates. Additional agenda items include: task force discussions on the use of the term fetal alcohol spectrum disorders: What is it? When is it appropriate to use it?; provider education and FAS prevention; development of a clear message for pediatricians, nurses, and other providers: how the FAS diagnosis will benefit the child and family; future topics, and scheduling the next meeting.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: R. Louise Floyd, DSN, RN, Designated Federal Official, National Center on Birth Defects and Developmental Disabilities, CDC, 4700 Buford Highway, NE, (F–49), Atlanta, Georgia 30333, telephone 770/488–7372, fax 770/488–7361.

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 CDC and ATSDR.

Dated: February 13, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4060 Filed 2–20–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Times and Dates: 8 p.m.–10 p.m., March 5, 2003. 8 a.m.–5:30 p.m., March 6, 2003. 8 a.m.–5 p.m., March 7, 2003.

Place: Little America Hotel, 500 South Main Street, Salt Lake City, Utah 84411, telephone (801) 363–6787.

Status: Open 8 p.m.–10 p.m., March 5, 2003. Open 8 a.m.–9 a.m., March 6, 2003. Closed 9 a.m.–5:30 p.m., March 6, 2003. Closed 8 a.m.–5 p.m., March 7, 2003.

Purpose: The Safety and Occupational Health Study Section will review, discuss, and evaluate grant application(s) received in response to the Institute's standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas. It is the intent of the NIOSH to support broad-based research endeavors in keeping with the Institute's program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

Matters To Be Discussed: The meeting will convene in open session from 8–10 p.m. on March 5, 2003 and 8–9 a.m. on March 6, 2003, to address matters related to the conduct of Study Section business. The remainder of the meeting will proceed in closed session. The purpose of the closed sessions is for the SOHSS to consider safety and occupational health-related grant applications. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6) title 5 U.S.C., and the determination of the Director, Management Analysis and Services Office, Centers for Disease Control and Prevention, pursuant to Pub. L. 92–463.

As provided under 41 CFR 102–3.150(b), the public health urgency of this agency business requires that the meeting be held prior to the first available date for publication of this notice in the **Federal Register**.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michael Galvin, Ph.D., NIOSH Health Scientist, 1600 Clifton Road, NE., Mailstop E–20, Atlanta, Georgia 30333, telephone (404) 498–2524, fax (404) 498–2569.

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: February 13, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4058 Filed 2–20–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: Meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH).

Time and Date: 8 a.m.–5 p.m., March 7, 2003.

Place: The Westin Cincinnati, 21 East Fifth Street, Cincinnati, Ohio 45202, telephone (513) 621–7700, fax (513) 852–5670.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 65 people.

Background: The Advisory Board on Radiation and Worker Health (''the Board'') was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President, through the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, evaluation of the scientific validity and

quality of dose reconstructions conducted by the National Institute for Occupational Safety and Health (NIOSH) for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000 the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and in November 2001, the President completed the initial appointment of Board members. The initial tasks of the Board have been to review and provide advice on the proposed, interim, and final rules of HHS.

Purpose: This Board is charged with (a) providing advice to the Secretary, HHS on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: Agenda for this meeting will focus on the Special Exposure Cohort Notice of Proposed Rule-Making, Workgroup report on dose deconstruction review process, and Board discussion and work session on the Special Exposure Cohort.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone (513) 841–4498, fax (513) 458–7125.

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: February 13, 2003.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–4055 Filed 2–20–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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: Application for the National Health Service Corps (NHSC) Scholarship Program (OMB No. 0915–0146)—Extension

The National Health Service Corps (NHSC) Scholarship Program's mission is to help alleviate the geographic and specialty maldistribution of physicians and other health practitioners in the United States. Under this program, health professions students are offered scholarships in return for service in a federally designated Health Professional Shortage Area (HPSA). The Scholarship Program provides the NHSC with the health professionals it requires to carry out its mission of providing primary health care to HPSA populations in areas of greatest need. Students are supported who are well qualified to participate in the NHSC Scholarship Program and who want to assist the NHSC in its mission, both during and after their period of obligated service. Scholars are selected for these competitive awards based on the information provided in the application and during the semi-structured personal interview that is conducted by a team of two interviewers who use a structured scoring procedure. Awards are made to applicants that demonstrate a high potential for providing quality primary health care services.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Application	2,000	1	2,000	1	2,000
Interview	1,100	1	1,100	1	1,100
Total	3,100		3,100		3,100

Written comments and recommendations concerning the proposed information collection should be sent within 60 days of this notice to: Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–45, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 14, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–4156 Filed 2–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and

Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 68 FR 787–793, January 7, 2003). This notice is to amend the functional statements of the Bureau of Primary Health Care. Specifically, this notice (1) abolishes in their entirety the Division of Community and Migrant Health and the Division of Programs for Special Populations; (2) revise the Office of the Associate Administrator; (3) establish the Office of Program Support; the Office of Policy, Evaluation and Data; the Office of Minority and Special Populations; the Division of Health Center Development; the Division of Health Center Management; the Division of Clinical Quality; and the Division of State and Community Assistance.

Section RC–00 Mission

The Bureau of Primary Health Care (BPHC) directs national health programs which improve the health of the Nation by assuring access to high quality comprehensive preventive and primary health care services and improving the health status of the Nation's underserved and vulnerable populations.

Section RC–10 Organization

The Bureau of Primary Health Care (BPHC) headed by the Associate Administrator for Primary Health Care reports directly to the Administrator, Health Resources and Services Administration. The BPHC includes the following components:

(1) Office of the Associate Administrator (RC)
(2) Office of Policy, Evaluation, and Data (RCE)
(3) Office of Minority and Special Populations (RCG)
(4) Division of Health Center Development (RCH)
(5) Division of Health Center Management (RCJ)
(6) Division of Clinical Quality (RCK)
(7) Division of State and Community Assistance (RCL)
(8) Division of National Hansen's Disease Program (RC7)
(9) Division of Immigration Health Services (RC9)

1. In the Office of the Associate Administrator Delete the Migrant Health Advisory Council Function and Place It in the Office of Minority and Special Populations. Revise the Functional Statement of the Office of the Associate Administrator as Follows:

Office of the Associate Administrator (RC)

Provides overall leadership, direction, coordination, and strategic planning in support of Bureau programs. Specifically: (1) Has lead responsibility to bring primary health care services to the Nation's neediest communities; (2) serves as a central point of contact for Bureau communication and information; (3) establishes program policies, goals, and objectives and provides oversight as to their execution; (4) interprets program policies, guidelines, and priorities; (5) stimulates, coordinates and evaluates program development and progress; (6) maintains effective relationships with HRSA, other Department of Health and Human Services (HHS) organizations, other Federal agencies, State and local governments, and other public and private organizations concerned with primary health and improving the health status of the Nation's underserved and vulnerable populations; and (7) plans, directs, coordinates and evaluates Bureau-wide administrative management activities; (8) assures that BPHC's funding recommendations are consistent with authorizing legislation, program expectations and HHS and HRSA policies.

2. Establish the Office of Office of Policy, Evaluation and Data as Follows:

Office of Policy, Evaluation and Data

(1) Provides leadership, direction, and overall coordination of the analysis and clearance of policy across Bureau programs; (2) provides leadership, direction, and coordination for health workforce planning as it supports health center development; (3) serves as focal point to design, establish and implement an evaluation plan for assessing and improving program performance; (4) serves as the focal point for the development and monitoring of the Bureau's Strategic Plan and annual spending plans; (5) provides leadership and overall coordination for tracking and monitoring health center growth; (6) serves as focal point for external communication, publication, and dissemination; (7) provides surveillance, monitoring, and analysis of a variety of media, newsletters, trade journals, and periodicals in order to detect external trends which could potentially affect grantee performance; (8) detects potential trends in program performance data on a State, regional, and national level to inform the development of program policies and the design of evaluation studies to improve program performance; (9) provides consultation to and coordinates activities with other components within HRSA, other Federal agencies, consumer and constituency groups, national and state organizations involved in policy, evaluation and data; and (10) manages the Bureau's executive secretariat functions.

3. Establish the Office of Minority and Special Populations as Follows:

Office of Minority and Special Populations (RCG)

Provides overall coordination of Bureau activities relating to the delivery of health services to special populations such as migrant and seasonal farmworkers, homeless persons, women, and other minority and special populations, including residents of public housing, students served by School-based Health Centers, and Asian American Pacific Islanders. Specifically, (1) ensures that the needs and special circumstances of special populations and the provider organizations that serve them are addressed in internal BPHC policies; (2) advises BPHC staff and leadership about the special needs of special populations; (3) coordinates with private, professional, and academic health care organizations in developing and designing public health interventions aimed at reducing disparities in the health status of the special populations; (4) represents BPHC at regional and national meetings focused on special population issues, and shares information regarding the BPHC's response to such issues; and (5) provides staff support to the National Advisory Council on Migrant Health.

4. In the Division of Programs for Special Populations Delete the Community-based Systems Function and Place It in the Division of Health Center Development (DHCD). Establish the Division of Health Center Development as Follows:

Division of Health Center Development (RCH)

Serves as the organizational focus of the competitive grant process for BPHC. Specifically, DHCD: (1) Provides leadership and direction, including tactical planning for the development and expansion of new health centers, health systems infrastructure, and pharmacy services; (2) manages and expands the number and types of organizations that participate in the 340B drug pricing program; (3) provides pre-application assistance to communities and community-based organizations related to health center development, health systems infrastructure development and pharmacy services development; (4) provides consultation to and

coordinates activities with other components within HRSA, other Federal agencies, consumer and constituency groups, national and state organizations involved in implementation of BPHC's competitive process.

5. In the Division of Programs for Special Populations Delete the Functions Guidance Development and Implementation of Plans To Assure Attainment of Measurable Outcomes and Place It in the Division of Health Center Management (DHCM). Establish the Division of Health Center Management as Follows:

Division of Health Center Management (RCJ)

Manages BPHC's funded grants and activities and manages funds and other resources related to increasing clinical, managerial, and financial efficiency. Specifically, the DHCM: (1) Manages the post-award administration of the Consolidated Health Center Program, Black Lung Clinics Program, the Radiation Exposure Screening and Education Program, and the Native Hawaiian Health Care Program; (2) serves as BPHC representative to organizations receiving Bureau grants; (3) promotes a continued focus on efficient and effective care for vulnerable populations, including people at or below 200 percent of poverty, racial and cultural minorities, uninsured people, students served by School-based Health Centers, migrant and seasonal farm workers, homeless individuals and families, public housing residents, and residents of rural and sparsely populated areas; (4) formulates and interprets continuation application guidance, program policy, legislative implementation proposals, regulation, and industry standards with the Division of Clinical Quality and Office Policy Evaluation Data; (5) monitors the performance of specific BPHC funded grants and makes programmatic recommendations; (6) reviews findings and recommendations of periodic and episodic grantee assessments, planning actions needed to assure continuity of services to vulnerable populations and appropriate use of Federal resources; (7) provides consultation to and coordinates activities with other components of HRSA, other Federal agencies, consumer and constituency groups, national and state organizations involved in implementation of program activities; (8) provides technical guidance to grantees on the management and integration of community-based systems of care, the adaptation of successful strategies/models, and the resolution of difficult issues; and (9) identifies and coordinates training and technical assistance needs of service delivery programs with the Division of State and Community Assistance.

6. In the Division of Community and Migrant Health Delete the Function Coordinating and Establishing Guidelines and Standards for Professional Services and Staff Development in BPHC Funded Grants Function and Place it in the Division of Clinical Quality (DQA). Establish the Division of Clinical Quality as Follows:

Division of Clinical Quality (RCK)

(1) Provides clinical and quality leadership for BPHC to meet the initiative to expand health centers; (2) supports BPHC functions to assess the Nation's health care needs of underserved populations and to assist communities in providing quality primary health care services to the underserved and moving towards eliminating health disparities; (3) supports BPHC through assessment of clinical, quality improvement, risk management, and patient safety activities to improve policies, and programs for primary health care including clinical information systems; (4) serves as BPHC clinical and quality liaison with other DHHS organizations, other Federal, State, and private agencies, and organizations for clinical and quality issues for community based primary health care for underserved populations; and (5) coordinates clinical technical assistance program for BPHC health professional and non-health professional staff.

7. In the Immediate Office of the Associate Administrator Delete the Function Integration of State-Based activities into BPHC's Programs and Place It in the Division of State and Community Assistance (DSCA). Establish the Division of State and Community Assistance as Follows:

Division of State and Community Assistance (RCL)

Specifically: (1) Collaborates with other BPHC Divisions and Offices in identifying technical assistance and training needs; (2) provides tactical planning for the development, implementation and evaluation of technical and training assistance; (3) develops mechanisms and resources to address technical assistance and training needs; (4) directs and manages technical assistance resources and activities for BPHC grantees and contractors; (5) manages the loan guarantee program; (6) manages the post-award process for Healthy Communities Access Program, Primary Care Associations, Primary Care Offices, Integrated Services Development Initiative, and Shared Integrated Management Information Systems; (7) coordinates state-based planning/activities for health center strengthening, expanding and quality improvement (Statewide Strategic Planning); (8) provides state-specific policy surveillance; (9) provides consultation to and coordinates activities related to technical assistance and state activities in support of the initiatives to expand health centers with other components of HRSA, other Federal agencies, consumer and constituency groups, national and state organizations; (10) monitors the recovery of high-risk grantees.

Section RC–30 Delegation of Authority

All delegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further re-delegation. I hereby ratify and affirm all actions taken by any DHHS official which involves the exercise of these authorities prior to the effective date of this delegation.

This reorganization is effective upon the date of signature.

Dated: February 14, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–4155 Filed 2–20–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

The President's New Freedom Commission on Mental Health; Notice of Meeting

Pursuant to Executive Order 13263, notice is hereby given of a correction of a meeting of the President's New Freedom Commission on Mental Health to be held in March 2003.

Public notice was given in the **Federal Register** on February 7, 2003 (Volume 68, Number 26, page 6496) that the President's New Freedom Commission on Mental Health would be meeting on March 5 and 6, 2003 at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia. The date and time of this meeting have subsequently changed to March 5, 2003, 10:45 a.m. to 5:30 p.m. The agenda of the meeting and contact for additional information remain as announced.

Dated: February 14, 2003.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–4157 Filed 2–20–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Emergency Exemption: Issuance of Permit for Endangered Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of emergency issuance of permit for endangered marine mammals.

SUMMARY: The following permit was issued.

ADDRESSES: Documents and other information submitted for this application are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: On January 31, 2003, the U.S. Fish and Wildlife Service (Service) issued a permit (PRT–067519) to Red Caribena de Varamientos (Caribbean Stranding Network, Inc.), San Juan, Puerto Rico, to import one West Indian manatee (*Trichechus manatus*) found in distress in the waters around Virgin Gorda, British Virgin Islands, for rehabilitation and reintroduction purposes. This action was authorized under Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and Sections 104 and 109(h) of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*). The Service determined that an emergency affecting the health and life of the manatee existed, and that no reasonable alternative was available.

On January, 17, 2003, the manatee was discovered in distress (dehydrated and emaciated) off Virgin Gorda and Tortola, BVI. The BVI Department of Conservation and Fisheries requested assistance from the applicant and the Service for relocating and rehabilitating the manatee. The manatee will be placed at the Caribbean Stranding Network's rehabilitation center at Caribbean Marine Mammal Laboratory, Universidad Metropolitana (a manatee rehabilitation facility endorsed by the Service's Jacksonville Field Office under MMPA/ESA enhancement permit PRT–770191). The goal of the importation is to rehabilitate and release the animal back into the wild as soon as feasible.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: February 11, 2003.

Charlie R. Chandler,

Chief, Branch of Permits—Domestic, Division of Management Authority.

[FR Doc. 03–4303 Filed 2–19–03; 1:47 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9277, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 12 acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4178 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9325, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 12 acres located on Nunivak Island, Alaska. Notice of this decision will also be published four consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from:

Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4182 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9326, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately two acres located on Nulnivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4183 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–88–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9311, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately four acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4185 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–88–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9301, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately nine acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4186 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–88–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9310, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR § 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 20 acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4187 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9333, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately nine acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4189 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9263, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately four acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4190 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9300, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 0.25 acre located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4191 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9286, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 31 acres located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4192 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9281, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 25 acres of land located on Nunivak Island, Alaska. Notice of this decision will also be published four (4) consecutive weeks in the *Anchorage Daily News*.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4193 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–9324, CAA–11]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Calista Corporation for approximately 22 acres located on Nunivak Island, Alaska. Notice of this decision will also be published four consecutive weeks in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4194 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; F–85448, F–93344–NE, DYA–12 & 15]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving oil and gas for conveyance pursuant to the Alaska Native Claims Settlement Act, as amended, will be issued to Doyon, Limited. The oil and gas were reserved to the United States pursuant to the Act of March 8, 1922, as amended and supplemented, in the Native allotment certificate issued for lot 2, U.S. Survey No. 9918, Alaska. The lands are located in T. 3 S., R. 8 W., Fairbanks Meridian, in the vicinity of Nenana, Alaska, and contain 159.93 acres. Notice of the decision will also be published four times in the *Fairbanks Daily News-Miner.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 24, 2003, to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Christy Favorite by phone at 907–271–5656, or by e-mail at *cfavorit@ak.blm.gov.*

Christy Favorite,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 03–4188 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–050–2822–JL–T357]

Notice of Emergency Closure of Public Lands to Motorized Vehicle Use

AGENCY: Bureau of Land Management, Interior (BLM).

ACTION: Notice of emergency closure of certain public lands located in Fremont County, Wyoming to all types of motor vehicle use.

SUMMARY: 43 CFR Subpart 8364—Closure and Restrictions, 8364.1 (a) states: ''To protect persons, property, and public lands and resources, the authorized officer may issue an order to close or restrict use of designated public lands.'' In coordination with the USDA Shoshone National Forest, Washakie Ranger District, the Wyoming Game and Fish Department, Lander Regional Office, and The Nature Conservancy, Red Canyon Ranch, the Lander Field Manager issued an order on September 10, 2002 closing all BLM-administered public land surface, including existing roads and two-tracks, within the perimeter of the Pass Creek Fire to all types of motorized vehicle travel (*e.g.*, all-terrain vehicles, pickups, motorcycles, sport utility vehicles, snowmobiles, *etc.*). The action affects public lands located within the Pass Creek Fire. This action is necessary for the protection of watershed resources and to assure adequate time to allow for

the rehabilitation of the burned area. No motorized vehicle travel into these areas will be allowed, including the retrieval of big game, unless specifically authorized (in writing) by the authorized officer (BLM Lander Field Manager). The following acts are exempt from this action: (1) Access within the area by other means (*e.g.*, foot or horseback); (2) persons with a BLM permit or contract specifically authorizing motor vehicle use; (3) owners or lessees of land in the area; and (4) any federal, state, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty. Extension of the closure order may occur if it is determined that the rehabilitation of the burned area has not been successful. Once rehabilitation of the burned area is determined to be successful, motorized vehicle access is limited to designated roads and two-tracks, as described in the Lander Resource Management Plan (RMP) Record Of Decision (ROD) dated June, 9, 1987.

DATES: This emergency closure will be effective immediately and will remain in effect until September 10, 2004.

FOR FURTHER INFORMATION CONTACT: Ray Hanson, Outdoor Recreation Planner, Bureau of Land Management, 1335 Main Street, P.O. Box 589, Lander, Wyoming, 82520; or contact by phone at 307–332–8420.

SUPPLEMENTARY INFORMATION: The BLM Lander Field Office is responsible for management of public lands within Fremont County. The management of these lands is addressed in the Lander RMP ROD, which was signed June, 9, 1987. The Pass Creek Fire started on August 24, 2002 and burned 13,433 acres, 4,725 acres of which are public lands. It was declared controlled on September 10, 2002. This Emergency Closure is necessary to protect the watershed and allow adequate time for the rehabilitation of the burned area within the Pass Creek Fire.

The following BLM-administered lands are included in this emergency closure: 4,725 acres of BLM-administered public land within the Pass Creek Fire.

Maps of this emergency closure area will be posted with this notice at key locations that provide access into the emergency closure area, as well as at the Lander Field Office, 1335 Main Street, Lander, Wyoming 82520.

Authority for the closure order is provided in regulations 43 CFR Subpart 8364—Closure and Restrictions, 8364.1 (a).

Dated: September 10, 2002.

Jack Kelly,

Field Manager.

[FR Doc. 03–4179 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–03–1610–DJ]

Pinedale Anticline Working Group, Notice of Initiation of the Nomination/Selection Process, Sublette County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for membership to the Pinedale Anticline Working Group as part of the Adaptive Environmental Management program for the Pinedale Anticline Project Area in Southwestern Wyoming.

DATES: All nominations should be postmarked by 45 days from date of publication in the **Federal Register**. Final selections will be made by and serve at the discretion of the Secretary of the Interior.

ADDRESSES: You can obtain information and a copy of the notice for the nomination/selection process by writing or visiting the following offices: Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, PO Box 1828, Cheyenne, Wyoming 82003; Bureau of Land Management, Pinedale Field Office, 432 East Mill Street, PO Box 768, Pinedale, Wyoming 82941.

SUMMARY: On August 15, 2002, the Secretary of the Interior signed the Charter to establish the Pinedale Anticline Working Group (PAWG). We are now initiating the process to select the membership of that group. Several interest groups, governmental agencies, and local interests will be given the opportunity to be represented on the PAWG. Individuals or groups interested in becoming a member of the PAWG should submit the specified information within 45 days of receiving this notice.

Nominations and supporting documentation should be sent to: Bureau of Land Management, Pinedale Field Office, ATTN: Eldon Allison, PAWG Coordinator, PO Box 768, Pinedale, Wyoming 82941.

FOR FURTHER INFORMATION CONTACT: Eldon Allison, PAWG Coordinator, BLM, Pinedale Field Office, PO Box 768, Pinedale, Wyoming, 82941, telephone (307) 367–5300.

SUPPLEMENTARY INFORMATION: On August 15, 2002, the Secretary of the Interior signed the Charter to establish the Pinedale Anticline Working Group (PAWG). We are now initiating the process to select the membership of that group. The Charter establishes several membership selection criteria and operational procedures that need to be followed once the Working Group has been established and becomes active. These are listed as follows:

(1) The PAWG will be composed of 9 members who reside in the State of Wyoming. The PAWG members will be appointed by and serve at the pleasure of the Secretary of Interior.

(2) Members of the PAWG will be as follows:

- A representative from the State of Wyoming Office of Federal Land Policy.
- A representative from the Town of Pinedale.
- A representative from the oil/gas operators active in the Pinedale Anticline area.
- A representative from the Sublette County government.
- A representative from statewide or local environmental groups.
- A representative from the landowners within or bordering the Pinedale Anticline area.
- A representative of livestock operators operating within or bordering the Pinedale Anticline area.
- Two members from the public-at-large.

(3) All members should have demonstrated an ability to analyze and interpret data and information, evaluate proposals, identify problems, and promote the use of collaborative management techniques (such as, long term planning, management across jurisdictional boundaries, data sharing, information exchange, and partnerships), and a knowledge of issues involving oil and gas development activities.

(4) The service of the PAWG members shall be as follows:

(a) PAWG members will be appointed for 2-year terms, subject to removal by the Secretary of the Interior. At the discretion of the Secretary of the Interior, members may be reappointed to additional terms.

(b) The Chairperson of the PAWG will be selected by the PAWG at its first meeting.

(c) The term of the Chairperson will not exceed 2 years.

Individuals, or representatives of groups, who wish to become members of the Pinedale Anticline Working Group should complete and submit the following information to this office by March 28, 2003:

A. Representative group to be considered for:

B. Nominee's full name:

C. Business address:

D. Business phone:

E. Home address:

F. Home phone:

G. Occupation/title:

H. Qualifications (education including colleges, degrees, major field of study and/or training):

I. Career highlights (significant related experience, civic and professional activities, elected offices, prior advisory committee experience, or career achievements related to the interest to be represented):

J. Experience in collaborative management techniques, such as long term planning, management across jurisdictional boundaries, data sharing, information exchange and partnerships:

K. Experience in data analysis and interpretation, problem identification and evaluation of proposals:

L. Knowledge of issues involving oil and gas development:

M. Indicate specific area of interest to be represented from the following:

1. A representative from the State of Wyoming Office of Federal Land Policy,

2. A representative from the Town of Pinedale,

3. A representative from the oil/gas operators active in the Pinedal, Anticline area,

4. A representative from the Sublette County government,

5. A representative from statewide or local environmental groups,

6. A representative from the landowners within or bordering the Pinedale Anticline area,

7. A representative of livestock operators operating within or bordering the Pinedale Anticline area, or

8. Two representatives from the public-at-large.

N. List any leases, license, permits, contracts or claims that you hold which involve lands or resources administered by the BLM:

O. Attach two or three letters of reference from interests or organization to be represented.

P. Nominated by: include nominator's name, address and telephone number(s).

Q. Date of nomination:

Groups should nominate more than one persona and indicate their preferred order of appointment selection.

Dated: December 20, 2002.

Alan L. Kesterke,

Acting State Director.

[FR Doc. 03–4184 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–EQ; AA–081878]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; R&PP Lease of Public Lands; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands along the Anvik River in western Alaska have been examined and found suitable for classification and opening under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

Seward Meridian

Alaska

T. 31 N., R. 61 W.
NW1/4NE1/4NE1/4, Section 34
SW1/4NW1/4NW1/4, Section 35
Containing 2.00 acres more or less.

This action is a motion by the Bureau of Land Management to make available lands identified in the Management Framework Plan dated November 1981 for the Southwest Planning area available for the erection of structures used to enhance fisheries resources. Due to the remote location of these lands this activity may have potential for research expansion. Lease of these lands for public purpose use would be in the public and Federal government interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska.

Lease of these lands will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing law. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed classification of the lands to the Anchorage Field Manager. In the absence of any adverse comments, the classification will be effective 60 days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Dorothy Bonds, Anchorage Field Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507, (907) 267–1239.

Dated: December 17, 2002.

Clinton E. Hanson,

Acting Anchorage Field Manager.

[FR Doc. 03–4181 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–5440–EU–K054; WYW 150996]

Realty Action; Conveyance of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; airport conveyance to the City of Worland.

SUMMARY: The following public lands in Washakie County have been found suitable for conveyance to the City of Worland for airport purposes under the Act of May 24, 1928, as amended and 49 U.S.C. 47125 (2000).

Sixth Principal Meridian

T. 46 N., R. 92 W.,
Sec. 19, lots 7 and 12.

The above land contains 80.00 acres.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, Wyoming State Office, BLM, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6115.

SUPPLEMENTARY INFORMATION: Conveyance of the lands is consistent with applicable Federal and county land use plans and will help meet the needs of Washakie County residents. Under this conveyance Runway 16–34 at the Worland Municipal Airport will be extended for safety purposes.

The conveyance will contain reservations to the United States for ditches, canals and all minerals. The patent will also be issued subject to the existing rights of record including a right-of-way, WYW 81769, issued to the BLM for road purposes; a right-of-way,

WYW 144842, issued to Apache Corporation for road purposes; a right-of-way, WYW 84684, issued to El Paso Production Company for road purposes; and a right-of-way, WYW 81774, issued to Continental Resources for road purposes. Additionally, the patent would be subject to the continued grazing use of Roalene Redland-McCarthy under grazing permit GR–491043, until April 17, 2004. Specific covenants required by the Federal Aviation Administration will also be included in the conveyance and are available by contacting the office listed below.

The conveyance is consistent with the Washakie Resource Management Plan. The land is not required for any other Federal purpose.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except applications for airport purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the BLM, Branch of Fluid Minerals, Lands, & Appraisal, (Attn: Tamara Gertsch), Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objection, this proposed realty action will become final.

Dated: December 30, 2002.

Melvin Schlagel,

Realty Officer.

[FR Doc. 03–4180 Filed 2–20–03; 8:45 am]

BILLING CODE 4210–22–P

DEPARTMENT OF THE INTERIOR

Office of the Special Trustee for American Indians

Notice of Proposed Information Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Office of the Special Trustee for American Indians (OST) announces a request for public comments concerning the renewal of information collection authorizations. We will be submitting requests to the Office of Management and Budget (OMB) to extend authorizations for OMB Control Nos. 1035–0001, 1035–0002, and 1035–0003. These information collections allow us to collect documents associated with tribes withdrawing their funds held in trust and applying for technical assistance to withdraw funds under 25 CFR part 1200.

Request for Comments: You may send or deliver comments to the addressee in the **ADDRESSES** section below. Please put on your comments the document number found in brackets in the heading of this **Federal Register** notice. Your comments will be summarized and included in the requests to OMB for approval and will become public records. We specifically request your comments on:

(1) Whether the proposed information collection is necessary for the office to perform its functions, including whether the information will be useful.

(2) The accuracy of the office's estimate of the burden.

(3) How to improve the quality, usefulness, and clarity of the information to be collected.

(4) How to minimize the burden on the respondents, including the possible use of automated information collection techniques or other forms of information technology.

DATES: We will consider all comments received by April 22, 2003.

ADDRESSES: You may mail or hand deliver your comments to: Ms. Sarah Yepa, Office of Trust Funds Management, Office of the Special Trustee for American Indians, 505 Marquette, NW, Suite 1000, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Sarah Yepa, Chief, Division of Quality Assurance at (505) 816–1094 or by Fax (505) 816–1377.

SUPPLEMENTARY INFORMATION: The American Indian Trust Fund Management Reform Act of 1994 (the Reform Act) allows tribes to withdraw their money held in trust by the U.S. Government. To withdraw their money, tribes must first submit an application and get approval from the Secretary of the Interior. The Reform Act also allows tribes to apply for technical assistance and financial assistance to complete the application. Financial assistance may not always be available. 25 CFR section 1200.13 tells tribes how to submit an application to withdraw their money and section 1200.14 tells them how they can apply for technical and financial assistance.

Burden Statement: The current information collection authorizations expire May 30, 2003. We are not changing the application forms or the estimated annual burden hours. We aren't allowed to conduct or sponsor and you aren't required to respond to a collection of information unless it displays a current valid OMB control number. The application forms and burden estimates are:

1. OMB No. 1035–0001, OST Form No. SF–424A, Application for Technical Assistance to Withdraw Tribal Funds from Trust Status (Specific Budget).

Estimated Annual Burden Hours: 468.

Annual Respondents: 12 American Indian Tribes.

Estimated Burden Per Response: 39 hours.

2. OMB No. 1035–0002, OST Form No. SF–424, Application for Technical Assistance to Withdraw Tribal Funds from Trust Status (General).

Estimated Annual Burden Hours: 156.

Annual Respondents: 12 American Indian Tribes.

Estimated Burden Per Response: 13 hours.

3. OMB No. 1035–0003, Application to Withdraw Tribal Funds from Trust Status (there is no application form for this information).

The collection of this information is used by the Department to determine whether: (a) The tribe's proposed management plan is reasonable; (b) the plan protects against a substantial loss of principal; (c) the investment entity is capable of managing the funds; as well as (d) whether the tribe has taken the proper legal steps to authorize the action.

Estimated Annual Burden Hours: 4,104.

Annual Respondents: 12 American Indian Tribes.

Estimated Burden Per Response: 342 hours.

Burden means the total time, effort, or financial resources expended to disclose or provide information to a federal agency and includes the time needed to review instructions, gather, process, and submit the information.

Douglas A. Lords,

Director, Office of Trust Funds Management.

[FR Doc. 03–4164 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–2W–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendment to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on February 3, 2003, a

proposed Amendment to Consent Decree (''Amendment'') in *United States* v. *Motor Wheel Corp.*, Civil Action No. 1:94–CV–96 was lodged with the United States District Court for the Western District of Michigan.

In 1994, the United States District Court for the Western District of Michigan entered a Consent Decree in this matter pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601 et seq. Under the 1994 Decree, the Settling Defendants agreed to perform the remedial action selected by the United States Environmental Protection Agency at the Motor Wheel Disposal Site in Lansing, Michigan and reimburse the United States for past response costs and future response costs.

The remedial action required by the 1994 Decree addressed the contaminant source areas and two shallow zones of groundwater contamination, but did not address the deeper Saginaw aquifer, because that zone had not yet been sufficiently studied. Under the Amendment, Goodyear Tire & Rubber Company, one of the original Settling Defendants, will perform additional remedial work to restore the Saginaw aquifer to drinking water standards.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Motor Wheel Corp.,* D.J. Ref. 90–11–2–753.

The Amendment may be examined at the Office of the United States Attorney, 330 Ionia Ave., Suite 501, Lansing, Michigan, and at U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois. During the public comment period, the Amendment may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Amendment may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–4150 Filed 2–20–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Revision of a Currently Approved Collection Deaths in Custody—series of collections from local jails, State prisons, juvenile and law enforcement detention centers.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 219, page 68887 on November 13, 2002, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until March 21, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Revision of a currently approved collection.

(2) Title of the Form/Collection: Deaths In Custody—Series of Collections from Local Jails, State Prisons, Juvenile and Law Enforcement Detention Centers. The series includes the forms: Quarterly Summary of Inmate Deaths in State Prison; State Prison Inmate Death Report; Quarterly Summary of Deaths in State Juvenile Residential Facilities; State Juvenile Residential Death Report; Quarterly Report on Inmates Under Jail Jurisdiction; Annual Summary on Inmates Under Jail Jurisdiction; Quarterly Report on Inmates in Private and Multi-Jurisdiction Jails; Annual Summary on Inmates in Private and Multi-Jurisdictional Jails; Quarterly Summary of Deaths in Law Enforcement Custody; and Law Enforcement Custodial Death Report.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number(s): NPS–4, NPS–4A, NPS–5, NPS–5A. CJ–9, CJ–9A, CJ–10, CJ–10A, CJ–11 and CJ–11A. Corrections Statistics Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Local jail administrators, (one reporter from each of the 3,083 local jail jurisdictions in the United states), State prison administrators (one reporter from each of the 50 States and the District of Columbia), and State juvenile correctional administrators (one reporter from each of the 50 States and the District of Columbia) responsible for keeping records on inmates will be

asked to provide information for the following categories: (a) During each reporting quarter, the number of deaths of persons in their custody; and (b) As of January 1 and December 31 of each reporting year, the number of mail and female inmates in their custody (local jails only); and (c) Between January 1 and December 31 of each reporting year, the number of male and female inmates admitted to their custody (local jails only); and (d) The name, date of birth, gender, race/ethnic origin, and date of death for each inmate who died in their custody during each reporting quarter; and (e) The admission date, legal status, and current offenses for each inmate who died in their custody during the reporting quarter; and (f) Whether or not an autopsy was conducted by a medical examiner or coroner to determine the cause of each inmate death that took place in their custody during the reporting quarter; and (g) The location and cause of each inmate death that took place in their custody during the reporting quarter; and (h) In cases where the cause of death was illness/natural causes (including AIDS), whether or not the cause of each inmate death was the result of a pre-existing medical condition, and whether or not the inmate had been receiving treatment for that medical condition; and (i) In cases where the cause of death was accidental injury, suicide, or homicide, when and where the incident causing the inmate's death took place. As part of the conference agreement for FY2000 appropriations, the Bureau of Justice Statistics was directed by the U.S. Congress ''to implement a voluntary annual reporting system of all deaths occurring in law enforcement custody.'' BJS received OMB approval to conduct such as annual collection (OMB No. 1121–0249). In the time since submitting that collection for OMB approval, the President signed The Deaths in Custody Act of 2000 into law (Pub. L. 106–297). To comply with Pub. L. 106–297's new requirement for a quarterly collection of inmate death data from local jails, State prisons, and juvenile facilities, OMB granted BJS an expanded clearance under the existing number (OMB No. 1121–0249) for the following series of forms: NPS–4, NPS–4A, NPS–5, NPS–5A, CJ–9, CJ–9A, CJ–10, and CJ–10A. When this expanded OMB Clearance No. 1121–0249 was ranged in September 2001, BJS had not yet developed a data collection strategy for measuring deaths in law enforcement custody ''in the process of arrest'', as required by Pub. L. 106–297. At this time, BJS proposes a data collection program to measure these law enforcement deaths which utilizes State-level central reporters (one reporter from each of the 50 States and the District of Columbia) from each State's criminal justice Statistical Analysis Center (SAC) to provide information for the following categories: (a) During each reporting quarter, the number of deaths of persons in the custody of State and local law enforcement during the process of arrest; (b) The deceased's name, date of birth, gender, race/Hispanic origin, and legal status at time of death; (c) The date and location of death, the manner and medical cause of death, and whether an autopsy was performed; (d) The law enforcement agency involved, and the offenses for which the inmate was being charged; (e) In cases of death prior to booking, whether death was the result of a pre-existing medical condition or injuries sustained at the crime or arrest scene, and whether the officer(s) involved used any weapons to cause the death; (f) In cases of death prior to booking, whether the deceased was under restraint in the time leading up to the death, and whether their behavior at the arrest scene included threats or the use of any force against the arresting officers; (g) In cases of death after booking, the time and date of the deceased's entry into the law enforcement booking facility where the death occurred, and the medical and mental condition of the deceased at the time of entry; and (h) In cases of accidental, homicide or suicide deaths after booking) who and what were the means of death (e.g. suicide by means of hanging). In States where the SAC cannot perform this function, a statewide central reporter will be selected from among the following: the State Attorney General's office, the State police, the State Medical Examiner's Office, and the State respondent to the Federal Bureau of Investigation's Uniform Crime Reporting program. This collection will supplement the existing quarterly data collections on State prison, local jail and juvenile correctional facility inmate deaths which the Bureau of Justice Statistics has already begun in order to implement Pub. L. 106–297. The Bureau of Justice Statistics will use this new information to publish an annual report on deaths in custody. The report will be made available to the U.S. Congress, Executive Officer of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics and data.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There are an estimated 3,236 respondents associated with this collection. The estimated average time to respond per form is: Quarterly Summary of Inmate Deaths in State Prisons (NPS–4)/quarterly—51 respondents (average response time = 5 minutes) State Prison Inmate Death Report (NPS–4A)/quarterly—51 respondents (average response time = 30 minutes per reported death) Quarterly Summary of Deaths in State Juvenile Residential Facilities (NPS–5)/quarterly—51 respondents (average response time = 5 minutes) State Juvenile Residential Death Report (NPS–5A)/quarterly—51 respondents (average response time = 30 minutes per reported death) Quarterly Report on Inmate Deaths Under Jail Jurisdiction (CJ–9)/quarterly—2,989 respondents (average response time = 5 minutes + 30 minutes per reported death) Annual Summary on Inmates Under Jail Jurisdiction (CJ–9A)/annual—2,989 respondents (average response time = 15 minutes) Quarterly Report on Inmate Deaths in Private and Multi-Jurisdiction Jails (CJ–10)/quarterly—94 respondents (average response time = 5 minutes + 30 minutes per reported death) Annual Summary on Inmates in Private and Multi-Jurisdiction Jails (CJ–10A)/annual—94 respondents (average response time = 15 minutes) Quarterly Summary of Deaths in Law Enforcement Custody (CJ–11)/quarterly—51 respondents (average response time = 5 minutes) Law Enforcement Custodial Death Report (CJ–11A)/quarterly—51 respondents (average response time = 60 minutes per reported death).

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 4,319 burden hours annually associated with this information collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: February 14, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–4202 Filed 2–20–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Parole Commission

[(Public Law 94–409) (5 U.S.C. Sec. 552b)]

Record of Vote of Meeting Closure, Sunshine Act

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 11 a.m. on Tuesday, February 11, 2003 at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide two petitions for reconsideration pursuant to 28 CFR Section 2.27. Two Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr. and John R. Simpson.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: February 11, 2003.

Edward F. Reilly, Jr.

Chairman, Parole Commission.

[FR Doc. 03–4231 Filed 2–19–03; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

NONE

Volume II:

NONE

Volume III:

NONE

Volume IV:

NONE

Volume V:

NONE

Volume VI:

NONE

Volume VII:

NONE

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features

such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13th day of February 2003.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–4135 Filed 2–20–03; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143–MLA–2; ASLBP No. 03–810–02–MLA]

Nuclear Fuel Services, Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see* 10 CFR §§ 2.1201, 2.1207, notice is hereby given that (1) a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to rule on petitions for leave to intervene and/or requests for hearing; and (2) upon making the requisite findings in accordance with 10 CFR § 2.1205(h), the Presiding Officer will conduct an adjudicatory hearing in the following proceeding: Nuclear Fuel Services, Inc., Erwin, Tennessee, (Material License Amendment–2).

The hearing will be conducted pursuant to 10 CFR part 2, subpart L, of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns requests for hearing submitted on February 6, 2003, by Friends of the Nolichucky River Valley, Inc., the State of Franklin Group of the Sierra Club, the Oak Ridge Environmental Peace Alliance, the Tennessee Environmental Council, and Kathy Helms-Hughes. The requests were filed in response to an NRC staff notice of receipt of a second request from Nuclear Fuel Services, Inc. (NFS), to amend its special nuclear materials license to support downblending and conversion of high-enriched uranium material to low-enriched uranium oxides. This amendment would allow processing operations at its Erwin, Tennessee Blended Low-Enriched Uranium Preparation Facility to prepare low-enriched uranium solutions for a new complex that would manufacture low-enriched nuclear reactor fuel. The notice of receipt of amendment request and opportunity for a hearing were published in the **Federal Register** on January 7, 2003 (68 FR 796).

The Presiding Officer in this proceeding is Administrative Judge Alan S. Rosenthal. Pursuant to the provisions of 10 CFR §§ 2.722, 2.1209, Administrative Judge Richard F. Cole has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judges Rosenthal and Cole in accordance with 10 CFR § 2.1203. Their addresses are: Administrative Judge Alan S. Rosenthal, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Administrative Judge Richard F. Cole, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this thirteenth day of February 2003.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 03–4111 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on March 6–8, 2003, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 20, 2002 (67 FR 70094).

Thursday, March 6, 2003

8:30 a.m.–8:35 a.m.: Opening Statement by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:15 a.m.: Peach Bottom License Renewal Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Exelon Generation Corporation, LLC, regarding the license renewal application for the Peach Bottom Nuclear Plant, Units 2 and 3 and the associated NRC staff's final Safety Evaluation Report.

10:30 a.m.–12:30 p.m.: Reactor Oversight Process (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding staff's views concerning ACRS recommendation on thresholds for performance indicators (PIs); staff's efforts associated with risk-based PIs and improvements to the significance determination process (SDP); and staff's activities for resolving apparent conflicts and discrepancies between aspects of the revised reactor oversight process that are risk informed (*e.g.*, SDP) and those that are performance based (*e.g.*, PIs).

1:30 p.m.–3:30 p.m.: Vessel Head Penetration Cracking and Vessel Head Degradation (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding industry responses to NRC Bulletin 2002–02, ''Reactor Pressure Vessel Head Degradation and Reactor Coolant Pressure Boundary Integrity,'' inspection requirements and programs for reactor pressure vessel heads and vessel head penetration nozzles, Electric Power Research Institute's Materials Reliability Program's proposed inspection program, wastage research, and related matters.

3:45 p.m.–5 p.m.: Draft Final Revision 1 to Regulatory Guide 1.180 (DG–1119) ''Guidelines for Evaluating Electromagnetic and Radio-Frequency Interference In Safety-Related Instrumentation and Control Systems'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final revision 1 to Regulatory Guide 1.180 (DG–1119) and the staff's resolution of public comments.

5:15 p.m.–7:15 p.m.: Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting,

as well as a proposed ACRS report on Safety Culture.

Friday, March 7, 2003

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Early Site Permit Process (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft review standard RS–002, ''Processing Applications for Early Site Permits,'' and related matters.

10:45 a.m.–11:45 a.m.: Overview of the Format and Content of the Fort Calhoun License Renewal Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff on the format and content of the Fort Calhoun Nuclear Plant license renewal application, the first plant to submit a license renewal application using the generic license renewal guidance documents.

12:45 p.m.–1:30 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

1:30 p.m.–1:45 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

2 p.m.–4 p.m.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss proposed topics for discussion during the ACRS meeting with the NRC Commissioners which is scheduled to be held on Friday, April 11, 2003, between 9 a.m. and 11 a.m.

4:15 p.m.–7 p.m.: Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, March 8, 2003

8:30 a.m.–1 p.m.: Proposed ACRS Reports (Open)—The Committee will continue to discuss proposed ACRS reports. In addition, the Committee will discuss a draft white paper prepared by the ACRS Senior Fellow on the role and use of PRA in the regulatory decisionmaking process.

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63460). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Associate Director for Technical Support named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Associate Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Associate Director if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur, Associate Director for Technical Support (301–415–0138), between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: February 13, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–4109 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 5, 2003, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: Wednesday, March 5, 2003—1:30 p.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301/415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: February 12, 2003.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 03–4110 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Solicitation of Public Comments on Spent Fuel Transportation Package Performance Study Test Protocols

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Opening of comment period and public meeting announcement.

SUMMARY: This **Federal Register** notice announces the availability, for public comment, of the Test Protocols Report (draft NUREG–1768) for the NRC's spent nuclear fuel transportation Package Performance Study (PPS). The PPS is a confirmatory research program focused on the probabilities and consequences of severe transportation accidents—the very small fraction of accidents that could result in impact or thermal forces, on casks, that exceed NRC's standards for cask design. The PPS will use a combination of testing and analyses to develop data and validate methods of analysis for use in transportation risk assessments. A public participation process will continue as PPS proceeds, to ensure that stakeholder concerns are considered by the PPS and to support increased public confidence in NRC's regulatory activities, considering potential future increases in the number of spent fuel transports.

The test protocols report describes, at a conceptual level, full-scale spent fuel cask impact and fire physical testing that NRC may sponsor over the next couple of years. The ''Executive Summary'' of the test protocols report is included in this notice, and full copies of the report are available for comment at NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff* or may be obtained from the contact. Additional copies of the report and other PPS related documents can also be found at the Sandia Web site: *http://ttd.sandia.gov/nrc/modal.html.*

DATES: Written comments will be accepted until May 30, 2003. Comments received after this date and time will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date and time. As part of the public comments period, NRC will hold four (4) facilitated meetings: in Bethesda, Maryland, on March 6, 2003; in Las Vegas, Nevada, on March 12, 2003; in Pahrump, Nevada, on March 13, 2003; and in Rosemont, Illinois, on March 19, 2003. The meetings will be transcribed and transcripts will be made available from the Sandia Web site.

ADDRESSES: NRC recommends that comments be submitted by e-mail, but mail delivery is acceptable. Submit comments to Michael Lesar, Chief Rules and Directives Branch, Office of Administration, Mail Stop: T6–D–59, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; or by internet electronic mail to *nrcrep@nrc.gov.* Comments may also be provided at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/form.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Andrew J. Murphy about any questions on the material in the Test Protocols Report. He can be reached at the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Mail Stop: T–10–D–20, Washington, DC 20555–0001; telephone 301–415–6011 or by internet electronic mail at *ajm1@nrc.gov.*

Any questions on participation in the public meetings should be directed to Mr. Francis X. Cameron; telephone 301–415–1642 or by internet electronic mail at *fxc@nrc.gov.*

SUPPLEMENTARY INFORMATION: The PPS began in 1999 with a scoping phase, consisting of a series of public meetings to identify stakeholder issues with transportation risk studies and identify potential areas of further research. The scoping phase of PPS culminated in 2000 with issuance of the PPS issues and resolution options report (hereafter Issues Report) for comment, and an associated series of public meetings. NRC has since reissued the Issues Report, together with summaries of the public meetings and written comments received, as NUREG/CR–6768. The Issues Report identified the lines of investigation for PPS: (1) Use recent accident statistics/data to reconstruct train and train accident event trees; (2) perform a high-speed impact test on a full-scale rail cask, to compare pre-test analyses with test results; (3) perform a long-duration fire test to compare pre-test analyses with test results; and (4) perform experiments on fuel pellets, rods, and assemblies, to examine failure modes and fracturing properties, to support radioactive material release analyses.

The PPS Test Protocols Report is the first major PPS document since the Issues Report. The Test Protocols Report describes, at a conceptual level, the impact and fire tests that are currently planned for PPS, along with the goals for these tests. Several other PPS tasks, including the accident statistics/data work, historical accidents investigation, and uncertainty/sensitivity analyses for risk assessments, are planned as part of PPS, but they are not part of the Test Protocol, as it focuses on testing. Fuel tests are not discussed in the Test Protocols Report, because those tests are proceeding on a different schedule from the impact and fire tests being conducted under the PPS.

As mentioned, the Test Protocols describe PPS tests at a conceptual level. NRC believes it is prudent to obtain comments on the tests while at a conceptual level, because detailed planning and procurement for a specific series of tests will be a resource-intensive effort, and NRC recognizes that comments could change test approaches and plans. After comments on the Test Protocols have been collected and considered, NRC will modify PPS plans as necessary and direct development of detailed test plans and procedures for each of the PPS testing programs. The detailed plans, procedures, and tests will be made available.

Public Meetings

In addition to soliciting written public comment on the protocols, NRC will conduct public meetings to facilitate discussion and comment on the PPS Test Protocols. The meetings are planned as follows:

- *Workshop:* March 6, 2003, 8 a.m.–5:30 p.m., in the Auditorium at the U.S. Nuclear Regulatory Commission Headquarters, Washington, D.C. 20555–0001;
- *Workshop:* March 12, 2003, 10 a.m.–7 p.m., at the Clark County Building Department, Russell/Cameron Office, 4701 West Russell Road, Las Vegas, Nevada 89118;
- *Public Meeting/Seminar:* March 13, 2003, 6 p.m.–9 p.m., at the Mountain View Casino and Bowl, 1750 South Pahrump Valley Boulevard, Pahrump, Nevada 89048; and
- *Workshop:* March 19, 2003, 8 a.m.–5:30 p.m., at the Embassy Suites Hotel O'Hare, 5500 N. River Road, Rosemont, IL 60018.

The workshops will be convened in a ''roundtable format.'' To have manageable discussions, the number of participants at the table will be limited. NRC, through the meeting facilitator, will ensure that by a broad spectrum of interests participates at the meetings, including citizen and environmental groups, nuclear and transportation, industry, academia, and governmental representatives at the Federal, State, and local level. Other members of the public are welcome to attend, and there will be opportunities to comment on each agenda item to be discussed by roundtable participants. Written comments will also be accepted at all meetings.

Workshop Provisional Agenda [March 6, Washington, DC (8 a.m.–5:30 p.m.); March 12, Las Vegas, NV (10 a.m.–7 p.m.); March 19, Rosemont, IL (8 a.m.–5:30 p.m)]

Meet and Greet
Work shop objectives, ground rules, agenda overview
Participant Introductions and Concerns
Regulatory and research framework for cask testing/Questions
Overarching Issues: participant participation
Break
Discussion on General Testing Issues
Lunch on your own
Impact Test Issues
Break
Baltimore Tunnel Fire Presentation
Fire Test Issues: participant discussion
Other Issues
Adjourn

Seminar Provisional Agenda (March 13, Pahrump, NV)

NRC Opening remarks and welcome
NRC Activities and Roles for Spent Fuel Transportation
Introduction of Package Performance Study
Break
Test Protocols Report: impact and fire tests
Wrap up
Adjourn

A World-Wide Web site has been established for dissemination of PPS information and documents to interested members of the public. Electronic copies of the Test Protocols Report and additional information on the public meetings can be obtained at *http://ttd.sandia.gov/nrc/modal.htm.*

Executive Summary of Test Protocols Report

The U.S. Nuclear Regulatory Commission (NRC) believes that current regulations and programs for transporting spent nuclear fuel (SNF) result in a high degree of safety. The Agency bases this belief largely on the staff's confidence in the shipping casks NRC certifies. Ongoing confirmatory research regarding transportation safety further supports the Agency's belief.

Under the current regulations, NRC requires that SNF casks must be designed and constructed to survive a sequence of tests designed to simulate postulated accidents. These tests include a 30-foot drop onto an unyielding surface and a 30-minute fully engulfing fire. NRC regulations permit certification through testing, analysis, comparison with similar certified designs, or various combinations of these methods. Typically, the Agency has certified SNF casks using a combination of analyses and testing of scale models or cask components. Previous NRC risk studies have estimated that the Agency's certification standards encompass well over 99 percent of possible transportation accidents.

NRC certification of SNF casks has contributed to an excellent safety record for transporting spent fuel. Further, the characteristics of both fuel and cask systems continue to evolve, and the testing and analytical techniques used in certification applications continue to improve. However, the near-term possibility of a significant increase in the number of spent fuel shipments has focused public attention on the safety of SNF transportation. Despite the excellent record achieved to date and general improvements in cask design and analysis, some stakeholders have voiced concerns regarding transportation safety and the lack of full-scale testing of SNF casks.

NRC believes the safety protection the current transportation regulatory system provides is well-established. NRC's primary role in transportation of spent fuel is certification of the casks used for transport. NRC ensures that shipping casks are robust by regulating their design and construction, by independently confirming the ability of designs to meet the regulations and accident conditions through modeling and analyses, and by overseeing that licensees properly build, use, and maintain the casks. NRC's confidence in casks that it certifies is also supported by ongoing transportation safety research and by the outstanding safety record compiled using NRC-certified casks. Currently, NRC has certified several transportation cask designs that could be used to transport spent fuel, and additional designs are under review.

Package Performance Study

Because of stakeholder concerns and a desire to further validate the computer models used to evaluate the safety of cask transportation, NRC initiated, in 1999, a program known as the Package Performance Study (PPS). Under this ongoing program, the NRC staff is examining the adequacy of the analytical methods and data that are used to estimate the response of transportation casks to those improbable, extreme accidents that might cause radioactive materials to be released to the environment. However, the PPS is not intended to involve the development of new standards for transportation casks.

The NRC staff identified the tasks that are described in this report through two series of public meetings and associated comment periods, during which the staff solicited and discussed the various concerns of citizens, members of the nuclear industry, and governmental organizations. The staff, with contractor support, subsequently rated and summarized those concerns in the ''Spent Nuclear Fuel Transportation Package Performance Study Issues Report,'' NUREG/CR–6768, June 2002, which Sandia National Laboratories (SNL) prepared for NRC. Specifically, on the basis of its review of the public record from both the public meetings and written comments, the NRC staff concluded that the following four tasks would address the primary concerns stakeholders raised:

(1) Use recent accident data to re-analyze the truck and rail accident-speed and fire-duration statistics developed by the Modal Study (Fischer, *et al.*, 1987).

(2) Perform high-speed collision tests on full-scale rail and truck casks [1] and compare the test results with pretest damage predictions developed by computer models.

(3) Expose full-scale rail and truck casks to fully engulfing, long-duration fires and compare the measured cask temperatures with pretest temperature predictions developed by computer models.

(4) Conduct laboratory tests to examine rod failure, pellet fracturing, and the release of particles from the failed rods, and use the test results to determine the response to extreme impacts of fuel pellets, fuel rods, and fuel rods containing fuel pellets.

[1] The ''Spent Nuclear Fuel Transportation Package Performance Study Issues Report,'' NUREG/CR–6768, did not specify the type of transportation cask to be tested; subsequently, NRC has proposed that the PPS test program should involve one rail cask design and one truck cask design.

This report addresses Tasks 2 and 3, listed above. It does not address the reanalysis of rail and truck accident statistics published in the Modal Study because that reanalysis does not involve conducting any tests or experiments. Similarly this report does not discuss NRC's plans regarding laboratory tests to determine the response of spent fuel pellets and rods to extreme accident conditions, because those test are proceeding on a different schedule than the impact and thermal tests being conducted under the PPS.

Test Protocols

This report summarizes the field tests that NRC proposes to perform under the PPS, as well as the analyses performed to develop the test summaries. Throughout this report, these summaries are called ''test protocols.'' Publication of these test protocols does not imply any NRC commitment to conduct any of these tests, or to conduct any test exactly as described in this report.

Collision Test Protocol

Within the context of the PPS, NRC plans to conduct separate high-speed impact tests of a full-scale rail spent fuel cask and full-scale truck spent fuel cask, using a drop impact as opposed to a horizontal impact test. The drop impact test was proposed after weighing such factors as test objectives, costs, local environmental and logistical concerns, and modeling issues. The staff will then compare the results of these tests to detailed pre-test damage predictions developed by computer models. (The computer model analyses conducted in the process of developing the preliminary design of the impact test are described in this report.) The staff proposes the following tasks for the collision test protocol:

• Subject a full-scale rail cask to an extreme impact onto a flat, unyielding surface. (The staff proposes an unyielding surface because: (1) The proposed impact test is intended to evaluate cask performance, and an unyielding surface causes all the cask kinetic energy to be spent deforming the cask; and (2) an unyielding surface simplifies the analysis by deforming only the cask and not the target.)

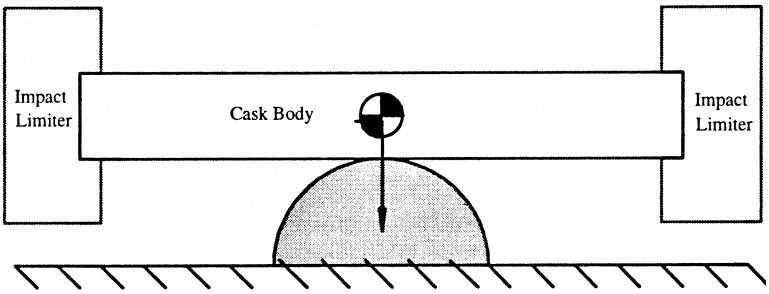
• Equip the lid end of the test cask with an impact limiter; ensure the cask contains a fuel canister, if the test cask design uses canisters, with one real fuel assembly containing surrogate fuel, and sufficient dummy assemblies to fill the canister or cask.

• Structure the test to deliver the impact onto the lid end of the cask that is equipped with the impact limiter.

• Orient the cask so the impact is on the corner or edge of the lid.

• Test cask performance on impact with an unyielding surface at an impact speed of 26.8 to 40.2 meters per second (m/s) (60 to 90 miles per hour (mph)) (based on preliminary analysis of the computer model).

• Subject a full-scale truck cask to an extreme ''back-breaker'' impact [2] onto one of the internal flat sides of the cask, midway between the impact limiters onto a rigid semi-cylinder, as shown in the following illustration.



• Ensure that the cask contains one real fuel assembly and sufficient dummy assemblies to fill the cask.

• Test cask performance on impact with an unyielding surface at an impact speed of 26.8 to 40.2 m/s (60 to 90 mph) (based on preliminary analysis of the computer model).

Proposed Speed for Rail Impact Test

The NRC staff, with contractor support, obtained preliminary impact analyses to support the development of the test protocols. These analyses spanned the range of impact speeds from 26.8 to 40.2 m/s (60 to 90 mph); this report presents the results of these analyses for impact speeds of 26.8 and 33.5 m/s (60 and 75 mph). The NRC staff reviewed these SNL analyses and developed three criteria for proposing test parameters for the PPS impact and thermal tests. The NRC staff conducted a trial application of these criteria to determine the speed for the rail cask impact. (Appendix A to this report fully describes the three criteria and the trial application.) The NRC staff optimized the benefits of the three criteria [*i.e.*, (1) Enhancing public confidence; (2) validating the computer models; and (3) ensuring realism in the probability of the occurrence of the test parameters]. On the basis of that optimization, the NRC staff proposes the impact speed of 33.5 m/s (75 mph).

Fire Test Protocol

Within the context of the PPS, NRC plans to conduct separate fire tests of a full-scale rail cask and a full-scale truck cask. For these thermal tests, PPS will use a fully engulfing, optically dense fire, which completely surrounds the test specimen and obscures visibility of the test specimen through the flames. In each test, the fire will burn for more than the half-hour duration of the thermal certification test. The NRC staff will compare the measured temperature history of the cask at various points with the detailed pretest predictions developed by computer models. (Again, the computer model analyses conducted in the process of developing the preliminary design of the thermal test are described in this report.) The staff proposes the following tasks for the fire test protocol:

• Subject a full-scale rail cask to a fully engulfing, optically dense fire for a duration of more than one-half hour.

• Subject a full-scale truck cask to a fully engulfing, optically dense fire for a duration of more than one-half hour.

Public Comments

NRC is publishing and distributing this report to solicit public comments

[2] A back-breaker impact is one in which the cask strikes the target between the impact limiters in a sideways orientation. The impact target is similar to a bridge column or abutment.

regarding the proposed SNF cask performance test protocols, while they are still at a conceptual level as reflected in this report. In addition to continuing the interactions in developing the scope of the PPS, this review at the conceptual level is being conducted because detailed planning and procurement for a specific series of tests will be resource-intensive. NRC anticipates that the public comments could result in worthwhile changes to the underlying test approaches and plans. The Agency is particularly interested in stakeholders' views on the following eleven issues:

- How many casks and what types of cask designs should be used in the tests?
- At what scale should the cask impact tests be conducted (*e.g.*, full-scale or partial-scale)?
- Should the impact tests be conducted as drops from a tower, as proposed in this report, or along a horizontal track, using a rocket sled?
- What should the impact speed and orientation be for the rail cask impact test?
- Are 26.8 to 40.2 m/s (60 to 90 mph) a reasonable speed range for the rail cask impact test, given that the frequency for a rail cask impacting a hard rock surface within this speed range is 10^{-6} to 10^{-8} per year?
- Is the 33.5-m/s (75-mph) rail cask impact speed proposed by the NRC staff appropriate?
- What should the impact speed be for the back breaker truck cask impact test?
- What should be the duration and size of the cask fire tests?
- What should be the cask position relative to the fire?
- How many and what types [real or surrogate, pressurized-water reactor or boiling-water reactor] of fuel assemblies should be in the casks during the tests?
- Will the proposed tests be able to yield risk insights consistent with NRC's risk-informed regulatory initiatives?

After receiving and considering all stakeholder comments on the test protocols, the NRC staff will direct the development of detailed test plans and procedures for each of the PPS testing programs. NRC will make these detailed plans, procedures, and tests available to the public before finalizing and conducting the planned tests. Thus, the finalized detailed plans will reflect public comments on these test protocols, constraints imposed by NRC's programmatic priorities, and the available funding to support these tests.

Conclusion

PPS development of this new cask impact, cask fire, and spent fuel response data will substantially improve the technical basis that underlies the estimation of the risks posed by extra-regulatory accidents that might occur during the shipment of spent fuel in Type B packages.

Dated at Rockville, Maryland, this 13th day of February, 2003.

For the U.S. Nuclear Regulatory Commission.

Charles L. Miller,

Deputy Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–4106 Filed 2–20–03; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment or new or revised data collection, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Application and Claim for Unemployment Benefits and Employment Service, OMB 3220–0022.

Section 2 of the Railroad Unemployment Insurance Act (RUIA), provides unemployment benefits for qualified railroad employees. These benefits are generally payable for each day of unemployment in excess of four during a registration period (normally a period of 14 days).

Section 12 of the RUIA provides that the RRB establish, maintain and operate free employment facilities directed toward the reemployment of railroad employees. The procedures for applying for the unemployment benefits and employment service and for registering and claiming the benefits are prescribed in 20 CFR part 325.

RRB Form UI–1, *Application for Unemployment Benefits and Employment Service,* is completed by a claimant for unemployment benefits once in a benefit year, at the time of first registration. Completion of Form UI–1 also registers an unemployment claimant for the RRB's employment service. Minor non-burden impacting editorial changes are being proposed to Form UI–1.

The RRB also utilizes Form UI–3, *Claim for Unemployment Benefits,* for use in claiming unemployment benefits for days of unemployment in a particular registration period, normally a period of 14 days. The RRB proposes a minor editorial change to UI–3.

Also, in accordance with the Government Paperwork Elimination Act (GPEA) of 1998, which directed Federal agencies to develop electronic service delivery instruments as an alternative to traditional paper-based processes, the RRB is proposing the implementation of an Internet equivalent of manual Form UI–1, Application for Unemployment Benefits and Employment Service as an additional to the information collection.

Completion of Forms UI–1 and UI–3 is required to obtain or retain benefits. The number of responses required of each claimant varies, depending on their period of unemployment. The RRB estimates that approximately 11,200 Form UI–1's (9700 paper and 1,500 Internet) are filed annually. Completion time for the paper UI–1 is estimated at 10 minutes. Completion time for the Internet equivalent version UI–1 is estimated at 14 minutes. The RRB estimates that approximately 67,500 Form UI–3's are filed annually. Completion time is estimated at 6 minutes.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of the notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–4159 Filed 2–20–03; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47361; File No. SR–Amex–2003–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Extend the Suspension of Exchange Transaction Charges for Certain Exchange-Traded Funds

February 13, 2003.

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 February 3, 2003, the American Stock Exchange LLC (''Amex'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until February 28, 2003 the suspension of Exchange transaction charges for specialist, Registered Trader and broker-dealer orders for the iShares Lehman 1–3 year Treasury Bond Fund; iShares Lehman 7–10 year Treasury Bond Fund; Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury 1 FITR ETF. Proposed new language is *italicized;* proposed deletions are in [brackets].

* * * * *

Amex Equity Fee Schedule

I. Transaction Charges

No change.

II. Regulatory Fee

No Change.

Notes:

1. and 2. No change.

3. Customer transaction charges for the following Portfolio Depositary Receipts, Index Fund Shares, and Trust Issued Receipts have been suspended:

DIA—DIAMONDS ®
QQQ—Nasdaq–100 ® Index Tracking Stock
SPY—SPDRs®
IVV—iShares S&P 500
MDY—MidCap SPDRs
XLY—Select Sector SPDR—Consumer Discretionary
XLP—Select Sector SPDR—Consumer Staples
XLE—Select Sector SPDR—Energy
XLF—Select Sector SPDR—Financial
XLV—Select Sector SPDR—Health Care
XLI—Select Sector SPDR—Industrial
XLB—Select Sector SPDR—Materials
XLK—Select Sector SPDR—Technology
XLU—Select Sector SPDR—Utilities
BHH—B2B Internet HOLDRs™
BBH—Biotech HOLDRs
BDH—Broadband HOLDRs
EKH—Europe 2001 HOLDRs
IAH—Internet Architecture HOLDRs
HHH—Internet HOLDRs
IIH—Internet Infrastructure HOLDRs
MKH—Market 2000+ HOLDRs
OIH—Oil Service HOLDRs
PPH—Pharmaceutical HOLDRs
RKH—Regional Bank HOLDRs
RTH—Retail HOLDRs
SMH—Semiconductor HOLDRs
SWH—Software HOLDRr
TTH—Telecom HOLDRs
UTH—Utilities HOLDRs
WMH—Wireless HOLDRs
SHY—iShares Lehman 1–3 Year Treasury Bond Fund
IEF—iShares Lehman 7–10 Year Treasury Bond Fund
TLT—iShares Lehman 20+ Year Treasury Bond Fund
LQD—iShares GS $ InvesTop Corporate Bond Fund
TFT—Treasury 1 FITR ETF
TOU—Treasury 2 FITR ETF
TFI—Treasury 5 FITR ETF
TTE—Treasury 10 FITR ETF

Until [January 31] *February 28,* 2003, transaction charges also have been suspended in SHY, IEF, TFT, TOU, TFI and TTE for specialist, Registered Trader and broker dealer orders.

* * * * *

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 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. 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 Exchange is extending until February 28, 2003 the suspension of transaction charges in iShares Lehman 1–3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7–10 year Treasury Bond Fund (Symbol: IEF); Treasury 10 FITR ETF (Symbol: TTE); Treasury 5 FITR ETF (TFI); Treasury 2 FITR ETF (TOU); and Treasury 1 FITR ETF (TFT) for specialist, Registered Trader and broker-dealer orders. The Exchange previously filed a suspension in such charges until November 30, 2002,[3] December 13, 2002,[4] and January 31, 2003.[5]

The Exchange believes a suspension of fees for these securities is appropriate to enhance the competitiveness of executions in these 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 pursuant to Section 19(b)(3)(A) of the 1934 Act.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4)[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members 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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder because the proposal: (i) Does not significantly affect the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 46765 (November 1, 2002), 67 FR 68893 (November 13, 2002) (SR–Amex–2002–91).

[4] *See* Securities Exchange Act Release No. 46996 (December 13, 2002), 67 FR 78264 (December 23, 2002) (SR–Amex–2002–98).

[5] *See* Securities Exchange Act Release No. 47141 (January 8, 2003), 68 FR 2090 (January 15, 2003) (SR–Amex–2002–115).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 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 Exchange has given the Commission 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 short time as designated by the Commission. At any time within 60 days of the filing of such 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 five-day pre-filing notice and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that fee suspensions for the exchange-trade funds that are the subject of this filing have been previously filed with the Commission.[10] Further, extension of the fee suspension for specialist, Registered Trader, and broker-dealer orders will permit the fee suspensions to continue uninterrupted. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[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 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 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 File No. SR–Amex–2003–04 and should be submitted by March 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4094 Filed 2–20–03; 8:45 am]

BILLING CODE 8010–01–P

[10] *See supra* notes 3, 4, and 5.

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47365; File No. SR–DTC–2003–02]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of Proposed Rule Change Concerning Requests for Withdrawal of Certificates by Issuers

February 13, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 3, 2003, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on February 11, 2003, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify that DTC will only honor requests for withdrawal of certificates submitted by its participants and not by the issuer of the securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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 DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Recently a number of issuers of securities have requested that DTC exit from the depository all securities of their issues (''Issuer Withdrawal Request'' or ''Issuer Withdrawal Requests''). The issuers have also advised DTC that they will refuse to reregister any securities into the name of DTC or its nominee, Cede & Co. These issuers have no legal or beneficial interest in the securities they are requesting to be exited from DTC. The securities at issue generally became eligible for DTC services at the request, or for the convenience, of DTC's participants who wish to utilize DTC's book-entry transfer system. The subject securities are held by DTC for the benefit of its participants.

DTC's current rules and procedures permit participants to submit withdrawal requests if they wish to withdraw their securities from DTC. However, DTC's current rules and procedures do not provide for DTC to comply with an Issuer Withdrawal Request without participants' instructions. Through the proposed rule filing, DTC is seeking to clarify the procedures that it will follow upon receiving an Issuer Withdrawal Request. Upon receipt of an Issuer Withdrawal Request, DTC will, among other things:

- Issue an ''Important Notice'' notifying participants of the receipt of the Issuer Withdrawal Request and reminding participants that they can utilize DTC withdrawal procedures if they wish to withdraw their securities from DTC.
- Notify the transfer agent for the issuer that failure to reregister certificates pursuant to DTC's instructions is a violation of the transfer agent's obligations under, among other things, DTC's rule and procedures, such as DTC's Operational Arrangements.
- Process in the ordinary course of business withdrawal requests submitted by participants and refuse to effectuate withdrawals based upon the Issuer Withdrawal Request.

Since this is a clarification of DTC's rules and procedures, DTC will

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by the DTC.

continue to not honor Issuer Withdrawal Requests regardless of any purported approval of the Issuer Withdrawal Request by the shareholders or board of directors of the issuer.[3]

DTC believes that the proposed rule filing is consistent with Section 17A of the Act and the rules and regulations thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed the substance of this proposed rule change with various DTC participants and industry groups and has received favorable reaction.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–DTC–2003–03. This file number should be included on the subject line if e-mail is used. 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 Section, 450 Fifth Street, NW., Washington, DC 20549 Copies of such filing also will be available for inspection and copying at the principal office of the DTC. All submissions should refer to File No. SR–DTC–2003–03 and should be submitted by March 14, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–4200 Filed 2–20–03; 8:45 am]

BILLING CODE 8010–01–P

[3] The proposed rule filing is not applicable to securities that may not legally be held at DTC (*e.g.*, securities restricted pursuant to Rule 144 or Rule 145 under the Securities Act of 1933).

[4] 17 CFR 200.30–3(a)(12).

STATE JUSTICE INSTITUTE

Notice of Public Meeting; Board of Directors Meeting

DATES: Friday, February 28, 2003, 9 a.m.–5 p.m.

PLACE: State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA.

MATTERS TO BE CONSIDERED: Consideration of proposals submitted for Institute funding and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: All portions other than personnel matters and Board committee meetings.

PORTIONS CLOSED TO THE PUBLIC: Discussion of internal personnel matters and Board committee meetings.

FOR FURTHER INFORMATION CONTACT: David Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684–6100 x214.

David I. Tevelin,

Executive Director.

[FR Doc. 03–4298 Filed 2–19–03; 12:52 pm]

BILLING CODE 6820–SC–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 13, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 24, 2003, to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0067.

Form Number: FMS 5902 and 5903.

Type of Review: Extension.

Title: Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement (FMS 5902); and, Depositary, Financial Agency, and Collateral Agreement (FMS 5903).

Description: Financial institutions are required to complete an agreement and resolution to become a depositary of the government. The approved applications designate the depositary as an authorized recipient of deposits of public money and to perform other services.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 15.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Other (one-time application).

Estimated Total Reporting Burden: 7 hours.

Clearance Officer: Juanita Holder, Financial Management Service, 3700 East West Highway, Room 135, PGP II, Hyattsville, MD 20782.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 03–4196 Filed 2–20–03; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 13, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before March 24, 2003, to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0140.

Form Number: None.

Type of Review: Extension.

Title: Textiles and Textile Products.

Description: This information is needed for Customs to be able to identify the country of origin of textiles. The requirement prevents circumvention of bilateral agreements and ensures the proper assessment of duties. The declaration will be executed by the foreign manufacturer, exporter, or U.S. importer to be filed with the entry.

Respondents: Business or other for-profit, not-for-profit institutions.

Estimated Number of Respondents: 58,865.

Estimated Burden Hours Per Respondent: 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 171,591 hours.

Clearance Officer: Tracey Denning, (202) 927–1429, U.S. Customs Service, Information Services Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 03–4197 Filed 2–20–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before March 24, 2003, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1428.

Form Number: IRS Form 8023.

Type of Review: Extension.

Title: Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

Description: Form 8023 is used by corporations that acquire the stock of another corporation to elect to treat the purchase of stock as a purchase of the other corporation's assets. The IRS uses Form 8023 to determine if the purchasing corporation reports the sale of its assets on its income tax return and to determine if the purchasing corporation has properly made the election.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 201.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—9 hr., 19 min.

Learning about the law or the form—1 hr., 39 min.

Preparing and sending the form to the IRS—1 hr., 46 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 2,559 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 03–4198 Filed 2–20–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for revision approval by the Office of Management and Budget. The Office of Program Services within the Department of the Treasury is soliciting comments concerning the Annual Report of U.S. Ownership of Foreign Securities, including Selected Money Market Instruments. The next such report is to be conducted as of December 31, 2003.

DATES: Written comments should be received on or before April 22, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue, NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Webpage, *http://www.treas.gov/tic/forms.htm*. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury Department Forms SHC and SHCA, U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.

OMB Number: 1505–0146.

Abstract: These forms are used to conduct annual surveys of holdings by U.S. residents of foreign securities for portfolio investment purposes. Data derived from these surveys are used by the U.S. government in the formulation of international and financial policies and for the computation of the U.S.

balance of payments accounts and of the U.S. international investment position. These data will also be used to provide information to the public and to meet international reporting commitments.

This survey is also part on an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries will be conducting similar surveys.

Current Actions: The largest U.S.-resident custodians and U.S.-resident end-investors in foreign securities will report annually rather than every three or four years, as they have done in the past. The reason for this increased reporting frequency is to gather more timely information on U.S. foreign portfolio investment abroad, information which will be used in the development of U.S. economic policies, improvement of the U.S. international accounts, and United States participation in international efforts to gather better data on cross-border securities activity.

In order to collect more timely data with a minimum increase in total reporting burden and cost to both reporters and the government, (1) the frequency of the current large benchmark surveys (using Form SHC) will be decreased to once every five years, from once every three or four years, and (2) new inter-benchmark annual surveys (using Form SHCA) collecting data from only the largest reporters in the years when there are no full benchmark surveys will be instituted.

The benchmark surveys (using Form SHC) require reporting by all significant U.S.-resident custodians of foreign securities and U.S.-resident end-investors in foreign securities. Both custodians of foreign securities and large end-investors who directly manage the safekeeping of foreign securities abroad must report on a security-by-security basis. All survey reporters employing U.S. custodians to safekeep their foreign securities need only to identify their custodians and the aggregate amounts entrusted to each custodian by broad type of security.

The inter-benchmark annual surveys (using Form SHCA) require reporting by a selected group of the largest US-resident custodians and end-investors as determined on the basis of data submitted during the previous benchmark survey. All custodians and some of the end-investors will report on a security-by-security basis, as they do on the benchmark surveys. The remaining end-investors will need to identify only the aggregate amounts, by broad security type, not entrusted to U.S. custodians (on the benchmark surveys these same end-investors must report such holdings security by security). All survey reporters will report their holdings of foreign securities entrusted to U.S. custodians exactly as they do on the benchmark surveys. The data collected under the annual surveys will be used in conjunction with the results of the previous benchmark survey to make economy-wide estimates for the non-benchmark years.

Type of Review: Revision of a currently approved data collection.

Affected Public: Business/financial institutions.

Forms: TDF SHC, Schedules 1, 2 and 3 (1505–0146); TDF SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 541, but this varies widely from about 1,745 in benchmark years (once every five years) to about 240 in all other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 82 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey (using Form SHC), which is conducted once every five years, it is estimated that exempt respondents will require an average of 16 hours; custodians of securities providing security-by-security information will require 360 hours on average, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require 120 hours on average; and end-investors and custodians employing U.S. custodians will require 40 hours, on average. (b) In a non-benchmark year (using Form SHCA), which occurs four years out of every five years, custodians of securities providing security-by-security information will require 700 hours on average (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require 145 hours on average; and reporters entrusting their foreign securities to U.S. custodians will require 48 hours, on average.

The exemption level in benchmark years for custodians is the holding of less than $100 million in foreign long-term securities and for end-investors the owning of less than $100 million held with a single custodian.

Estimated Total Annual Burden Hours: An annual average (over five years) of 44,360 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the survey is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 03–4199 Filed 2–20–03; 8:45 am]

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To authorize salary adjustments for Justices and judges of the United States for fiscal year 2003. (Feb. 13, 2003; 117 Stat. 10)

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