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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 03–062–1]

Irradiation of Sweetpotatoes From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations to provide for the use of irradiation as a treatment for sweetpotatoes to be moved interstate from Hawaii. The sweetpotatoes will also have to meet certain additional requirements, including inspection and packaging requirements. This action provides for the use of irradiation as an alternative to methyl bromide for the treatment of sweetpotatoes moving interstate from Hawaii.

DATES: This interim rule is effective June 26, 2003. We will consider all comments that we receive on or before August 25, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–062–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–062–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–062–1'' on the subject line.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 318 prohibit or restrict the interstate movement of fruits, vegetables, and certain other articles from Hawaii, Puerto Rico, the U.S. Virgin Islands, and Guam to prevent the introduction and dissemination of plant pests into the continental United States.

The regulations in part 318, ''Subpart—Sweetpotatoes'' (§§ 318.30 and 318.30a, referred to below as the regulations) quarantine Hawaii, Puerto Rico, and the U.S. Virgin Islands because of the sweetpotato scarabee (*Euscepes postfasciatus* Fairm. [Coleoptera: Cucurlionidae], also known as the West Indian sweetpotato weevil) and the sweetpotato stem borer (*Omphisa anastomosalis* Guen. [Lepidoptera: Crambidae], also known as the sweetpotato vine borer) and restricts the interstate movement of sweetpotatoes (*Ipomoea batatas* Poir.) from those places.

The regulations have provided that sweetpotatoes may be moved interstate from Hawaii only if they have been subjected to fumigation with methyl bromide or they are being moved by the United States Department of Agriculture (USDA) for scientific or experimental purposes. In this interim rule, we are adding treatment with irradiation as an alternative to fumigation with methyl bromide. Specifically, sweetpotatoes from Hawaii will be eligible for interstate movement if they are irradiated with a minimum dose of 400 Gy (40 krad) at an approved facility. We have determined that this dose will neutralize the pests of concern.

A pest risk assessment completed by the Animal and Plant Health Inspection Service (APHIS) in 2002 and updated in May 2003 identified five pests of concern that could be spread from Hawaii to the rest of the United States by the interstate movement of sweetpotatoes: The two pests already named in the regulations, the sweetpotato scarabee and the sweetpotato stem borer; the gray pineapple mealybug, *Dysmicoccus neobrevipes* (Homoptera: Pseudococcidae); the ginger weevil, *Elytrotreinus subtruncatus* (Coleoptera: Cucurlionidae); and the Kona coffee root-knot nematode, *Meloidogyne konaensis* (Tylenchida: Heteroderidae). Copies of this risk assessment may be requested from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Three of these pests, the ginger weevil, the sweetpotato scarabee, and the sweetpotato stem borer, are internal pests, meaning that visual inspection would not be an effective means to intercept them; thus, they must be neutralized by treatment. We believe that irradiation at 400 Gy (40 krad) is an effective alternative to the methyl bromide treatment currently prescribed by the regulations to control these pests. No specific research has been completed on the irradiation dose necessary to neutralize the ginger weevil, the sweetpotato scarabee, or the sweetpotato stem borer. However, the International Plant Protection Convention (IPPC) Guidelines for the Use of Irradiation as a Phytosanitary Measure (ISPM Publication No. 18) recommends minimum doses between 50 and 400 Gy (5 and 40 krad) for all plant pests except stored product moths and nematodes. For stored product beetles of the family Coleoptera, such as the sweetpotato scarabee and the ginger weevil, the recommended minimum dose range to sterilize actively reproducing adults is 50 to 400 Gy (5 to 40 krad). For borers of the family Lepidoptera, such as the sweetpotato stem borer, the recommended minimum dose range to prevent adult development from late larva is 100 to 280 Gy (10 to 28 krad).

These recommendations were developed based on research by G.J. Hallman [1] and the research summarized in the International Atomic Energy Agency's International Database on Insect Disinfestation and Sterilization.[2]

In addition, preliminary research conducted by the USDA's Agricultural Research Service on the sweetpotato scarabee and the sweetpotato stem borer indicates that irradiating sweetpotatoes with a dose of 400 Gy (40 krad) kills all of these pests if they are present in the sweetpotatoes. According to this research, a dose of 200 Gy (20 krad) is sufficient to stop reproduction in these pests. Given this information and the fact that 400 Gy is at the top of the range of minimum doses the IPPC recommends for neutralizing pests in the family that contains the ginger weevil, we believe that the minimum dose of 400 Gy (40 krad) that we are requiring is a conservative minimum requirement that will neutralize all three of these pests.

While the quality of some other commodities might be affected by irradiation at 400 Gy (40 krad), the sweetpotato grown in Hawaii has been shown to tolerate this dose. The minimum dose of 400 Gy (40 krad) required by this rule falls well below the maximum dose of 1,000 Gy (100 krad) specified by the Food and Drug Administration regulations that address the safety of irradiated foods.[3] There are no commodity or food safety concerns associated with requiring that Hawaii-grown sweetpotatoes be irradiated with a dose of 400 Gy (40 krad).

The other two pests identified in the 2002 risk assessment, the gray pineapple mealybug and the Kona coffee root-knot nematode, are external pests. We believe they can be effectively detected by visual inspection, and we are requiring such visual inspection as a condition of the interstate movement of sweetpotato from Hawaii. This is consistent with the recommendations of the pest risk assessment mentioned above.

The regulations in ''Subpart—Hawaiian Fruits and Vegetables'' in part 318 (§§ 318.13—318.13–17) already provide for the use of irradiation to treat a variety of other commodities from Hawaii. The irradiation provisions in § 318.13–4f allow abiu, atemoya, bell peppers, carambola, eggplant, litchi, longan, mangoes, papaya, pineapple (other than smooth Cayenne), rambutan, sapodilla, Italian squash, and tomatoes to be moved interstate from Hawaii if, among other things, the fruits and vegetables undergo irradiation treatment in accordance with that section. The section's provisions for irradiation treatment include minimum dosage requirements, requirements for approved facilities, treatment monitoring requirements, packaging standards, and movement restrictions. (The irradiation facility in Hawaii that presently treats other fruit for which irradiation is an approved treatment as a condition of interstate movement from Hawaii satisfies all these requirements and has already been approved by APHIS.)

Because these regulations in § 318.13–4f are already in place, and because we have determined that sweetpotatoes should be treated, handled, and certified for movement under the same conditions described in that section, we are adding sweetpotatoes to the list of fruits and vegetables that may be treated with irradiation as a condition of interstate movement from Hawaii in § 318.13–4f(a). This will eliminate the need to establish what would be essentially the same provisions in § 318.30. We will, however, amend § 318.30 to provide that irradiation in accordance with § 318.13–4f may be used to qualify sweetpotatoes from Hawaii for interstate movement. We intend, in a future rulemaking, to revise the regulations in the sweetpotato subpart and perhaps disperse the provisions of the subpart into the subparts governing movement of fruits and vegetables from Hawaii and from Puerto Rico or the U.S. Virgin Islands, respectively.

The regulations in § 318.13–4f do not generally provide that fruits and vegetables treated in accordance with that section must also be inspected as a condition of interstate movement. However, the regulations in § 318.13–4f(b)(7) provide that litchi must be inspected and found free of the litchi fruit moth and other plant pests prior to treatment in Hawaii or movement to the mainland for treatment. Because, as noted above, sweetpotatoes moved interstate from Hawaii must be visually inspected to ensure that they are free of the gray pineapple mealybug and the Kona coffee root-knot nematode, we are adding an inspection provision for sweetpotatoes similar to that for litchi. Specifically, we are amending § 318.13–4f(b)(7)(i) to indicate that, to be eligible for a certificate for interstate movement, sweetpotatoes to be treated in Hawaii in accordance with § 318.13–4f must be found by an inspector to be free of the gray pineapple mealybug and the Kona coffee root-knot nematode by an inspector before undergoing irradiation treatment in Hawaii. We are also amending § 318.13–4f(b)(7)(ii) to indicate that, to be eligible for a limited permit for the interstate movement of untreated sweetpotatoes from Hawaii for treatment on the mainland United States, sweetpotatoes from Hawaii must be inspected in Hawaii and found to be free of the gray pineapple mealybug and the Kona coffee root-knot nematode by an inspector.

The addition of sweetpotatoes to the regulations in § 318.13–4f that govern irradiation of fruits and vegetables moved interstate from Hawaii also necessitates three minor changes to those regulations:

- The title of the table in § 318.13–4f has read ''Irradiation for Fruit Flies and Seed Weevils in Hawaiian Fruits and Vegetables.'' We are revising this title to read, more generically, ''Irradiation for Plant Pests in Hawaiian Fruits and Vegetables.''
- The heading of the left-hand column in that table has read ''Fruit.'' We are revising this heading to read, more generically, ''Commodity.''
- Paragraph § 318.13–4f has stated that treatment in accordance with § 318.13–4f is approved to assure quarantine security against the Trifly complex. We are amending this paragraph to indicate that the treatment is approved to treat other plant pests as well.

This interim rule gives Hawaiian producers and exporters of sweetpotatoes who wish to move their products interstate an additional treatment option while continuing to protect against the introduction of plant pests associated with Hawaiian sweetpotato into other States.

Immediate Action

This rule provides for the use of irradiation to treat sweetpotatoes moving interstate from Hawaii. Immediate action is warranted to alleviate the negative economic effects that Hawaiian growers and shippers face as a result of the fact that our regulations previously only allowed fumigation as an acceptable treatment for Hawaiian sweetpotatoes moved interstate. Fumigation facilities are unavailable on some islands in Hawaii on which sweetpotatoes are grown, and producers of sweetpotatoes on those islands must pay additional transportation costs for treatment before moving their sweetpotatoes interstate. Because a more accessible irradiation facility that provides phytosanitary

[1] See ''Irradiation as a quarantine treatment,'' in *Food Irradiation Principles and Applications,* Molins, R.A. (ed.). New York: J. Wiley & Sons, 2001, p. 113–130, and ''Expanding radiation quarantine treatments beyond fruit flies,'' *Agricultural and Forest Entomology* 2:85–95, 2000.

[2] Available at *http://www-ididas.iaea.org.*

[3] *See* 21 CFR part 179.

treatment of equal effectiveness is available to these producers, the requirement that sweetpotatoes must be fumigated to be moved interstate imposed an unnecessary economic hardship on these producers. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations to allow sweetpotatoes to be moved interstate from Hawaii if they undergo irradiation at an approved facility. The sweetpotatoes will also have to meet certain additional requirements, including inspection and packaging requirements. This action provides for the use of irradiation as an alternative to methyl bromide for the treatment of sweetpotatoes moved interstate from Hawaii.

Economic Importance of Sweetpotatoes in Hawaii and the Mainland United States

Commercial sweetpotato production in Hawaii occurs on the islands of Hawaii, Kauai, Maui, and Oahu. There were 53 sweetpotato farms in Hawaii in 1997.[4] The production of sweetpotatoes in Hawaii amounted to 1.8 million pounds, and the value of these sweetpotatoes was $900,000 in 2001 (table 1).

In the continental United States, sweetpotato is grown commercially in Alabama, California, Georgia, Louisiana, Mississippi, New Jersey, North Carolina, South Carolina, Texas, and Virginia.[5] North Carolina, Louisiana, Mississippi, and California account for the major proportion of production area by State (table 2). In total, the United States produced 1.36 billion pounds of sweetpotatoes from 93,500 acres in 2003 (table 3).

TABLE 1.—PRODUCTION STATISTICS FOR HAWAIIAN SWEETPOTATOES (2001)

Item	Amount
Harvested acres	220
Yield per acre (1,000 pounds)	8.2
Production (1,000 pounds)	1,800
Farm price (cents per pound)	50
Value of sales (1,000 dollars)	900

Source: Hawaii Agricultural Statistics Service.

TABLE 2.—ACRES OF SWEETPOTATOES PLANTED IN THE UNITED STATES (2003)

State	Acres planted
North Carolina	42,000
Louisiana	18,000
Mississippi	14,000
California	10,100
Texas	3,400
Alabama	2,900
Others[1]	3,100
Total	93,500

[1] Including Hawaii.
Source: Economic Research Service, USDA.

The crop is grown on 1,770 farms, which represents a decrease of 44 percent since 1987.[6] Production of sweetpotatoes peaked in 1932 when 48 million cwt[7] was generated, followed by a long-term downward trend in production. However, sweetpotato production trended higher again after 1988, and increased by 15 percent between 1989–1991 and 1999–2001. Farm cash receipts averaged $214 million over the period 1999–2001. Few imports of sweetpotatoes enter the continental United States, with 97 percent of the import volume moving directly from the Dominican Republic into Puerto Rico. The Hawaiian sweetpotato production of 1.8 million pounds thus comprises a fairly minor proportion of the total production of 1,355 million pounds in the United States.

TABLE 3.—PRODUCTION AND CONSUMPTION STATISTICS FOR SWEETPOTATOES IN THE UNITED STATES (2003)[1]

Item	Amount
Acres planted	93,500
Three year average yield (cwt/acre)	150
Production (million pounds)	1,355
Imports (million pounds)	17.0
Exports (million pounds)	53.0
Total utilization (million pounds)[2]	1,148.3
Per capita use (pounds)	3.9
Three year average per capita use (pounds)	4.0
Current dollars ($/cwt)	15.75
Constant 1996 dollars ($/cwt)	13.91

[1] Estimates are for the total United States, and therefore include Hawaii. Forecasted estimates are shown.
[2] Total utilization includes 103 million pounds used for seed and 67.8 million pounds accruing to feed use, shrink, and loss.
Source: Economic Research Service, United States Department of Agriculture. Acres were obtained from Lucier.[8]

More than three-quarters of the annual U.S. sweetpotato crop is sold as human food, and around two-thirds of the total sales are for the fresh market. About a quarter of the sweetpotatoes sold for food are processed into frozen products, and 2 to 3 percent are chipped or dehydrated. U.S. sweetpotato utilization averaged 1.1 billion pounds during 1999–2001, accounting for almost 3.9 pounds per capita.

Treatment Costs

Costs of Methyl Bromide Fumigation

Methyl bromide fumigation is currently conducted on the Island of Oahu. The product has to be moved by barge from the port of Hilo on the Island of Hawaii to the port of Honolulu on Oahu. The charge for such transportation is between 2 to 3 cents per pound. A pallet of sweetpotatoes weighs 1,500 pounds (50 30-pound boxes), so the charge is approximately $35 per pallet for a non-chilled shipment. Trucking and handling charges to move the sweetpotatoes from the pier on Oahu to the fumigation site and, after fumigation, back to the pier or to the airport are estimated at $34 per pallet.

The per-unit cost of methyl bromide fumigation is influenced by the number of pallets treated. Costs are $610 for 1 to 6 pallets, $1,026 for 7 to 9, and $1,250 for 10 to 12. The minimum charge is $610. Per-unit cost thus decreases as more pallets are treated within these ranges. For example, the cost decreases from 40.6 cents per pound to 6.7 cents

[4] Census of Agriculture, 1997, National Agricultural Statistics Service (NASS).
[5] NASS, 1999.
[6] Lucier, G. ''Sweet potatoes—getting to the root of demand.'' Economic Research Service, USDA, 2002.
[7] ''cwt'' is an abbreviation for ''hundredweight,'' the standard unit of production for sweetpotatoes. One hundredweight equals 100 pounds.
[8] Lucier, G., ibid.

per pound if six pallets instead of only one pallet are treated at $610 (table 4).

TABLE 4.—COSTS OF METHYL BROMIDE FUMIGATION OF HAWAIIAN SWEETPOTATOES

Number of pallets	Weight (pounds)	Cost (cents per pound)
One	1,500	40.6
Two	3,000	20.3
Three	4,500	13.5
Four	6,000	10.1
Five	7,500	8.1
Six	9,000	6.7
Nine	13,500	7.6
Twelve	18,000	6.9

Source: Hawaii Department of Agriculture.

APHIS monitoring of the treatment costs $368 per treatment. This is based on a minimum of 2 hours required to set up for the fumigation, a minimum of 2 hours for necessary after-treatment labor such as certification, and 2 hours minimum travel time each way to monitor the fumigation. The total 8 hours at $46 per hour amounts to $368. Due to the time delays involved in inter-island movements of sweetpotatoes, all fumigations are conducted after 4 p.m. or on weekends, which means that APHIS treatment monitors are paid ''time-and-a-half'' wages. If the sweetpotatoes being treated belong to more than one shipper, the APHIS costs are evenly divided between the shippers, regardless of the relative quantities treated for each shipper. For example, if two shippers are involved, each would pay $184, even if one shipper's sweetpotatoes comprised more than half of the total treated. APHIS monitoring costs for fumigation do not vary with the number of sweetpotatoes treated.

Various time delays are involved in the inter-island movement of the sweetpotatoes for fumigation, meaning that this transportation is sometimes problematic. Shipments from the main island, Hawaii, generally leave Hilo on Monday, with the barge arriving at Oahu on Wednesday. These shipments are treated on Wednesday or Thursday and arrive by Friday on the mainland U.S. west coast if transported by air. The barge that leaves Hilo on Thursday arrives at Oahu on Saturday. Weekend fumigation is conducted at significantly higher costs and Sunday pickup at the pier is not allowed. Thus, shipping sweetpotatoes on the Thursday barge is generally avoided.[9]

There are also concerns regarding the future cost and availability of methyl bromide given the continuing reductions in the use of methyl bromide mandated by the Montreal Protocol, which governs the use of substances that deplete stratospheric ozone; in 2005, all uses of methyl bromide in developed countries other than quarantine and pre-shipment applications and critical or emergency uses will be prohibited. The price of methyl bromide has increased significantly as worldwide production of methyl bromide has decreased from its 1991 baseline. According to the Environmental Protection Agency, U.S. west coast end-user prices of methyl bromide gas have increased from $1.25 per pound to $4.50 per pound over the period 1995 to 2001. This represents an increase of 366 percent. Further price increases are deemed likely as the 2005 phase-out date approaches.

Costs of Irradiation

The cost of irradiation is estimated at 15 cents per pound, regardless of the amount of sweetpotatoes treated.[10] Lot sizes will be as requested by shippers. Irradiation treatment generally occurs between 8 a.m. and 4 p.m. At these times, an APHIS inspector would already be on-site at the irradiation facility to monitor the treatment under the terms of the compliance agreement irradiation facilities must operate under in order to treat fruits and vegetables from Hawaii for interstate movement. Therefore, there would generally be no additional APHIS charges associated with irradiation treatment. Shippers could choose to have their sweetpotatoes treated outside of normal hours and thus incur APHIS charges for overtime labor, but such scheduling would be optional; as noted above, all fumigation treatments currently must be conducted during overtime hours.

The irradiation will occur mostly at an existing facility in Hawaii, prior to the shipment of the sweetpotatoes to the mainland United States. The X-ray irradiation facility in Hawaii commenced its commercial operation on August 1, 2000. At first, only papayas were treated. Five hundred to 1,000 boxes of papayas are treated per day, 4 times a week. The facility is currently also used to treat mangoes, bell peppers, eggplants, pineapples (other than smooth Cayenne), Italian squash, and tomatoes. Most of the fruits and vegetables produced in Hawaii for which irradiation is an approved treatment are irradiated in Hawaii before they are moved interstate, but some fruits and vegetables are occasionally taken to one of three irradiation facilities in the continental United States. These include facilities in Libertyville and Morton Grove in Illinois, and a facility in Whippany, New Jersey. Various other tropical fruits, such as papaya, litchi, rambutan, carambola, and atemoya, are at present shipped to Illinois for cobalt irradiation treatment.

The quantity of sweetpotatoes to be shipped annually from Hawaii is projected to fill approximately 21 forty-foot long shipping containers. Allowing irradiation as an alternative to fumigation with methyl bromide as a treatment for sweetpotatoes moving interstate from Hawaii may lead to increased production of sweetpotatoes in Hawaii if the lower cost of treatment makes sweetpotato a more profitable crop to produce and ship. The magnitude of the impact of this alternative treatment on production is presently unknown. Due to production limitations, it is estimated that the total volume of sweetpotatoes moved interstate from Hawaii could not exceed 100 containers per annum.

Benefits of Irradiation Treatment

The approval of irradiation as an alternative treatment for sweetpotatoes moved interstate from Hawaii will benefit various stakeholders. At 15 cents per pound, irradiation can be conducted at a lower cost than fumigation of one to two pallets (20.3 to 40.6 cents per pound) (table 4). Though larger quantities of sweetpotatoes, which fill more pallets, can be fumigated at lower per-unit costs (6.7 to 13.5 cents per pound), irradiation eliminates the transport costs associated with fumigation. These transport costs include moving the crop from the island of Hawaii to Oahu (2 to 3 cents per pound) and trucking and handling costs of moving the crop between the harbor or airport and the fumigation site on Oahu ($34 per pallet, about 2.3 cents per pound). Irradiation also eliminates the cost of $368 per treatment attributable to APHIS monitoring of fumigation, which is currently conducted outside standard business hours.

Growers and shippers on the main island of Hawaii will benefit from lower transportation costs, since shipment of the crop from Hawaii to Oahu for fumigation will no longer be necessary. The availability of treatment at a more convenient location will also remove various logistical complications. This will reduce the total expense and time delay in moving the product and will enable sweetpotatoes to be treated and shipped at a lower cost than is currently possible with fumigation. The importance of alternative treatments is

[9] Source: Hawaii Department of Agriculture.

[10] Source: Hawaii Department of Agriculture.

especially highlighted in view of the mandated global reductions in the use of methyl bromide under the Montreal Protocol and the expected rise in the price of methyl bromide due to its scarcer supply. Irradiation also tends to affect quality less negatively than fumigation and may extend the shelf life of the tubers.

The irradiation facility in Hawaii will benefit from having more crops available to treat. The treatment available at this facility has enabled many producers in Hawaii to move their products to the mainland, thus providing them with access to markets that were not previously available. For several years, the State of Hawaii has encouraged farmers to diversify agricultural production, given the significant decline in the production of sugarcane as a major crop. The approval of irradiation as a treatment for sweetpotatoes moved interstate from Hawaii will help to provide steady throughput for this facility. The facility currently treats seasonal crops whose volume is more variable than that of sweetpotatoes and is thus sometimes underutilized. A steady source of revenues from treatment, such as revenues from treating sweetpotatoes to be moved interstate, would help assure this facility's continued operation and availability for all the producers in Hawaii who can use it.

U.S. mainland consumers will benefit by an increased supply of sweetpotatoes. Hawaiian sweetpotato production amounts to 1.8 million pounds, which comprises a small proportion of the total production of 1,355 million pounds in the United States (tables 1, 2 and 3). Thus, even if the irradiation treatment leads to increased production of Hawaiian sweetpotatoes, sweetpotato shipments from Hawaii are unlikely to affect mainland producers negatively. However, to the extent that this interim rule makes moving sweetpotatoes from Hawaii interstate more convenient and less costly, the rule provides the Hawaiian sweetpotato industry with opportunities to expand its mainland markets.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their regulations on small entities. The Small Business Administration (SBA) has established size criteria in the North American Industry Classification System (NAICS) to determine which economic entities meet the definition of a small firm.

The irradiation facility in Hawaii is expected to be the primary facility to treat Hawaiian sweetpotatoes before they are moved interstate. If the facility in Hawaii does not have enough capacity to treat all the sweetpotatoes that producers wish to move interstate from Hawaii, some of the crop may be sent to one of the other three facilities on the mainland United States. The facility in Hawaii can be classified under NAICS category 115114, ''Postharvest Crop Activities (except Cotton Ginning).'' According to the SBA's criteria, this facility is classified as a small entity, since its annual sales are less than $6 million. A single firm owns the two facilities in Illinois and the facility in New Jersey. Its primary service is to provide irradiation treatment for the sanitation of medical devices on contract. This firm is classified under NAICS category 325612, ''Polish and Other Sanitation Good Manufacturing.'' However, since it is part of a larger corporation with 500 or more employees, that firm is not considered a small entity under the SBA's criteria.

Sweet potato farming is classified under NAICS 111219, ''Other Vegetables (except Potato) and Melon Farming.'' According to the SBA's criteria, an entity involved in crop production is considered small if it has average annual receipts of less than $750,000. Since the 53 sweetpotato farms in Hawaii accounted for sales of $900,000 in 2001, we believe it is safe to assume that all of these farms would be classified as small entities. We expect that the economic effects of this rule will be positive for those producers, to the extent that this rule makes moving sweetpotatoes from Hawaii interstate more convenient and less costly. As noted above, due to the fact that Hawaiian sweetpotato production makes up a very small proportion of total U.S. sweetpotato production, this interim rule is not expected to significantly affect sweetpotato farmers in the mainland United States.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

■ Accordingly, we are amending 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

■ 1. The authority citation for part 318 is revised to read as follows:

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

■ 2. Section 318.13–4f is amended as follows:

■ a. In paragraph (a), in the table, by revising the title of the table and the heading of the left-hand column and by adding, in alphabetical order, an entry for ''Sweetpotato'' to read as set forth below.

■ b. In paragraph (b)(7)(i), by revising the last sentence to read as set forth below.

■ c. In paragraph (b)(7)(ii), by revising the last sentence to read as set forth below.

■ d. In paragraph (e), by adding the words ''and other plant pests'' after the words ''Trifly complex'.

§ 318.13–4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

(a) * * *

IRRADIATION FOR PLANT PESTS IN HAWAIIAN FRUITS AND VEGETABLES

Commodity	Dose (Gray)
* * * * *	
Sweetpotato	400
* * * * *	

(b) * * *

(7) (i) * * * To be certified for interstate movement under this section,

litchi from Hawaii must be inspected in Hawaii and found free of the litchi fruit moth (*Cryptophlebia* spp.) and other plant pests by an inspector before undergoing irradiation treatment in Hawaii for fruit flies, and sweetpotato from Hawaii must be inspected in Hawaii and found free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*) and the Kona coffee-root knot nematode (*Meloidogyne konaensis*) by an inspector before undergoing irradiation treatment in Hawaii.

(ii) * * * To be eligible for a limited permit under this section, untreated litchi from Hawaii must be inspected in Hawaii and found free of the litchi fruit moth (*Cryptophlebia* spp.) and other plant pests by an inspector, and untreated sweetpotato from Hawaii must be inspected in Hawaii and found to be free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*) and the Kona coffee-root knot nematode (*Meloidogyne konaensis*) by an inspector.

* * * * *

§ 318.30 [Amended]

■ 3. In § 318.30, paragraph (c) is amended by adding the words ''the irradiation of such sweetpotatoes in accordance with § 318.13–4f or upon'' immediately before the words ''the fumigation of such sweetpotatoes in Hawaii'.

Done in Washington, DC, this 23rd day of June 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16182 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR 1412, 1421, 1439, 1480

RIN 0560–AG95

2003 Agricultural Assistance Act—Crop Disaster Program and Livestock Assistance Program

AGENCIES: Commodity Credit Corporation, Farm Service Agency, USDA.

ACTION: Final Rule.

SUMMARY: This rule implements portions of the Agricultural Assistance Act of 2003 to provide crop-loss disaster assistance for producers who suffered 2001 or 2002 crop losses and to establish a Livestock Assistance Program. This rule also implements provisions of the Consolidated Appropriations Resolution, 2003 (2003 Appropriations Act) that add the commodities crambe and sesame seed to the list of commodities eligible for CCC direct and counter-cyclical payments and marketing assistance loans and that provide that popcorn planted acreage is to be considered corn for determining corn crop acreage bases and yields. Other provisions of these Acts will be implemented under separate rules.

EFFECTIVE DATE: June 23, 2003.

FOR FURTHER INFORMATION CONTACT: *Crop disaster:* Eloise Taylor, (202)720–9882, or *Eloise_Taylor@wdc.usda.gov.*

Livestock Assistance Program and Direct and Counter Cyclical Payment Program: Lynn Tjeerdsma, 202–720–6602, e-mail: *lynn_tjeerdsma@wdc.usda.gov.*

Oilseeds: Raellen Erickson at (202) 720–6689, or via electronic mail at *Raellen_Erickson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 217(b) of the Agricultural Assistance Act of 2003 requires that the regulations to implement it shall be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553, or the Statement of Policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking (36 FR 13804, July 24, 1971). The crop disaster program and livestock assistance program are covered by section 765(c) of the 2003 Act. The 2003 Act did not provide a similar requirement for the addition of crambe and sesame seed to the oilseeds eligible for CCC direct and counter-cyclical payments and market assistance loans. However, the 2003 Act amended the Farm Security and Rural Investment Act of 2002 (the 2002 Act) to require those crops' inclusion and section 1601 of the 2002 Act provides the exemption. Thus, this rule is published as final.

Executive Order 12866

This final rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of this rule was completed and is summarized after the Background section.

Federal Assistance Programs

This final rule applies to the following Federal assistance programs, as found in the Catalog of Federal Domestic Assistance:

10.051—Commodity Loans and Loan Deficiency Payments.

10.066—Livestock Assistance Program.

10.073—Crop Disaster Program.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because the agencies are not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered in accordance with the provisions of the national Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. To the extent these authorities may apply, CCC and FSA have concluded that this rule is categorically excluded from further environmental review as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12778

The final rule has been reviewed in accordance with Executive Order 12778. This final rule preempts State laws to the extent such laws are inconsistent with it. This rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject of this rule. Further, this rule contains no unfunded mandates as defined in sections 202 and 205 of UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 765(c) of the 2003 Act and section 1601 of the 2002 Act require CCC, in promulgating the regulations and administering the programs of the Act, to use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (SBREFA), to forgo the usual 60-day delay in the effective date of major final rules required by SBREFA (5 U.S.C. 801(a)(3)(A)(ii)) for Congressional review. This rule affects a number of agricultural producers who are in urgent need of the payments to be provided under it. Thus, in accordance with 5 U.S.C. 808(2), CCC has determined that delay is contrary to public interest and this rule is effective upon the date of filing for public inspection by the Office of the **Federal Register.**

Paperwork Reduction Act

Section 765(c) of the Agricultural Assistance Act of 2003 and section 1601 of the 2002 Act require that these regulations be promulgated and the programs administered without regard to 44 U.S.C. 35, the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public do not have to be approved by the Office of Management and Budget or be subject to the 60-day public comment period required by 5 CFR 1320.8(d)(1).

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required by participation in the programs covered under this rule are not yet fully implemented for the public to conduct business with FSA electronically. Although applications for all programs may be submitted at the FSA county offices by mail or FAX, electronic submission is not available. Still, implementation of electronic submission and receipt is underway.

Background

Addition of Crambe and Sesame as Eligible Oilseeds

Section 763, Division A of the 2003 Act amended sections 1001 and 1202 of the 2002 Act to add crambe and sesame seed to the list of oilseeds eligible for direct and counter-cyclical payments and marketing assistance loans. The 2002 Act did not specifically include crambe and sesame seed but it did provide the Secretary the authority to include additional oilseeds in these programs. Crambe and sesame seed were not included initially but will be included now as required by the 2003 Act.

Popcorn Acreage as Eligible Corn Acreage

This rule allows producers with a farm with acreage planted to, or prevented from being planted to, popcorn in any year from 1998 through 2001 to have popcorn acreage considered as regular corn acreage for the purposes of establishing corn base acres on the farm. Section 767 of the 2003 Act requires this change. It also provides that a farm program payment yield established before adding popcorn acreage shall be the same yield as established for corn. If the yields are not established for corn before adding popcorn acreage, the corn yield to be attributed to popcorn acreage shall be the Direct and Counter Cyclical Program (DCP) corn yield for similar farms. This change is effective fewer than 60 days before the deadline for producers to establish base acres for all covered commodities on a farm. Therefore, this rule extends this deadline for popcorn farms to July 28, 2003. Applicable direct and counter-cyclical payments for corn base acres added to a farm under this rule will be paid after October 1, 2003.

2002 Livestock Assistance Program (2002 LAP)

Section 203(b) of the Agricultural Assistance Act of 2003 requires the Secretary of Agriculture to use $250 million to pay livestock producers for losses in a disaster county in either of calendar years 2001 or 2002, but not both. The program will use the same basic criteria established for the 1999 Livestock Assistance Program (1999 LAP) except that, in lieu of the maximum gross revenue eligibility limitation used for the 1999 LAP, the Secretary shall use the adjusted gross income limitation contained in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a).

Livestock producers who suffered livestock feed losses as a result of natural disaster may apply for compensation for losses incurred in calendar year 2001 or 2002. If the livestock operation is in a county declared to be a disaster county for both calendar year 2001 and calendar year 2002, the producers must elect the year for which they wish to receive LAP payments. An operation may receive 2002 LAP for losses in either one of the affected calendar years, but not both. If the livestock operation is in a county that was declared to be a disaster county in just one of those calendar years, the producers may elect to receive payments for losses in either calendar year, but not both. Benefits will be provided to eligible livestock producers only in those counties declared under a Secretarial or Presidential disaster declaration and that meet LAP eligibility requirements and are subsequently approved for participation in LAP. A county must have suffered a 40-percent or greater grazing loss for 3 consecutive months during the selected calendar year as a result of damage due to a natural disaster in order to be eligible. Livestock producers in counties contiguous to an approved county are not eligible. A livestock producer in an approved county must have suffered at least a 40-percent loss of normal grazing for the producer's eligible livestock for a minimum of 3 consecutive months. Losses will be compensable only up to 80 percent of the total grazing available and the compensable loss may not exceed the county maximum set by the local FSA county committee.

Payments will be made according to a formula and will be subject to funding and other limitations, including a $40,000 per person payment limitation. In the event that the total amount of claims submitted under this subpart exceeds the $250 million available for 2002 LAP, each payment shall be reduced by a uniform national percentage. The amount of assistance that producers would otherwise receive under 2002 LAP shall be reduced by the assistance producers receive under the 2002 Cattle Feed Program announced on September 3, 2002, the 2002 Livestock Compensation Program announced on October 10, 2002, and the Livestock Compensation Program II announced on May 5, 2003.

Disaster Assistance to Crop Producers

The 2003 Act authorizes the Secretary to provide assistance to crop producers for losses due to damaging weather and related conditions in 2001 or 2002 crops. Generally, the statute requires the Crop Disaster Program (CDP) program to be administered using similar requirements as used for 2000-crop

losses under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2001 (2001 Act) (Public Law 106–387). Special approved yields based on actual production are prohibited unless production reports were submitted before enactment of the 2003 Act. The statute provides that total assistance under the CDP, crop insurance program and Noninsured Crop Disaster Assistance Program (NAP), plus the value of the crop that was not lost, may not exceed 95 percent of the value of the crop had there been no loss.

The loss thresholds used with respect to the 2000 program are applicable to insured, uninsured and non-insurable 2001 or 2002 crops. For uninsured crops for which 2001 or 2002 CDP assistance is requested, applicants must purchase crop insurance coverage at a level greater than the level available under catastrophic risk protection, if available, for 2003 and 2004 crop years. Also, for 2001 or 2002 CDP benefits for a non-insurable crop for which NAP coverage was not obtained, the producer must submit required documents and pay the administrative fee for 2003 and 2004 for such crops. However, if the sales closing date for purchasing NAP or crop insurance has passed, a producer must meet the linkage requirements for the two subsequent years. Producers who do not purchase crop insurance or NAP as required will be required to refund assistance received, plus interest. Applicants must apply for benefits during the sign-up period announced by the Deputy Administrator.

False certifications by producers carry strict penalties and FSA will validate applications with random spot-checks. Like earlier programs, gross revenue and per-person payment limits apply. A ''person'' may receive no more than $80,000 in Crop Disaster payments, nor receive benefits if their gross revenue exceeds $2.5 million in the tax year preceding the year for which benefits are requested. The 1997 Census of Agriculture indicates that less than 2.4 percent of the farms in the U.S. have sales greater than $500,000, and farms with gross incomes of $2.5 million or more only represent a small fraction of one percent. Thus, the gross revenue limitation only limits eligibility of the nation's largest farm and ranch operations.

Corrections to Direct and Counter-cyclical Program regulations

This rule makes corrections to 7 CFR part 1412 where the need has become evident since this program was begun in October 2002. First, section 1412.401 is revised to provide that payments may be issued to a successor to a contract only after payments issued to the predecessor are refunded to CCC, or a debt for any amount not refunded to CCC has been established. Before, in such cases, payments could be issued to the successor only after payments were refunded. Second, in section 1412.407(e), the names of two county names that were misspelled are corrected. Third, section 1412.408 is added to provide for redistribution of base acreage under certain circumstances. And finally, section 1412.703 is revised to delete an incorrect cross reference.

Cost-Benefit Analysis Summary

Crop disaster: General payments for insured and non-insurable crops will be made at 50 percent of market price, and uninsured crops will be made at 45 percent of market price. Payments for insured crops will be made at the slightly higher rate to provide an incentive to purchase crop insurance. Payments for non-insurable crops will be made at the higher rate because insurance is not available for these crops. Claims for losses under the 1999- and 2000-crop disaster programs were about $1.7 billion and 1.9 billion, respectively, before pro-rationing. Based on similar weather conditions, crop losses under the 2001 or 2002 program are expected to be about $2 billion. The $80,000 payment limitation and the limitation of $2.5 million gross income will distribute payments more toward relatively smaller farms. Nonetheless, large farms would account for a disproportionate share of crop-loss payments if there was no income limitation.

2002 Livestock Assistance Program (LAP 2002): It is estimated that over 31 million head of cattle, 3 million horses, and 2 million sheep are located within the affected states. The potential cost of the LAP 2002 before application of a national factor is estimated to be about $750 million. Because projected claims exceed the $250 million expected to be available for the program, each producer's payment will be prorated based on the ratio of the maximum allowed benefits to total claims. Payments will assist producers affected by disasters in meeting their financial obligations for income lost due to poor grazing conditions. It is assumed, in part as a result of the LAP, that producers affected by the disaster will remain in business. The impact of the payments on livestock prices and feed prices is expected to be small. For those producers who actually suffered the losses, the impact on their equity and cash flow positions is significant. In the absence of this program, some producers would have been forced to liquidate their herds, increasing livestock supplies and lowering prices in the short term. Changes are likely to be small and temporary. The projected impact on consumers is negligible. Aggregate farm income in 2002 is expected to be about $250 million higher.

Loan Rate Changes: The 2003 Act mandates that the same loan rate be set for each kind of other oilseed. This single loan rate must be $0.0960 per pound for the 2003 crop of each type of oilseed and $0.0930 per pound for the 2004 through 2007 crops of each type of oilseeds. Under the 2003 Act, loan rates increase for oil-type sunseed, rapeseed, canola, and flaxseed, but decrease for other-type sunseed mustard seed, and safflower comparted with the differentiated loan rates. CCC outlays for 2002 Act other oilseeds is expected to increase $20 million on average for the 2003 through 2007 crops as a result of the mandated single loan rate. Outlays for oil-type sunseed, other-type sunseed, canola, flaxseed, and rapeseed are expected to increase $22 million on average. The outlay increases will be partially offset by lower outlays for safflower and mustard seed compared with loan rates under the 2002 Farm Act, reducing CCC outlays by $1.9 million.

Adding Crambe and Sesame Seed to the List of Other Oilseeds: Annual crambe direct payments for the 2003 through 2007 crops are projected at $216,000, for a total $1.1 million over the 5-year period. Annual sesame seed direct payments are projected at $35,000, for a total of $175,000 for the remaining 5 years of the 2002 Act. No counter-cyclical payments are projected for crambe or sesame. Crambe is expected to generate loan program outlays of $166,000 during the 2003 and 2004 crop years. Sesame is not projected to generate any loan program outlays.

Treatment of Popcorn: It is estimated that direct and counter cyclical payments will increase $69 million for crop years 2002–2007 because corn payment acres will increase an estimated 239,000 acres. Outlays for the changes made by this rule are projected to be as follows.

SUMMARY OF OUTLAYS

Program	Outlays ($ Million)
2002 Livestock Assistance Program (2002 LAP)	250
Crop Disaster Program	2,000

SUMMARY OF OUTLAYS—Continued

Program	Outlays ($ Million)
Crambe and sesame seed eligibility	1.4
Loan Rate Changes	210
Treatment of Popcorn	69
Total	2,530

List of Subjects

7 CFR Part 1412

Direct and counter-cyclical payments, Grains, Peanuts, Oilseeds, Reporting and recordkeeping requirements.

7 CFR part 1421

Agricultural commodities, Feed grains, Grains, Loan programs—agriculture, Oilseeds, Price support programs.

7 CFR part 1439

Animal feeds, Disaster assistance, Livestock, Pasture, Reporting and recordkeeping requirements.

7 CFR Part 1480

Agricultural commodities, Disaster assistance, Emergency assistance, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, Title 7, Chapter XIV, of the Code of Federal Regulations is amended as set forth below.

PART 1412—DIRECT AND COUNTER-CYCLICAL PROGRAM AND PEANUT QUOTA BUYOUT PROGRAM

■ 1. The authority citation for part 1412 continues to read as follows:

Authority: 7 U.S.C. 7911–7918, 7951–7956; 15 U.S.C. 714b and 714c.

■ 2. Revise § 1412.101 to read as follows:

§ 1412.101 Applicability.

This part governs:

(a) How crop acreage bases and farm program payment yields are established or updated by owners of a farm for the purpose of calculating direct and counter-cyclical payments for wheat, corn, grain sorghum, barley, oats, upland cotton, rice, peanuts, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds, as determined and announced by the Commodity Credit Corporation (CCC), for the years 2002 through 2007;

(b) The month in which producers on a farm may enter into annual Direct and Counter-cyclical Program (DCP) contracts with CCC for each of the years 2002 through 2007;

(c) The month in which peanut producers may establish such bases and yields in order to receive 2002 direct and counter-cyclical payments; and

(d) The month in which peanut producers may assign such bases and yields to a farm for each of the years 2003 through 2007.

■ 3. Amend § 1412.103 by revising the definitions of ''Covered commodity'' and ''Other oilseeds'' to read as follows:

§ 1412.103 Definitions.

* * * * *

Covered commodity means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as determined by the Secretary.

* * * * *

Other oilseeds means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or, if determined and announced by CCC, another oilseed.

* * * * *

■ 4. Amend § 1412.201 by adding paragraph (f) to read as follows:

§ 1412.201 Election of base acres.

* * * * *

(f) For the purposes of this section, acreage planted, or prevented from being planted, to popcorn shall be considered as acreage planted to corn.

■ 5. Amend § 1412.301 by adding paragraph (b) to read as follows:

§ 1412.301 Direct payment yields for covered commodities, except soybeans and other oilseeds.

* * * * *

(b) For the purposes of this section popcorn shall be considered as corn.

■ 6. Amend § 1412.401 by revising paragraph (d) to read as follows:

§ 1412.401 Direct and counter-cyclical program contract.

* * * * *

(d) A transfer or change in the interest of a producer in base acres on the farm subject to a contract shall result in the termination of the contract with respect to such interest, and a refund of applicable direct and counter-cyclical payments issued for the farm. The contract termination shall be effective on the date of the transfer or change. Successors-in-interest on a farm subject to a contract may assume all obligations under the contract no later than September 30 of the contract year, and receive payment under the contract only after applicable direct and counter-cyclical payments previously issued to the predecessor for the farm have been refunded to CCC, or a debt for any amount not refunded to CCC has been established for the predecessor.

* * * * *

■ 7. Amend § 1412.406 by revising paragraph (e)(1) to read as follows:

§ 1412.406 Succession-in-interest to a direct and counter-cyclical program contract.

* * * * *

(e)(1) In any case in which either a direct or counter-cyclical payment has previously been made to a predecessor, such payment shall not be paid to the successor unless payment has been refunded by the predecessor, or a debt for any amount not refunded to CCC has been established for the predecessor.

* * * * *

■ 8. In § 1412.407(e), revise the counties listed under Mississippi to read as follows:

§ 1412.407 Planting flexibility.

* * * * *

Mississippi

Calhoun, Carroll, Coahoma, Covington, DeSoto, George, Humphreys, Jefferson Davis, Lowndes, Madison, Marshall, Monroe, Montgomery, Prentiss and Rankin.

* * * * *

■ 9. Add § 1412.408 to read as follows:

§ 1412.408 Redistributing base acreage.

(a)(1) Subject to the limitation in paragraph (a)(3) of this section, the redistribution of a farm's base acreage shall be allowed when all owners of the farm execute and submit a written request on a CCC-approved form for such redistribution to the FSA county office where the records for the farm are administratively maintained.

(2) If the land of the farm is subject to a deed of trust, lien, or mortgage, the holder of the deed of trust, lien, or mortgage must agree to the redistribution of base acreage.

(3) Redistribution of a farm's base acreage to negate or reduce a program violation is prohibited.

■ 10. Amend § 1412.703 by revising paragraph (f) to read as follows:

§ 1412.703 Assignment of average peanut yields and average peanut acreages to farms.

* * * * *

(f) The total number of acres assigned by historic peanut producers under paragraph (b) of this section to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this part, beginning with crop year 2003.

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR THE 2002 THROUGH 2007 CROP YEARS

■ 11. The authority citation for part 1421 continues to read as follows:

Authority: 7 U.S.C. 7231–7237 and 7931 *et seq.*; 15 U.S.C. 714b, 714c.

■ 12. Amend § 1421.3 by revising the definition of ''Oilseeds'' to read as follows:

§ 1421.3 Definitions.

* * * * *

Oilseeds means any crop of sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as determined and announced by CCC.

* * * * *

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

■ 13. The authority citation for part 1439 is revised to read as follows:

Authority: 7 U.S.C. 1427a; 15 U.S.C. 714 *et seq.*; Sec. 1103 Pub. L. 105–277, 112 Stat. 2681–42–44; Pub. L. 106–31, 113 Stat. 57; Pub. L. 106–78, 113 Stat. 1135; Pub. L. 106–113, 113 Stat. 1501; Sec. 257 Pub. L. 106–224, 114 Stat. 358; Secs. 802, 806, & 813; Pub. L. 106–387, 114 Stat. 1549; Pub. L. 108–7, 117 Stat. 11.

Subpart B—Livestock Assistance Program

■ 14. Subpart B is revised to read as follows:

Subpart B—Livestock Assistance Program

Sec.

Subpart B—Livestock Assistance Program

§ 1439.100 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Deputy Administrator, for Farm Programs, Farm Service Agency (FSA). In the field, the regulations in this part will be administered by the FSA State and county committees.

(b) State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee that has not been taken by such committee, such as:

(1) Correct or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Although participation in the 2002 Livestock Assistance Program (2002 LAP) is voluntary, program benefits will not be provided unless the participant furnishes all requested data.

§ 1439.101 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the 2002 LAP authorized by Public Law 108–7. Program regulations for prior livestock assistance programs can be found at 7 CFR part 1439 as it was published in 7 CFR chapet XIV revised as of January 1, 2001. Benefits will be provided to eligible livestock producers in the United States under this subpart in declared disaster counties that were subsequently approved for relief under this part by the Deputy Administrator.

(b) During the 2001 or 2002 calendar years, for 2002 LAP, a producer must be in a disaster county that was also approved and determined by the Deputy Administrator as having suffered losses during calendar year 2001 or 2002. Contiguous counties that were not designated as a disaster county in their own right will not be eligible for participation in 2002 LAP under this subpart. Grazing losses must have occurred on native and improved pasture with permanent vegetative cover and other crops planted specifically for the sole purpose of providing grazing for livestock, but such losses do not include losses on, or with respect to, seeded small grain forage crops.

(c) To be eligible for assistance under this subpart, a livestock producer's pastures must have suffered at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months during the relevant calendar year. The percent of loss eligible for compensation shall not exceed the maximum percentage of grazing loss for the county as determined by the county committee. In addition, the producer will not be compensated for that part of any loss that would represent payment of a loss greater than 80 percent.

§ 1439.102 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The definitions in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart, in which case the definitions in this section will apply.

Application means the Livestock Assistance Program Application. The Application is available at county FSA offices.

Disaster county means a county included in the geographic area covered by a qualifying natural disaster declaration for calendar year 2001 or calendar year 2002 for which the request for such declaration was submitted during the period beginning on January 1, 2001, and ending February 20, 2003, and subsequently approved. The term disaster county means the county where the disaster occurred and does not include a contiguous county.

Qualifying natural disaster declaration means:

(1) A natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) A major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Livestock means beef and dairy cattle, buffalo and beefalo (when maintained on the same basis as beef cattle), sheep, goats, swine, and equine animals where such equine animals are used commercially for human food or kept for the production of food or fiber on the owner's farm.

§ 1439.103 Application process.

(a) Livestock producers must submit a completed application prior to the close of business on the date established and announced by the Deputy Administrator. The application and any other supporting documentation shall be submitted to the county FSA office with administrative authority over a producer's eligible grazing land or to the county FSA office that maintains the farm records for the livestock producer.

(b) Livestock producers shall certify as to the accuracy of all the information contained in the application, and provide any other information that CCC determines to be necessary to determine the livestock producer's eligibility.

§ 1439.104 County committee determinations of general applicability.

(a) County committees shall determine whether due to natural disasters their county has suffered a 40-percent loss affecting pasture and normal grazing crops for at least 3 consecutive months during calendar year 2001 for 2001 eligibility and during calendar year 2002 for 2002 eligibility. In making this determination, county committees, using the best information available from sources including but not limited to: the Extension Service, the Natural Resources Conservation Service; the Drought Monitor; the Palmer Drought Index; and general knowledge of local rainfall data, pasture losses, grazing livestock movement out of county, abnormal supplemental feeding practices for livestock on pasture and liquidation of grazing livestock, shall determine the percentage of grazing losses for pastures on a county-wide basis. The county committee shall submit rainfall data, percentage of grazing losses for each general type of pasture, and the weighted average percentage of grazing loss for the county, with State committee concurrence, to the Deputy Administrator. The maximum grazing losses the county committees shall submit is 80 percent. These determinations shall be subject to review and approval of the Deputy Administrator. For purposes of this subpart, such counties are called ''eligible counties.''

(b) In each eligible county, the county committee shall determine an LAP crop year. The LAP crop year shall be that period of time in a calendar year that begins with the date grazing of new growth pasture normally begins and ends on the date grazing without supplemental feeding normally ends in the county.

(c) In and for each eligible county, the county committee shall determine normal carrying capacities for each type of grazing or pasture during the LAP crop year. The normal carrying capacity for the LAP crop year shall be the normal carrying capacity the county committee determines could be expected from pasture and normal grazing crops for livestock for the LAP crop year if a natural disaster had not diminished the production of these grazing crops.

(d) In each eligible county, the county committee shall determine the payment period for the county. The payment period for the county shall be the period of time during the county's LAP crop year where for 3 consecutive months during 2001 or 2002, the carrying capacity for grazing land or pasture was reduced by 40 percent or more from the normal carrying capacity.

§ 1439.105 Loss criteria.

(a) Grazing land for which a livestock producer requests benefits must be within the physical boundary of a disaster county. Livestock producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a livestock producer in an eligible county must have suffered a loss of grazing production equivalent to at least a 40-percent loss of normal carrying capacity for a minimum of 3 consecutive months.

(c) A producer shall specify each type of pasture and percentage of loss suffered by each type on the application. In establishing the percentage of grazing loss, producers shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal.

(d) The county committee shall determine the producer's grazing loss and shall consider the amount of available grazing production during the LAP crop year, whether more than the normal acreage of grazing land was required to support livestock during the LAP crop year, and whether supplemental feeding of livestock began earlier or later than normal. The county committee shall request the producer to provide proof of loss of grazing production if the county committee determines the producer's certified loss exceeds other similarly situated livestock producers.

(e) The percentage of loss claimed by a livestock producer shall not exceed the maximum allowable percentage of grazing loss for the county as determined by the county committee in accordance with § 1439.104(a). Livestock producers will not receive benefits under this subpart for any portion of their loss that exceeds 80 percent of normal carrying capacity.

(f) Conservation Reserve Program acres released for haying or grazing and seeded small grain forage crops shall not be used to calculate losses under this subpart.

§ 1439.106 Livestock producer eligibility.

(a) Only one livestock producer will be eligible for benefits under this subpart with respect to an individual animal.

(b) Only owners, cash lessees, or share lessees of livestock who themselves provide the pasture or grazing land, including cash leased pasture or grazing land, for the livestock may be considered as livestock producers eligible to apply for benefits under this subpart.

(c) An owner, or cash or share lessee of livestock who uses another person to provide pasture or grazing land on a rate-of-gain basis is not considered to be the livestock producer eligible to apply for benefits under this subpart.

(d) An owner who pledges livestock as security for a loan shall be considered as the person eligible to apply for benefits under this subpart if all other requirements of this part are met. Livestock leased or being purchased under a contractual agreement that has been in effect at least 3 months and establishes an interest for the lessee in such livestock shall be considered as being owned by the lessee.

(e) Livestock must have been owned or leased for at least 3 months before becoming eligible for payment.

(f) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §§ 1400.501 and 1400.502 of this chapter.

§ 1439.107 Calculation of assistance.

(a) The value of LAP assistance determined with respect to a livestock producer for each type and weight class of livestock owned or leased by such producer shall be the lesser of the amount calculated under paragraph (b) of this section (the total value of lost feed needs for eligible livestock) or calculated under paragraph (c) of this section (the total value of lost eligible pasture).

(b) The total value of lost feed needs shall be the amount obtained by multiplying:

(1) The number of days in the payment period the livestock are owned or, in the case of purchased livestock, meet the 3-month ownership requirement; by

(2) The number of pounds of corn-equivalent per day, as established by CCC, that is determined necessary to provide the energy requirements established for the weight class and type of livestock; by

(3) The 5-year national average market price for corn, as determined ($1.92 bushel or $0.0342857 per pound); by

(4) The number of eligible animals of each type and weight range of livestock owned or leased by the person; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee in accordance with § 1439.105.

(c) The total value of lost eligible pasture shall be the amounts for each type of pasture calculated by:

(1) Dividing the number of acres of each pasture type by the carrying capacity established for the pasture, and multiplying the result by:

(2) The 5-year national average market price for corn, as determined ($1.92 bushel or $0.0342857 per pound); by

(3) the daily feed grain equivalent per animal (15.7 pounds of corn necessary for a beef cow, factored for the weight class and type of livestock, as determined by CCC), by

(4) The applicable number of days in the LAP payment period; by

(5) The percent of the producer's grazing loss during the relevant period as certified by the producer and approved by the county committee in accordance with § 1439.105.

(d) The final payment shall be the smaller of paragraph (b) or (c) of this section and from the final payment amount shall be subtracted the sum of the amounts received by the producer under the Livestock Compensation Program, as published in the **Federal Register** on October 10, 2002 (67 FR 63070), and the 2002 Cattle Feed Program, as published on September 3, 2002 (67 FR 56260). The final payment shall not exceed 50 percent of the smaller of paragraph (b) or (c) of this section determined prior to subtracting the amounts received by the producer under the Livestock Compensation Program, as published in the **Federal Register** on October 10, 2002 (67 FR 63070), the 2002 Cattle Feed Program, as published on September 3, 2002 (67 FR 56260), and the Livestock Compensation Program II, as published on May 5, 2003 (68 FR 23688).

(e) The final payment calculated in paragraph (d) of this section shall be multiplied by the national factor if required under § 1439.108.

(f) Seeded small grain forage crops shall not be counted as grazing land under paragraph (c) of this section with respect to supporting eligible livestock.

(g) The number of equine animals that are used to calculate benefits under this subpart and in paragraph (a) of this section are limited to the number actually needed to produce food and fiber on the producer's farm or to breed horses and mules to be used to produce food and fiber on the owner's farm, and shall not include animals that are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the owner.

§ 1439.108 Availability of funds.

In the event that the total amount of claims submitted under this subpart exceed $250 million, each payment shall be reduced by a uniform national percentage. Such payment reductions shall be made after the imposition of applicable payment limitation provisions.

§ 1439.109 Financial considerations.

The provisions of §§ 1439.10 and 1439.11 apply to 2002 LAP.

§ 1439.110 Appeals.

Determinations made under this subpart are subject to reconsideration or appeal in accordance with parts 780 and 11 of this title.

§ 1439.111 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to CCC, together with interest as determined in accordance with paragraph (b) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons with a financial interest in the operation or in an application for payment shall be jointly and severally liable for any refund, including related charges, that is determined to be due CCC for any reason under this part.

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges CCC for funds, as of the date CCC made such benefits. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner or other individual or entity receiving benefits.

(d) Interest otherwise determined due in accordance with paragraph (c) of this section may be waived with respect to refunds required of the owner or other program recipient because of unintentional misaction on the part of the owner or other individual or entity, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Individuals or entities who are a party to any program operated under this part must refund to CCC any excess payments made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as a result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

§ 1439.112 Miscellaneous.

(a) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law.

(b) Absent a scheme or device to defeat the purpose of the program, CCC may waive the demand that could otherwise be made for refunds.

(c) Payments under this subpart are subject to provisions contained in subpart A of this part including, but not limited to, provisions concerning misrepresentations, payment limitations, and refunds to CCC, liens, assignment of payments, and appeals, and maintenance of books and records. In addition, other parts of this chapter and of chapter VII of this Title relating to payments in event of death, the handling of claims, and other matters

may apply, as may other provisions of law and regulation.

(d) Any payments not earned that have been paid must be returned with interest subject to such other remedies as may be allowed by law.

(e) No interest will be paid or accrue on benefits under this subpart that are delayed or otherwise not timely issued unless otherwise mandated by law.

(f) Nothing in this subpart shall require a commitment of funds to this subpart in excess of that determined to be appropriate by the Deputy Administrator and/or CCC.

(g) In no instance may the amount expended under this subpart exceed $250 million.

(h) Payments under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the livestock, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government.

(i) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

(j) In those instances in which, prior to the issuance of this regulation, a producer has signed a power of attorney for a person or entity indicating that such power shall extend to ''all above programs'', without limitation, such power will be considered to extend to this program unless by July 10, 2003 the person granting the power notifies the local FSA office for the control county that the grantee of the power is not authorized to handle transactions for this program for the grantor.

(k) Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain records that will permit verification of livestock and grazing for at least 3 years following the end of the calendar year in which payment was made, or for such additional period as CCC may request. An examination of such records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

(l) A person shall be ineligible to receive assistance under 2002 LAP and be subject to such other remedies as may be allowed by law, if, with respect to the 2002 LAP, it is determined by the State committee or the county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

■ 15. Part 1480 is revised to read as follows:

PART 1480—2001 AND 2002-CROP DISASTER PROGRAM

Sec.

Authority: Pub. L. 106–387, 114 Stat: 1549, Pub. L. 108–7 117 Stat. 11 (15 U.S.C. 714 et seq.).

§ 1480.1 Applicability.

This part sets forth the terms and conditions of the 2001 and 2002-Crop Disaster Program (CDP). The CDP makes disaster payments to producers who have incurred losses in quantity or quality to eligible 2001 or 2002 crops due to disasters as determined by the Commodity Credit Corporation (CCC) under the Agricultural Assistance Act of 2003 (Pub. L. 108–007).

§ 1480.2 Administration.

(a) The program will be administered under the general supervision of the executive Vice President, CCC, and shall be carried out in the field by Farm Service Agency (FSA) State and county committees.

(b) State and county committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State committee shall take any action required by this part that has not been taken by an county committee. The State committee shall also:

(1) Correct or require an county committee to correct any action taken by such FSA county committee that is not in accordance with this part; and

(2) Require an county committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to an State or county committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by an State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify non-statutory deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

§ 1480.3 Definitions.

The definitions in this section apply to all determinations made under this part. The terms defined in part 718 of this title and 1400 and 1437 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section. The definitions follow:

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested as determined by the FSA State or county committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

Administrative fee means an amount the producer must pay for NAP for non-insurable crops.

Appraised production means production determined by FSA, or a company reinsured by the Federal Crop Insurance Corporation (FCIC), that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under the Noninsured Crop Disaster Assistance program, the approved yield is established according to part 1437 of

this chapter. Only the approved yields based on production evidence submitted to FSA prior to the 2003 Act will be used for purposes of the 2001 or 2002 CDP. Other yields may be assigned when an eligible approved yield is not available.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means any aquacultural species as defined in part 1437 of this chapter.

Average market price means the price or dollar equivalent on an appropriate basis for an eligible crop established by CCC for determining payment amounts. Such price will be based on the harvest basis without the inclusion of transportation, storage, processing, packing, marketing, or other post-harvesting expenses and will be based on historical data.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

CCC means the Commodity Credit Corporation.

Control county means for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; or for a producer with farming interests that are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the county FSA committee.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for non-insurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey losses shall be the period running from January 1 through the following December 31.

Disaster means damaging weather, including drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon, excessive wind, excessive heat, weather-related saltwater intrusion, weather-related irrigation water rationing, and earthquake and volcanic eruptions, or any combination thereof. Disaster includes a related condition that occurs as a result of the damaging weather and exacerbates the condition of the crop, such as disease and insect infestation.

Eligible crop means a crop insured by FCIC as defined in part 400 of this title, or included under the non-insured crop disaster assistance program (NAP) as defined under part 1437 of this chapter. Tobacco, sugar cane, and sugar beets are not eligible under this part. Losses of livestock and livestock related losses are not compensable under this part but may, depending on the circumstances, be compensable under part 1439 of this chapter.

End use means the purpose for which the harvested crop is used, such as grain, hay or seed.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For non-insurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means for aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and for nursery crops, media designed to prevent root rot and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced

Harvested means:

(1) For insured and uninsured crops, harvested as defined according to the applicable crop insurance policy;

(2) For non-insurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock;

(3) For non-insurable crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field during the crop year:

(4) For mechanically harvested non-insurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield. The COC may adjust the yield if the producer, practice, crop type or area is not capable of producing a crop at that level during the normal year. The yield may also be adjusted, or production assigned for ineligible causes of loss. The historic yield for:

(1) An insured participant shall be the higher of the county average yield listed on the crop table or the approved federal crop insurance APH, for the disaster year.

(2) NAP participants shall be the higher of the county average yield as listed on the crop table or approved NAP APH for the disaster year.

(3) Participants without federal crop insurance or NAP coverage for the disaster year shall be assigned the county average listed on the crop table.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan or Adjusted Gross Revenue Plan of crop insurance was the only plan of insurance available for the crop in the county in the applicable crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Maximum loss level means the maximum level of crop loss to be applied to a producer without acceptable production records. Loss levels are expressed in either a percent of loss or yield per acre, and should reflect the amount of production that a producer should have made considering the eligible disaster conditions in the area or county, as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple cropping means the planting of two or more different crops on the same acreage for harvest within the same crop year.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NASS means the National Agricultural Statistics Service.

Net Crop Insurance Indemnity means the indemnity minus the producer paid premium.

Non-insurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of dead aquacultural species that would normally occur during the crop year.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house or consignment business that is subsequently paid to the sellers or consignors, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seed bed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Prevented planting means the inability to plant an eligible crop with proper equipment during the planting period as a result of an eligible cause of loss, as determined by CCC. The eligible cause of loss must have:

(1) Occurred after a previous planting period for the crop, and

(2) Occurred before the final planting date for the crop in the applicable crop year or in the case of multiple plantings, the harvest date of the first planting in the applicable planting period, and

(3) Generally affected other producers in the area, as determined by CCC.

Production means quantity of the crop or commodity produced expressed in a specific unit of measure such as bushels, pounds, etc.

Rate means price per unit of the crop or commodity.

Related condition means with respect to disaster, a condition that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated as a result of damaging weather as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

State committee means the FSA State committee.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title that, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For all non-insurable crops, if available, the established unit of measure used for the 2002 Noninsured Crop Assistance Program price and yield;

(3) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and to the extent the Deputy Administrator determines it to be feasible and appropriate Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the former Trust Territory of the Pacific Islands, which include Palau, Federated

States of Micronesia and the Marshall Islands.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

Yield means unit of production, measured in bushels, pounds, etc., per area of consideration, usually measured in acres.

§ 1480.4 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered losses of eligible crops in 2001 or 2002 as a result of a disaster or related condition, or as further specified in this part. Producers may not receive benefits with respect to volunteer stands of crops.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 2001 or 2002 crop year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law.

§ 1480.5 Time for filing application.

Applications for benefits under the 2001 or 2002–Crop Disaster Program must be filed in the county FSA office serving the county where the producer's farm is located for administrative purposes before the close of business on August 25, 2003, or such other later date that may be announced by the Deputy Administrator.

§ 1480.6 Limitations on payments and other benefits.

(a) A producer may receive disaster benefits on either 2001 or 2002 crop losses as specified under this part.

(b) Payments will not be made under this part for grazing losses.

(c) CCC may divide and classify crops based on loss susceptibility, yield, and other factors.

(d) No person shall receive more than a total of $80,000 in disaster benefits under this part, unless otherwise specified.

(e) No person shall receive disaster benefits under this part in an amount that exceeds 95 percent of the value of the expected production for the relevant period as determined by CCC. The sum of the value of the crop not lost if any; the disaster payment; and the net crop insurance indemnity, cannot exceed 95 percent of what the crop's value would have been if there had been no loss.

(f) A person whose gross revenue is in excess of $2.5 million for the preceding tax year shall not be eligible to receive disaster benefits under this part. Gross revenue includes the total income and total gross receipts of the person, before any reductions. Gross revenue shall not be adjusted, amended, discounted, netted or modified for any reason. No deductions for costs, expenses, or pass through funds will be deducted from any calculation of gross revenue. For purposes of making this determination, gross revenue means the total gross receipts received from farming, ranching and forestry operations if the person receives more than 50 percent of such person's gross income from farming or ranching; or the total gross receipts received from all sources if the person receives 50 percent or less of such person's gross receipts from farming, ranching and forestry.

§ 1480.7 Requirement to purchase crop insurance and non-insurable coverage.

(a) Except as provided further in this section, any producer who elected not to purchase crop insurance on an insurable 2001 or 2002 crop for which the producer receives crop loss assistance or for non-insurable crops, elected not to participate in NAP for the year for which benefits are received must:

(1) Purchase crop insurance with additional coverage on that crop for the 2003 and 2004 crop years for the insurable crops.

(2) NAP coverage by paying the administrative fee by the applicable State filing deadline and complete all required program requirements including yearly acreage reports, for the non-insurable crop for both 2003 and 2004 crop years

(b) If, at the time the producer applies for the 2001 or 2002 CDP the sales closing date for 2003 insurable crops, or for 2003 non-insurable crops for which the producer sought benefits under the 2001 or 2002 CDP has passed, the producer must purchase crop insurance policy or obtain NAP coverage, as applicable, for the next available 2 crops years.

(c) If any producer fails to purchase crop insurance and/or NAP, as required in paragraph (a) or (b) of this section, the producer shall reimburse CCC for the full amount of the assistance, plus interest, provided to the producer under this part.

§ 1480.8 Miscellaneous provisions.

(a) A person shall be ineligible to receive disaster assistance under this part if it is determined by the State or county committee or an official of FSA that such person has:

(1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;

(2) Made any fraudulent representation with respect to such program; or

(3) Misrepresented any fact affecting a program determination.

(b) All persons with a financial interest in the operation receiving benefits under this part shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under this part.

(c) In the event that any request for assistance or payment under this part was established as result of erroneous information or a miscalculation, the assistance or payment shall be recalculated and any excess refunded with applicable interest.

(d) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(e) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth in parts 11 and 780 of this title.

(f) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

(g) For the purposes of 28 U.S.C. 3201(e), CCC waives the restriction on receipt of funds or benefits under this program but only as to beneficiaries who as a condition of such waiver agree to apply the 2001 or 2002 CDP benefits

to reduce the amount of the judgment lien.

§ 1480.9 Matters of general applicability.

(a) For calculations of loss made with respect to insured crops, the producer's existing unit structure will be used as the basis for the calculation and may include optional units established in accordance with part 457 of this title. Insured crops may have basic units established if the existing unit structure is based on enterprise units or whole county units or written agreements. For uninsured and non-insurable crops, basic units will be established for these purposes.

(b) County average yield for loss calculations will be the average of the 1996 through 2000 official county yields established by CCC, excluding the years with the highest and lowest yields, respectively.

(c) County committees will assign production when the county committee determines:

(1) An acceptable appraisal or record of harvested production does not exist;

(2) The loss is due to an ineligible cause of loss or practices, soil type, climate, or other environmental factors, that cause lower yields than those upon which the historic yield is based;

(3) The producer has a contract providing a guaranteed payment for all or a portion of the crop; or

(4) The crop is planted beyond the normal planting period for the crop.

(d) The county committee shall establish a maximum loss level that should reflect the amount of production producers should have produced considering the eligible disaster conditions in the area or county for the same crop. The maximum loss level for the county shall be expressed as either a percent of loss or yield per acre. The maximum loss level will apply when:

(1) Unharvested acreage has not been appraised by FSA, or a company reinsured by FCIC; or

(2) Acceptable production records for harvested acres are not available from any source.

(e) Assigned production or reduced yield for practices that result in lower yields than those for which the historic yield is based shall be established based on the acres found to have been subjected to those practices.

(f) Assigned production for crops planted beyond the normal planting period for the crop shall be calculated according to the lateness of planting the crop. With the exception of replanted crops, if the crop is planted after the final planting date by:

(1) Through 10 calendar days, the assigned production reduction will be based on one percent of the payment yield for each day involved;

(2) Eleven (11) through 24 calendar days, the assigned production reduction will be based on 10 percent of the payment yield plus an additional two percent reduction of the payment yield for each day of days 11 through 24 that are involved; and

(3) Twenty-five (25) or more calendar days or a date from which the crop would not reasonably be expected to mature by harvest, the assigned production reduction will be based on 50 percent of the payment yield or such greater amount determined by the county committee to be appropriate.

(4) CCC may adjust items 1 through 3 to make a comparable assignment for short rotation crops such as vegetables which may have a 30-day growing period.

(g) Assigned production for producers with contracts to receive a guaranteed payment for production of an eligible crop will be established by the county committee by:

(1) Determining the total amount of guaranteed payment for the unit;

(2) Converting the guaranteed payment to guaranteed production by dividing the total amount of guaranteed payment by the approved county price for the crop or variety or such other factor deemed appropriate if otherwise the production would appear to be too high; and

(3) Establishing the production for the unit as the greater of the actual net production for the unit or the guaranteed payment, or combination thereof if greater.

§ 1480.10 Eligible disaster conditions.

(a) Except as provided in paragraph (b) of this section, this part applies to losses where the crop could not be planted or crop production, both in quantity and quality, was adversely affected by disasters as defined in 1480.3 or:

(1) Insect infestation as a related condition to damaging weather if documented by COC with published data;

(2) Disease as a related condition to damaging weather;

(3) Plum pox virus;

(4) Pierce's disease;

(5) Watermelon sudden wilt;

(6) Salt water intrusion of an irrigation supply;

(7) Mexican fruit fly quarantine in San Diego and San Bernardino counties in California;

(8) Irrigation water rationing if proof is provided that water was rationed by a Government entity or water district (unless the producer was compensated by the Government entity or water district);

(9) Grasshoppers;

(10) Lack of water supply due to drought conditions for irrigated crops;

(11) Mormon crickets; or

(12) Other causes or factors as determined by the Deputy Administrator.

(b) Disaster benefits will not be available under this part if the crop could not be planted or crop production, both in quantity and quality, was adversely affected by:

(1) Poor farming practices;

(2) Poor management decisions; or

(3) Drifting herbicides.

§ 1480.11 Qualifying 2001 or 2002-crop losses.

(a) To receive disaster benefits under this part, the county committee must determine that because of a disaster, the producer with respect to the 2001 or 2002 crop year:

(1) Was prevented from planting a crop;

(2) Sustained a loss in excess of 35 percent of the expected production of a crop; or

(3) Sustained a loss in excess of 35 percent of the value for value loss crops.

(b) Calculation of benefits under this part shall not include losses:

(1) That are the result of poor management decisions or poor farming practices as determined by the county committee on a case-by-case basis;

(2) That are the result of the failure of the producer to re-seed or replant to the same crop in the county where it is customary to re-seed or replant after a loss;

(3) That are not as a result of a natural disaster, unless otherwise specified in § 1480.10;

(4) To crops not intended for harvest in crop year 2002;

(5) To losses of by-products resulting from processing or harvesting a crop, such as cotton seed, peanut shells, wheat or oat straw;

(6) To home gardens;

(7) That are a result of water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected for the containment or release of the water; or

(8) If losses could be attributed to conditions occurring outside of the applicable crop year growing season.

(c) Calculation of benefits under this part for ornamental nursery stock shall not include losses:

(1) Caused by a failure of power supply or brownouts;

(2) Caused by the inability to market nursery stock as a result of quarantine,

boycott, or refusal of a buyer to accept production;

(3) Caused by fire;

(4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock that have not been controlled; or

(5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this part for honey where the honey production by colonies or bees was diminished, shall not include losses:

(1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;

(2) Resulting from improper storage of honey;

(3) To honey production because of bee feeding;

(4) Caused by the application of chemicals;

(5) Caused by theft, fire, or vandalism;

(6) Caused by the movement of bees by the producer or any other person;

(7) Due to disease or pest infestation of the colonies; or

(8) Loss calculations shall take into account other conditions and adjustments provided for in this part.

§ 1480.12 Rates and yields; calculating payments.

(a)(1) Payments made under this part to a producer for a loss on a unit with respect to yield based crops are determined by multiplying the payment rate established for the crop by CCC, times the loss of production which exceeds 35 percent of the expected production, as determined by CCC, of the unit.

(2) Payments made under this part to a producer for a loss on a unit with respect to value based crops are determined by multiplying: the payment rate established for the crop by CCC, times the loss of value which exceeds 35 percent of the expected production value, as determined by CCC, of the unit.

(3) Payments made under this part may be adjusted by CCC to reflect losses due to quality factors adversely affected by a disaster. For FSA loan commodities, production to count may be reduced using the schedule of premiums and discounts for FSA commodity loans. Additional quality loss adjustments may be made for single market crops, using a 20 percent quality loss threshold. The quality loss threshold may be determined by multiplying: 65 percent of the affected quantity, times 65 percent of the result of subtracting: the value of the crop due to the effects of the disaster, as determined by CCC, from the value of the crop if it had not been affected by the disaster, as determined by CCC. Quality adjustments for multiple market crops sold to a lower priced market as a result of poor quality will be determined by using the difference between the average market price for the intended use and the average market price for the actual use, as determined by CCC.

(b) Payment rates for 2001 or 2002 year crop losses shall be:

(1) 50 percent of the maximum established RMA price for insured crops;

(2) 50 percent of the State average price for non-insurable crops; and

(3) 45 percent of the maximum established RMA price for uninsured crops.

(c) Except as provided elsewhere in this part, disaster benefits under this part for losses to crops shall be paid in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(d) Up to three separate payment rates and yields for the same crop may be established by the county committee as authorized by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown.

(e) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

(f) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced.

(g) When calculating a payment for a unit loss:

(1) An unharvested payment factor shall be applied to crop acreage planted but not harvested;

(2) A prevented planting factor shall be applied to any prevented planted acreage eligible for payment; and

(3) Unharvested payment factors may be adjusted if costs normally associated with growing the crop are not incurred.

§ 1480.13 Production losses, producer responsibility.

(a) Where available and determined accurate, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, or if the FSA county committee determines the RMA loss records are inaccurate or incomplete, or if the FSA county committee makes inquiry, producers are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production;

(4) Providing the information in a manner that can be easily understood by the county committee; and

(5) Providing supporting documentation if the county committee has reason to question the disaster event or that all production has been accounted for.

(c) In determining production under this section the producer must supply verifiable or reliable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, production records for these purposes include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

§ 1480.14 Determination of production.

(a) Production under this part shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested as the intended use, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage,

cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by CCC.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use with:

(1) The intended use or uses for disaster purposes based on historical production and acreage evidence provided by the producer; and

(2) The eligible acres for each use and the calculation of the disaster payment will be determined by the county committee according to instructions issued by the Deputy Administrator.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 45 percent of the salvage value received will be deducted from the disaster payment.

(g) If a producer does not receive compensation based upon the quantity of the commodity delivered to a purchaser, but has an agreement or contract for guaranteed payment for production, for purposes of determination the production shall be the greater of the actual production or the guaranteed payment converted to production as determined by CCC.

(h) Production that is commingled between units before it was a matter or combination of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective unit by CCC. Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that:

(1) The producer has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this part, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The producer carries out a practice, such as multiple cropping, that generally results in lower yields than the established historic yields;

(4) The producer has a contract to receive a guaranteed payment for all or a portion of the crop.

(5) A crop is late-planted;

(6) Unharvested acreage was not timely appraised; or

(7) Other appropriate causes exist for such assignment as determined by the Deputy Administrator.

(j) For peanuts, the actual production shall be all peanuts harvested for nuts regardless of their disposition or use as adjusted for low quality.

§ 1480.15 Calculation of acreage for crop losses other than prevented planted.

(a) Acreage shall be calculated using the number of acres shown to have been planted to a crop.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops for 2001 or 2002 CDP if the county committee determines that all of the following conditions are met:

(1) Both the initial and subsequent planted crops were planted with an intent to harvest;

(2) Both the initial and subsequent planted crops were planted within the normal planting period for that crop;

(3) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(4) Each planting could reach maturity if each planting was harvested or would have been harvested.

(c) In cases where there is multiple cropped acreage, each crop may be eligible for disaster assistance separately if both of the following conditions are met:

(1) The specific crops are approved by the State Committee as eligible multiple-cropping practices in accordance with procedures approved by the Deputy Administrator; and

(2) The farm containing the multiple cropped acreage has a history of multiple cropping based on timely filed crop acreage reports.

(d) Producers with multiple cropped acreage not meeting the criteria in paragraph (c) of this section may be eligible for disaster assistance on more than one crop if the producer has verifiable records establishing a history of carrying out a successful multiple cropping practice on the specific crops for which assistance is requested. All required records acceptable to CCC as determined by the Deputy Administrator must be provided before payments are issued.

(e) Producers with multiple cropped acreage not meeting the criteria in paragraphs (c) or (d) of this section must select the crop for which assistance will be requested. If more than one producer has an interest in the multiple cropped acreage, all producers must agree to the crop designated for payment by the end of the application period or no payment will be approved for any crop on the multiple cropped acreage.

(f) Benefits under this part shall apply to irrigated crops where the acreage was affected by a lack of water or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

§ 1480.16 Calculation of prevented planted acreage.

(a) When determining losses under this part, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this part for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this part for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: peppers; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) The producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that:

(1) Prevented other producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Occurred after the previous planting period for the crop.

(3) Unless otherwise approved by the Deputy Administrator, began no earlier than the planting season for that crop.

(e) Prevented planted disaster benefits under this part shall not apply to:

(1) Aquaculture, including ornamental fish; perennial forage crops grown for hay, seed, or grazing; honey;

maple sap; millet; mint; nursery crops; cultivated wild rice; fresh market beans; cabbage, pumpkins, sweet potatoes; winter squash, turfgrass sod, and vine crops;

(2) Uninsured crop acreage that is unclassified for insurance purposes;

(3) Acreage that is used for conservation purposes or intended to be left unplanted under any CCC or USDA program;

(4) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(5) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(6) Acreage for which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(7) Acreage for which the producer or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements;

(8) Acreage for which the producer cannot provide proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of at least producing a normal yield; and

(9) Any other acreage for which, for whatever reason, there is cause to question whether the crop could have been planted for a successful and timely harvest, or for which prevented planting credit is not allowed under the provisions of this part.

(f) Prevented planting payments are not provided on acreage that had either a previous or subsequent crop planted on the acreage, unless the county committee determines that all of the following conditions are met:

(1) There is an established practice of planting two or more crops for harvest on the same acreage in the same crop year;

(2) Both crops could have reached maturity if each planting was harvested or would have been harvested;

(3) Both the initial and subsequent planted crops were planted or prevented-planting within the normal planting period for that crop;

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(5) The specific crops meet the eligibility criteria for a separate crop designation as a repeat or approved multiple cropping practice set out in § 1480.15.

(g)(1) Disaster benefits under this part shall not apply to crops where the prevented-planted acreage was affected by a disaster that was caused by drought unless on the final planting date or the late planting period for non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity because of a prolonged period of dry weather;

(2) Prolonged precipitation deficiencies must be at the D2 level or higher as determined by using the U.S. Drought Monitor; and

(3) Verifiable information collected by sources whose business or purpose to record weather conditions, including but not limited to the local weather reporting stations of the U.S. National Weather Service.

(h) Prevented planting benefits under this part shall apply to irrigated crops where the acreage was prevented from being planted due to a lack of water resulting from drought conditions or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

(i) For uninsured or non-insurable crops and the insured crops listed in paragraph (c) of this section, for prevented planting purposes:

(1) The maximum prevented-planted acreage for all crops cannot exceed the number of acres of cropland in the unit for the crop year and will be reduced by the number of acres planted in the unit;

(2) The maximum prevented planted acreage for a crop cannot exceed the number of acres planted by the producer, or that was prevented from being planted, to the crop in any 1 of the 4 crop years previous to the disaster year as determined by the county committee;

(3) For crops grown under a contract specifying the number of acres contracted, the prevented-planted acreage is limited to the result of the number of acres specified in the contract minus planted acreage;

(4) For each crop type or variety for which separate prices or yields are sought for prevented-planted acreage, the producer must provide evidence that the claimed prevented-planted acres were successfully planted in at least 1 of the most recent 4 crop years; and

(5) The prevented planted acreage must be at least 20 acres or 20 percent of the intended planted acreage in the unit, whichever is less.

(j) Notwithstanding the provisions of part 718 of this chapter, late-filed crop acreage reports for previous years shall not be accepted for CDP purposes.

§ 1480.17 Quantity adjustments for diminished quality for certain crops.

(a) For the crops identified in paragraph (b) of this section, subject to this part, the quantity of production of crops of the producer shall be adjusted to reflect diminished quality resulting from the disaster.

(b) Crops eligible for quality adjustments to production are limited to:

(1) Barley; canola; corn; cotton; crambe, flaxseed; grain sorghum; mustard seed; oats; peanuts; rapeseed; rice; safflower; soybeans; sunflower-oil; sunflower-seed; wheat; and

(2) Crops with multiple market uses such as fresh, processed or juice, as supported by NASS data or other data as CCC determines acceptable.

(3) Single market crops if the COC determines there is sufficient data to establish 5 quality loss levels.

(c) The producer must submit documentation for determining the grade and other discount factors that were applied to the crop.

(d) Quality adjustments will be applied to crops experiencing at least a 20 percent loss after production has been adjusted to standard moisture, when applicable.

(e) For all crops listed in paragraph (b)(1) of this section, except for cotton, if a quality adjustment has been made for multi-peril crop insurance purposes, an additional adjustment will not be made.

(f) Quality adjustments for crops, other than cotton and peanuts listed in paragraph (b)(1) of this section may be made by applying an adjustment factor based on dividing the CCC marketing assistance loan rate applicable to the crop and producer determined according to part 1421 of this chapter by the unadjusted county marketing assistance loan rate for the crop. For crops that receive a grade of ''sample'' and are marketed through normal channels, production will be adjusted as determined by CCC. County committees may, with state committee concurrence, establish county average quality adjustment factors.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 5-year county average historical quality premium or discount, as determined by CCC.

(h) For 2001 quota and non-quota peanuts and 2002 peanuts, quality

adjustments shall be based on the difference between the actual sales price, or other proceeds, received and the National average support price by type of peanut for the applicable crop year.

(i) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for the 2001 or 2002 crop year. These quality adjustments are built into the production loss determination. Production determinations from Federal crop insurance will not be used.

(j) Except as determined by the Deputy Administrator, quality adjustments for aflatoxin shall be based on the aflatoxin level. The producer must provide the county committee with proof of a price reduction because of aflatoxin. The aflatoxin level must be 20 parts per billion or more before a quality adjustment will be made. The quality adjustment factor applied to affected production is .50 if the production is marketable. If the production is unmarketable due to aflatoxin levels of at least 20 parts per billion, production will be adjusted to zero. Any value received will be considered salvage.

(k) Any quantity of the crop determined to be salvage will not be considered production. Salvage values shall be factored by 0.45 times the producer's share. This amount will be deducted from the disaster payment.

(l) Quantity adjustments for diminished quality under this section will not be applied to crops that are, under § 1480.18, value loss crops.

(m) Quantity adjustments for diminished quality shall also not apply under this section to: hay, honey, maple sap, turfgrass sod, crops marketed for a use other than an intended use for which there is not an established county price or yield, or any other crop that the Deputy Administrator deems it appropriate to exclude.

§ 1480.18 Value loss crops.

(a) Irrespective of any inconsistent provisions in other sections, this section shall apply to the following crops, which are considered ''value loss crops'': ornamental nursery; Christmas trees; vegetable and root stock including ginseng root; aquaculture, including ornamental fish, and such other crops as may be determined appropriate for treatment as ''value loss crops''.

(b) For crops specified in paragraph (a) of this section, disaster benefits under this part are calculated based on the loss of value at the time of disaster, as determined by CCC.

(c) For aquaculture, disaster benefits under this part for aquacultural species are limited to those aquacultural species that were placed in the aquacultural facility by the producer. CDP benefits shall not be available for aquacultural species that are growing naturally in the aquaculture facility. Benefits under this part are limited to aquacultural species that were planted or seeded on property owned or leased by the producer where that land has readily identifiable boundaries, and over which the producer has total control of the waterbed and the ground under the waterbed. Producers who only have control of the waterbed or the ground under the waterbed but not both will not be eligible for disaster benefits under this part.

(d) For ornamental nursery crops, disaster benefits under this part are limited to ornamental nursery crops that were grown in a container or controlled environment for commercial sale on property owned or leased by the producer, and cared for and managed using good nursery growing practices. Indigenous crops are not eligible for benefits under this part. Producers who participated in the previous Florida Nursery Program are eligible for either of the following:

(1) 2001 losses that occurred between January 1, 2001 and September 30, 2001.

(2) 2002 losses that occurred between October 1, 2001 and September 30, 2002.

(e) For vegetable and root stock, disaster benefits under this part are limited to plants grown in a container or controlled environment for use as transplants or root stock by the producer for commercial sale on property owned or leased by the producer and managed using good rootstock or fruit and vegetable plant growing practices.

(f) For ginseng, only ginseng that meets all the requirements of cultivated ginseng shall be considered as eligible for benefits under this part. Ginseng is defined as cultivated ginseng roots and seeds that meet the following requirements:

(1) Grown in raised beds above and away from wet and low areas protected from flood;

(2) Grown under man-made canopies that provide 75 to 80 percent shade coverage;

(3) Grown in well drained media with a pH adjustment of at least 5.5 and which protects plants from disease; and

(4) Grown with sufficient fertility and weed control to obtain expected production results of ginseng root and seed.

(g) Evidence of the above ginseng practice requirements must be provided by the producer if requested by the county committee. Any ginseng that is grown under cultivated practices or simulated wild or woodland conditions that do not meet these requirements are not eligible for disaster assistance under this part.

(h) Because ginseng is a perennial crop, the producer must provide annual crop history to establish when the loss occurred and the extent of such loss. If the producer does not or is unable to provide annual records to establish the beginning inventory, before the loss, and ending inventory, after the loss, production shall be assigned by the county committee.

(i) Aside from differences provided for in this section, all other conditions for eligibility contained in this part shall be applied to value loss crops.

§ 1480.19 Other provisions for specialty crops.

(a) For turfgrass sod, disaster benefits under this part are limited to turfgrass sod that would have matured and been harvested during 2001 or 2002, when a disaster caused in excess of 35 percent of the expected production to die.

(b) For honey, disaster benefits under this part are limited to table and non-table honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(c) For maple sap, disaster benefits under this part are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

§ 1480.20 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to disaster payments and must refund all such payments received, plus interest as determined in accordance with part 1403 of this chapter.

(b) A producer shall refund to CCC all disaster payments, plus interest as determined in accordance with part 1403 of this chapter, received by such producer with respect to all contracts if the producer is determined to have knowingly done any of the following.

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

§ 1480.21 Offsets, assignments and debt settlement.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter apply to payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this chapter.

(c) A debt or claim may be settled according to part 1403 of this chapter.

§ 1480.22 Compliance with highly erodible land and wetland conservation provisions.

Part 12 of this title applies to this part.

Signed in Washington, DC, on June 20, 2003.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 03–16161 Filed 6–23–03; 4:13 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710 and 1721

RIN 0572–AB79

Extensions of Payments of Principal and Interest

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulation on extensions of payments of principal and interest, to include a maximum interest rate a RUS Borrower can charge on deferments for programs relating to consumer loans. The maximum interest rate will not be more than 300 basis points above the average interest rate on the note(s) being deferred. This limit would allow the Borrower to offset all or part of the administrative costs involved. In addition, this regulation will set forth the procedure for RUS Borrowers to request a section 12(a) extension for distributed generation projects. These changes are intended to clarify the procedures Borrowers are to follow when requesting extensions of payments of principal and interest.

DATES: This rule will become effective on July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, Rural Utilities Service, Electric Program, Room 4024, South Building, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250–1560. Telephone (202) 205–3660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeals procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the matter of this rule.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0572–0123.

Unfunded Mandates

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

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees are not covered by Executive Order 12372.

Background

On October 8, 2002, at 67 FR 62652, the Rural Utilities Service (RUS) published a proposed rule, 7 CFR parts 1710 and 1721, ''Extensions of Payments of Principal and Interest,'' which proposed to amend its regulation on extensions of payment of principal and interest to include a maximum interest rate a RUS Borrower can charge on deferments for programs relating to consumer loans. The maximum interest rate will not be more than 300 basis points above the average interest rate on the note(s) being deferred. This limit would allow the Borrower to offset all or part of the administrative costs involved. In addition, the proposed rule set forth the procedure for RUS Borrowers to request a section 12(a) extension for distributed generation projects. These changes were intended to clarify the procedures Borrowers are to follow when requesting extensions of payments of principal and interest.

Written comments on the proposed rule were received and they are summarized as follows:

RUS received comments dated December 4, 2002, from the National Rural Electric Cooperative Association (NRECA) and Central Electric Power Cooperative (CEPC), December 6, 2002, from Sandia National Laboratories (Sandia), and December 9, 2002, from Denetsosie Law Office on behalf of the Navajo Tribal Utility Authority (NTUA).

NRECA recommended that RUS amend §§ 1721.101(b) and 1721.106(a) to clarify the language and ensure that it is consistent by removing the reference to principal in the first sentence of these two sections. RUS should also remove the reference to ''level payment'' in § 1721.101(b). These changes would make the language consistent and would help to eliminate questions regarding repayment of deferred payments. RUS agrees with these comments and has made the change to the final rule wording under §§ 1721.101(b) and 1721.106(a).

NRECA, Sandia, and NTUA recommend revising the definition of ''Off-grid renewable energy system'' and NRECA and CEPC recommend revising the definition of ''Renewable energy systems,'' both to be more detailed. RUS is in agreement with these recommendations and has made the changes to the final rule wording under § 1710.2.

In addition, CEPC recommended that RUS give examples of the types of fuel that could qualify as renewable and stated it would also be beneficial to define the term ''Green Power.'' RUS determined that the definition is clearly inclusive of all types of biomass including the examples recommended by CEPC, so no change was made. CEPC also recommended that RUS define Green Power so those organizations that offer Green Power as part of an energy portfolio could do so with certainty regarding acceptable green fuel types to that make a part of their energy mix. RUS did not define the term ''Green Power'' in its definitions. The definition of Green Power would require a new rulemaking. Renewable energy is considered a type of distributed generation. Additional eligibility purposes for renewable energy are included in 7 CFR 1721.104(c).

There was a typographical error in § 1710.2, On-grid renewable energy system, definition. The word ''consumer's'' in the second sentence has been corrected to ''customer's''.

List of Subjects

7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1721

Electric power, Loan programs—energy, Rural areas.

■ For the reasons set forth in the preamble, RUS amends 7 CFR chapter XVII as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

■ 1. The authority citation for part 1710 continues to read:

Authority: 7 U.S.C. 901 *et seq.*; 1921 *et seq.*, and 6941 *et seq.*

Subpart A—General

■ 2. Amend § 1710.2(a) by adding a new definition of ''Distributed generation'' in alphabetical order and by revising the definitions of ''Off-grid renewable energy system,'' ''On-grid renewable energy system,'' and ''Renewable energy system'' as follows:

§ 1710.2 Definitions and rules of construction.

* * * * *

Distributed generation is the generation of electricity by a sufficiently small electric generating system as to allow interconnection of the electric generating system near the point of service at distribution voltages including points on the customer side of the meter. A distributed generating system may be operated in parallel or independent of the electric power system. A distributed generating system may be fueled by any source, including but not limited to renewable energy sources. A distributed generation project may include one or more distributed generation systems.

* * * * *

Off-grid renewable energy system is a renewable energy system not interconnected to an area electric power system (EPS). An off-grid renewable energy system in areas without access to an area EPS may include energy consuming devices and electric wiring to provide for more effective or more efficient use of the electricity produced by the system.

On-grid renewable energy system is a renewable energy system interconnected to an area electric power system (EPS) through a normally open or normally closed device. It can be interconnected to the EPS on either side of a customer's meter.

* * * * *

Renewable energy system is an energy conversion system fueled from any of the following energy sources: Solar, wind, hydropower, biomass, or geothermal. Any of these energy sources may be converted to heat or electricity, provided heat is a by-product of electricity generation. Non-renewable energy sources may be used by a renewable energy system for incidental and necessary means such as, but not limited to, system start up, flame stabilization, continuity of system processes, or reduction of the moisture content of renewable fuels. Energy from bio-mass may be converted from any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, municipal wastes, and other waste materials.

* * * * *

PART 1721—POST LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

■ 3. The authority citation for part 1721 continues to read:

Authority: 7 U.S.C. 901 *et seq.*; 1921 *et seq.*, and 6941 *et seq.*

Subpart B—Extensions of Payments of Principal and Interest

■ 4. Amend § 1721.101 by revising paragraph (b) to read as follows:

§ 172.101 General.

* * * * *

(b) The total amount of interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized over the remaining life of the applicable note beginning in the first year the deferral period ends.

* * * * *

■ 5. Amend § 1721.103 by adding paragraph (c) to read as follows:

§ 1721.103 Policy.

* * * * *

(c) The maximum interest rate a RUS Borrower can charge on deferments for programs relating to consumer loans, *e.g.*, energy resource conservation (ERC) program, contribution-in-aid of construction (CIAC), etc., will not be more than 300 basis points above the average interest rate on the note(s) being deferred. For example, if the RUS Borrower's average interest rate on the note(s) being deferred is 5 percent, the

RUS Borrower can charge a maximum interest rate of 8 percent.

■ 6. Amend § 1721.104 by:

■ A. Revising paragraph (c)(1)(ii);

■ B. Redesignating paragraph (d) as (e); and

■ C. Adding a new paragraph (d).

This revision and addition are to read as follows:

§ 1721.104 Eligible purposes.

* * * * *

(c) * * *

(1) * * *

(ii) Electric power system interfaces;

* * * * *

(d) *Deferments for distributed generation projects.*

(1) A Borrower may request that RUS defer principal payments to enable the Borrower to finance distributed generation projects. Amounts deferred under this program can be used to cover costs to install all or part of a distributed generation system that:

(i) The Borrower will own and operate, or

(ii) The consumer owns, provided the system owned by the consumer does not exceed 5KW.

(2) A distributed generation project may include one or more individual systems.

* * * * *

■ 7. Amend § 1721.105 by redesignating paragraph (d) as (e) and by adding a new paragraph (d) to read as follows:

§ 1721.105 Application documents.

* * * * *

(d) *Deferments for distributed generation projects.* A Borrower requesting principal deferments for distributed generation projects must submit the following information and approval is also subject to any applicable terms and conditions of the Borrower's loan contract, mortgage, or indenture:

(1) A letter from the Borrower's General Manager requesting an extension of principal payments for the purpose of financing distributed generation projects and describing the details of the project, and

(2) A copy of the board resolution establishing the distributed generation projects program.

* * * * *

■ 8. Amend § 1721.106 by revising paragraph (a) and the heading of paragraph (b) to read as follows:

§ 1721.106 Repayment of deferred payments.

(a) *Deferments relating to financial hardship.* The total amount of interest that has been deferred, including interest on deferred principal, will be added to the principal balance, and the total amount of principal and interest that has been deferred will be reamortized over the remaining life of the applicable note beginning in the first year the deferral period ends. For example: the amount of interest deferred in years 2003, 2004, 2005, 2006, and 2007, will be added to the principal balance and reamortized over the life of the applicable note for repayment starting in year 2008.

(b) *Deferments relating to the ERC loan program, renewable energy project(s), distributed generation project(s), and the contribution(s)-in-aid of construction.* * * *

* * * * *

Dated: May 30, 2003.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 03–16041 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 391, 590, and 592

[Docket No. 02–034F]

RIN 0583–AC94

Changes in Fees for Meat, Poultry, and Egg Products Inspection Services—Calendar Year (CY) 2003

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its regulations to change the fees that it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. The Agency is raising the fees for voluntary base time and holiday and overtime inspection services. These increases in fees reflect, among other factors, the national and locality pay raise for Federal employees (4.1 percent increase effective January 2003) and inflation. FSIS is also decreasing the fee for laboratory services because of greater efficiencies realized. The Agency is not changing the annual fee it charges for the Accredited Laboratory Program.

DATES: This final rule is effective on June 29, 2003.

FOR FURTHER INFORMATION CONTACT: For further information concerning policy issues contact Lynn Dickey, Ph.D., Director, Regulations and Directives Development Staff, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700; telephone (202) 720–5627, fax (202) 690–0486.

For information concerning fees, contact Raymond M. Saunders, Director, Budget Division, Office of Management, FSIS, U.S. Department of Agriculture, 2158 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700, (202) 720–3367, fax (202) 690–4155.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) provide for mandatory Federal inspection of livestock and poultry slaughter at official establishments, and meat and poultry processing at official establishments and egg products processing at official plants. FSIS bears the cost of mandatory inspection that occurs during an establishment or plant's regular hours of operation. Establishments and plants pay for inspection services performed on holidays or on an overtime basis.

In addition, under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) (AMA), FSIS provides a range of voluntary inspection, certification, and identification services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products, such as antelope and elk. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

Under the AMA, FSIS also provides certain voluntary laboratory services that establishments and others may request the Agency to perform. Laboratory services are provided for four types of analytic testing: microbiological testing, residue chemistry tests, food composition tests, and pathology testing. FSIS must recover these costs.

Additionally, FSIS conducts an accreditation program for non-Federal analytical laboratories who are qualified under the Accredited Laboratory Program to conduct analyses of official meat and poultry samples. The Food,

Agriculture, Conservation, and Trade Act of 1990, as amended, mandates laboratory accreditation fees that cover the costs of the Accredited Laboratory Program. The same Act mandates annual payment of the fees on the anniversary date of each accreditation.

Every year, FSIS reviews the fees that it charges for providing overtime and holiday inspection services; voluntary inspection, identification, and certification services; and laboratory services. The Agency performs a cost analysis to determine whether the fees that it has established are adequate to recover the costs that it incurs in providing these services. In the Agency's analysis of projected costs for January 12, 2003 to January 10, 2004, the Agency has identified increases in the costs of providing voluntary base time inspection services and overtime and holiday inspection services. FSIS has also identified decreases in the costs of providing laboratory services because of greater efficiencies. The Agency is not changing the annual fee it charges for the Accredited Laboratory Program.

FSIS calculated the new fees for base time and overtime and holiday inspection services by adding the projected increase in salaries and inflation for 2003 to the actual cost of the services in 2002. The national and locality pay raise for Federal employees was a 4.1 percent increase effective January 2003. The Agency calculated inflation to be 2.1% for 2003. Section 10703 of the 2002 Farm bill authorizes the Secretary of Agriculture to set the hourly rate of compensation for FSIS employees exempt from the Fair Labor Standards Act (*i.e.*, veterinarians) working in establishments subject to the FMIA and PPIA at one and one-half times the employee's hourly rate of base pay. FSIS has adjusted the overtime fees to include the costs of time-and-a-half for all in-plant employees doing overtime work. Previously, veterinarians were limited to the time-and-a-half rate paid to employees at grade level GS–10, step 1. Finally, because of improvements in accessing data from the accounting system, the Agency has been able to estimate the employee benefits ascribable to overtime work and include these in the fee calculation. These costs were formerly only included in the base rate.

The previous and new fees are listed by type of service in Table 1.

TABLE 1.—PREVIOUS AND NEW FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE

Service	Previous rate	New rate
Base time	$42.64	$43.64
Overtime & holiday	44.40	50.04
Laboratory	68.32	61.80

The differing proposed fee increase for each type of service is the result of the different amount that it costs FSIS to provide these three types of services. The differences in costs stem from various factors, including different salary levels of the program employees who perform the services. *See* Table 2.

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES

Base time	Amount
Actual CY 2002 cost	$22.54
Pay raise (4.1%)	0.92
Benefits	6.10
Travel, operating & lab costs, & inflation	2.26
Program overhead	4.27
Agency overhead	7.03
Allowance for bad debt	0.52
Total	43.64
Overtime and Holiday Inspection Services:	
Actual CY 2002 cost	30.10
Time & a half for veterinarians	2.73
Pay raise (4.1%)	1.35
Benefits	1.71
Travel, operating & lab costs, & inflation	2.26
Program overhead	4.27
Agency overhead	7.03
Allowance for bad debt	0.60
Adjustment for divisibility into quarter hours	(0.01)
Total	50.04
Laboratory Services:	
FY 2001 hourly salaries & benefits	32.05
Pay raises in 2002 & 2003	2.85
Travel & operating costs for 2002 & 2003	5.72
Program overhead	14.13
Agency overhead	6.32
Allowance for bad debt	0.74
Adjustment for divisibility by quarter hours	(0.01)
Total	61.80

The Agency must recover the actual cost of the services covered by this final rule. These fee increases are essential for the continued sound financial management of the Agency's costs. FSIS announced in its February 26, 2003, proposed rule [68 FR 8858] the fee changes provided for in this final rule. The Agency believes that adequate notice has been given to affected parties. The Administrator has determined that these amendments should be effective less than 30 days after publication in the **Federal Register** in order for FSIS to recover the costs of the services provided and reduce the possibility of monetary loses for the Agency. Therefore, the changes in fees will be effective on June 29, 2003.

Proposed Rule and Comments

FSIS published a proposed rule [68 FR 8858] on February 26, 2003, stating that it was proposing changing fees for inspection services for CY 2003. The Agency provided for a thirty day comment period, ending March 28, 2003. FSIS received two comments on the proposed rule; one from a government employee and one from an industry group.

Comment: The Government commenter said that changes made in the administration of the Accredited Laboratory Program have depleted the surplus of funds in the Accredited Laboratory Program account. Consequently, the Agency should not decrease the amount it charges for the Accredited Laboratory Program.

Response: The Agency agrees with the comment and, therefore, will not amend its regulations to decrease the fee charged Accredited Laboratories.

The industry commenter raised several objections to raising fees for voluntary inspection services.

Comment: Contrary to the Agency's assertion, the increase for overtime and holiday inspection service is well beyond what the industry would anticipate for inflation and wage increases.

Response: The increase in fees result from inflation and greater salary costs that are not dissimilar to industry's. FSIS will now be reimbursing veterinarians a full time and half over their base rate of pay for holiday and overtime. This accounts in part for the size of the increase for overtime and holiday pay. The change in holiday and overtime pay for veterinarians was authorized by the 2002 Farm Bill.

Comment: FSIS has not considered the incremental cost per pound for mandatory overtime and holiday inspection.

Response: FSIS has considered the incremental cost per pound and acknowledges that it will differ from establishment to establishment, depending upon how much overtime and holiday inspection they use, and whether they use voluntary inspection services. This has been discussed in the economic analysis.

Comment: More information is needed to fully assess the economic impact of the proposed increases.

Response: The Agency believes it has presented adequate information to explain the assessment of the economic impact of the fee increases.

Comment: Automatic fee increases for mandatory inspection eliminate any pressure to optimize the use of limited inspection services.

Response: FSIS appropriations do not cover voluntary inspection services or overtime and holiday inspection services. The Agency is required by statute to recover the full cost of voluntary and overtime and holiday inspection services.

Comment: FSIS should fulfill its goal of implementing risk-based inspection and eliminate fees for overtime and holiday inspection.

Response: FSIS is moving toward a more risk-based allocation of inspection resources. However, a risk-based inspection approach does not mean the elimination of holiday and overtime inspection fees. These fees are required by statute.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C.601), on a substantial number of small entities.

Establishments and plants that seek FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services will be less than the incremental expected benefits of additional revenues that they would realize from additional production.

Economic Effects

As a result of the new fees, the Agency expects to collect an estimated $119 million in revenues for 2003, compared to $101 million under the previous fee structure. The costs that industry will experience by the raise in fees are similar to other increases that the industry faces because of inflation and wage increases.

The total volume of meat and poultry slaughtered under Federal inspection in 2001 was about 83 billion pounds (Livestock, Dairy, Meat, and Poultry Outlook Report, Economic Research Service, USDA, August 15, 2002). The total volume of U.S. egg product production in 2001 was about 2.319 billion pounds (2002 Agriculture Statistics, USDA). The increase in cost per pound of product associated with the new fees increases is, in general, $.0002. Even in competitive industries like meat, poultry, and egg products, this amount of increase in costs would have an insignificant impact on profits and prices.

The industry is likely to pass through a significant portion of the new fee increases to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to reduce demand significantly for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Huang, Kao S., A Complete System of U.S. Demand for Food. USDA/ERS Technical Bulletin No 1821, 1993, p.24). Because of the inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share in response to an increase in inspection fees.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule: (1) preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.300 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA, PPIA, or EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience than would otherwise be possible.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

List of Subjects

9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

9 CFR Part 590

Eggs and egg products, Exports, Food labeling, Imports.

9 CFR Part 592

Eggs and egg products, Exports, Food labeling, Imports.

■ For the reasons set forth in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY ACCREDITATION

■ 1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 *et. seq.;* 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

■ 2. Sections 391.2, 391.3, and 391.4, are revised to read as follows:

Sec.

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 is $43.64 per hour per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant

to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 is $50.04 per hour per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 is $61.80 per hour per program employee.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

■ 3. The authority citation for Part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

■ 4. Section 590.126 is revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $50.04.

■ 5. In § 590.128, paragraph (a) is revised to read as follows:

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $50.04.

PART 592—VOLUNTARY INSPECTION OF EGG PRODUCTS

■ 6. The authority citation for Part 592 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 7. Sections 592.2, 592.3, and 592.4 are revised to read as follows:

Sec.
592.2 Base time rate.
592.3 Overtime rate.
592.4 Holiday rate.
592.2 Base time rate.

The base time rate for voluntary inspection services of egg products is $43.64 per hour per program employee.

§ 592.3 Overtime rate.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $50.04.

§ 592.4 Holiday rate.

When an official plant requires voluntary inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $50.04.

Done at Washington, DC on: June 23, 2003.

Garry L. McKee,

Administrator.

[FR Doc. 03–16167 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1150]

Availability of Funds and Collection of Checks; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: The Board of Governors is correcting the supplementary information that it provided in connection with a final rule updating the routing numbers for Federal Reserve Banks and Federal Home Loan Banks, which was published in the **Federal Register** of May 28, 2003.

DATES: The final rule is effective July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Adrianne G. Threatt, Counsel, 202–452–3554, Legal Division. For users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869.

SUPPLEMENTARY INFORMATION: The Board published a final rule in the **Federal Register** of May 28, 2003, that amended the Federal Reserve Bank and Federal Home Loan Bank routing information listed in appendix A of Regulation CC, effective July 28, 2003. The supplementary information for this final rule also included detailed information about an upcoming series of amendments to appendix A that will reflect the transfer of check processing activities within the Federal Reserve system. The Board specifically described which routing symbols in appendix A would be affected by the upcoming restructuring, indicating both the current office to which each affected routing symbol is assigned and the office to which it will be assigned after the restructuring. Inadvertently, the Board omitted from this supplementary information two routing symbols that will be transferred from the Richmond head office to the Baltimore branch. This document corrects the error by adding the two previously omitted routing symbols, 0514 and 2514, to the Baltimore branch routing symbol list in the supplementary information.

In the final rule, FR Doc. 03–13030 (68 FR 31592 (May 28, 2003)), make the following corrections in the **SUPPLEMENTARY INFORMATION** section. On page 31595, in the first column, replace routing symbol list 3. with the following:

3. Baltimore.

The operations of the Richmond head office will be transferred such that banks with the following Federal Reserve routing symbols will be local to the Baltimore branch:

0510	2510
0514	2514
0520	2520
0521	2521
0522	2522
0540	2540
0550	2550
0560	2560
0570	2570

By order of the Board of Governors of the Federal Reserve System, June 19, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–16051 Filed 6–25–03; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–26–AD; Amendment 39–13198; AD 2003–12–13]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for

Agusta S.p.A (Agusta) Model A109K2 helicopters. This action requires a visual check of each tail rotor blade (blade) for a crack; a visual inspection of each blade for a crack at specified intervals; and if necessary, a dye-penetrant inspection. Replacing any cracked blade with an airworthy blade before further flight is also required. This amendment is prompted by a report of a crack that occurred on an Agusta Model A109K2 blade. The actions specified in this AD are intended to detect fatigue cracks on the blades, which could result in loss of the blades and loss of control of the helicopter.

DATES: Effective July 11, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 2003.

Comments for inclusion in the Rules Docket must be received on or before August 25, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–26–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta A 109K2 helicopters. ENAC advises that checks/inspections are required to verify the presence of cracks on the blades, part number (P/N) 109–8132–01–107.

Agusta has issued Alert Bollettino Tecnico No. 109K–35, dated May 13, 2003 (ABT), which specifies checks/inspections to verify the possible presence of cracks on the upper and lower surfaces of blades having accumulated 1,500 or more operating hours. ENAC classified this ABT as mandatory and issued AD N.2003–169, dated May 16, 2003, to ensure the continued airworthiness of these helicopters in Italy.

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

This unsafe condition is likely to exist or develop on other Agusta Model A109K2 helicopters of the same type design registered in the United States. Therefore, this AD is being issued to detect fatigue cracks on the blades, which could result in loss of the blades and loss of control of the helicopter. This AD requires:

- Visually checking the upper and lower surfaces of the blades for cracks prior to each start of the helicopter engines.
- Visually inspecting the blades using a 5x or higher magnifying glass before the first flight of each day, and thereafter at intervals not to exceed 5 hours time-in-service (TIS), and anytime an increase in vibration levels occurs.
- Inspecting the blades using a dye-penetrant method after each of the visual inspections in which you used a 5x or higher magnifying glass if you are unable to determine by the visual inspection whether there is a crack.
- Replacing any cracked blade with an airworthy blade before further flight. The actions must be done in accordance with the ABT described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, the visual checks, visual inspections, dye-penetrant inspections, if necessary, and replacing any cracked blade are required before further flight or within 5 hours TIS, as indicated, and this AD must be issued immediately.

The visual check required by paragraph (a) of this AD may be performed by an owner/operator (pilot) holding at least a private pilot certificate, but must be entered into the aircraft records showing compliance in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). This AD allows a pilot to perform this check because it involves only a visual check for a crack in a surface of the blade, and can be performed equally well by a pilot or a mechanic.

The unsafe condition described previously is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, this AD is being issued to detect a fatigue crack on the blades, which could result in loss of the blades and loss of control of the helicopter.

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD.

The FAA estimates that this AD will affect 5 helicopters, and the inspections and replacement will take approximately 2.5 work hours to accomplish at an average labor rate of $60 per work hour. Required parts will cost approximately $20,000 per helicopter. Based on these figures, the total estimated cost impact of the AD on U.S. operators is $100,750, assuming all blades are replaced one time.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this

rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–26–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–12–13 Agusta S.p.A.: Amendment 39–13198. Docket No. 2003–SW–26–AD.

Applicability: Model A109K2 helicopters with tail rotor blades (blades), part number (P/N) 109–8132–01–107, having 1,500 or more hours time-in-service (TIS), installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect a fatigue crack on the blades, which could result in loss of the blades and loss of control of the helicopter, accomplish the following:

(a) Before each start of the helicopter engines, visually check the upper and lower surfaces of each blade for a crack in the area depicted in Figure 1 of this AD. An owner/operator (pilot) holding at least a private pilot certificate may perform this check, but must enter compliance with this paragraph into the aircraft records in accordance with 14 CFR sections 43.11 and 91.417(a)(2)(v). See Figure 1:

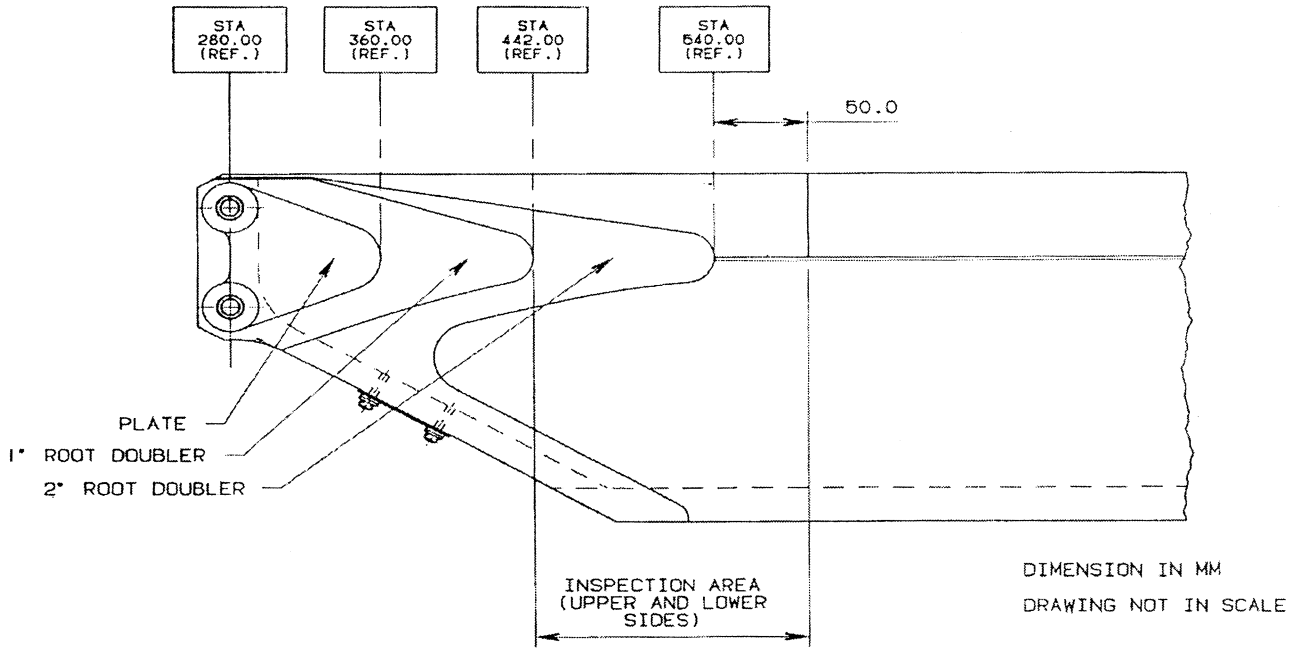

FIGURE 1

Note 1: Paint irregularities on the blade may be due to a crack.

(b) Before the first flight of each day, and thereafter at intervals not to exceed 5 hours TIS, and anytime an increase in vibration levels occurs, inspect each blade for a crack using a 5x or higher magnifying glass in accordance with Part II of the Compliance Instructions of Alert Bollettino Tecnico No. 109K–35, dated May 13, 2003 (ABT) and Figure 1 of this AD.

(c) After each visual inspection using a 5x or higher magnifying glass and before further flight, if you are unable to determine by the visual inspection whether there is a crack, inspect each blade for a crack using a dye-penetrant method in accordance with Part II of the Compliance Instructions of the ABT and Figure 1 of this AD.

(d) If a crack is found, replace each cracked blade with an airworthy blade before further flight.

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(f) Special flight permits will not be issued.

(g) The inspections and replacements, if necessary, shall be done in accordance with Agusta Alert Bollettino Tecnico No. 109K–35, dated May 13, 2003, except reporting findings of cracks to Agusta Service Engineering is not required. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on July 11, 2003.

Note 2: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD N.2003–169, dated May 16, 2003.

Issued in Fort Worth, Texas, on June 11, 2003.

Jerald E. Strentz,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–15447 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–ANE–40–AD; Amendment 39–13212; AD 97–18–02R1]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. ( )HC–( )(2,3)(X,V)( )–( ) Series and HA–A2V20–1B Series Propellers with Aluminum Blades

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), that is applicable to Hartzell Propeller Inc. ( )HC–( )(2,3)(X,V)( )–( ) series and HA–A2V20–1B series propellers with aluminum blades. That AD currently requires initial and repetitive dye penetrant and eddy current inspections of the blade and an optical comparator inspection of the blade retention area, and, if necessary, replacement with serviceable parts. In addition, that AD currently requires initial and repetitive visual and magnetic particle inspection of the blade clamp, dye penetrant inspection of the blade internal bearing bore, and, if necessary, replacement with serviceable parts. Also, for all HC–(1,4,5,8)(2,3)(X,V)( )–( ) steel hub propellers, that AD currently requires an additional initial and repetitive visual and magnetic particle inspection of the hub, and, if necessary, replacement with serviceable parts. This amendment revises that AD by permitting the replacement of affected propellers with Hartzell Propeller Inc. model ''MV'' series propellers as an optional terminating action for the initial and repetitive inspections of that AD. This amendment is prompted by type certification approval of the Hartzell ''MV'' series propellers that are direct replacements for the affected propellers, and service bulletin approval to allow modification of affected propellers to the ''MV'' type design configuration. The actions specified by this AD are intended to prevent blade separation due to cracked blades, hubs, or blade clamps, which can result in loss of control of the airplane.

DATES: Effective July 31, 2003. The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of September 11, 1997 (62 FR 45309).

ADDRESSES: The service information referenced in this AD may be obtained from Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (937) 778–4200; fax (937) 778–4321. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7031; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 97–18–02, Amendment 39–10112 (62 FR 45309, August 27, 1997), which is applicable to Hartzell Propeller Inc. ( )HC–( )(2,3)(X,V)( )–( ) series and HA–A2V20–1B series propellers with aluminum blades was published in the **Federal Register** on January 2, 2003 (68 FR 71). That action proposed to revise AD 97–18–02 by introducing as an optional terminating action for the initial and repetitive inspections of that AD, replacement of affected propellers with Hartzell Propeller Inc. model ''MV'' series propellers.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–10112 (62 FR 45309, August 27, 1997) and by adding a new airworthiness directive, Amendment 39–XXXXX, to read as follows:

97–18–02R1 Hartzell Propeller Inc.: Amendment 39–13212. Docket No. 96–ANE–40–AD. Revises AD 97–18–02, Amendment 39–10112

Applicability: This airworthiness directive (AD) is applicable to Hartzell Propeller Inc. ( )HC–( )(2,3)(X,V)( )–( ) series and HA–A2V20–1B series propellers with aluminum blades. These propellers are installed on but not limited to the aircraft listed in the following Table 1:

TABLE 1.–AFFECTED AIRCRAFT

Manufacturer	Aircraft model
Aero Commander (Twin Commander).	500; 500A; 500B, 500S, and 500U; 520; 560; 560A, 560E; 680, 680E, 720; 680F, 680FP, 680FL, 680FLR; B1 (CALLAIR).
Aeromere	FALCO F.8.L.
Aeronautica Macchi	AL60–F5; AM–3.
Bauger	SAIL PLANE.
Beech	35 SERIES BONANZA; 35–C33 DEBONAIR; 35–C33A, E33A, F33A; 50 SERIES TWIN BONANZA; 58P, 58TC BARON; 95–55, 95–A55, 95–B55 BARON; 65, A65, 65–(B)80, 65–A80, A65–8200, 70.
Bellanca	14–13; 14–19; 14–19–2; 14–19–3; 7GCA, 7GCB, 7GCC; DW–1 EAGLE.
Camair	480.
Cessna	170; 170A; 172 SKYHAWK; 175; 180, A, B, C, D, E, F, G, H; 182, A, B, C, D, E, G, H, J, K, L, M; 210, A, B, C, 5, 5A; 310, A, B, C, D, E, F, G, H, E310H; 320, 320–1 SKYKNIGHT; 320A, 320B; 402 BUSINESSLINER; 411; WREN 460; WREN 460H, J, K, L, M.
deHavilland	DH104 DOVE; DH114 HERON.
Dornier	DO27Q–6; DO28A–1; DO28B–1.
Fuji	T–3, LM–2.
GAF—Gov't. Aircraft Factories	N22B, N24A, N22S, N22C.
Goodyear	(Loral); GA22A GOODYEAR BLIMP; GZ19, 19A GOODYEAR BLIMP.
Great Lakes	2T–1A–2.
Grumman	G44, G44A WIDGEON; G21C, D GOOSE.
Helio	H–391 COURIER; H–391B COURIER; H–395A COURIER.
Luscombe	11; 11A.
Mooney	M20.
Multitech (Temco)	D16 TWIN NAVION; D16A TWIN NAVION.
Nardi	FN–333.
Navion	NAVION B; NAVION, NAVION A.
Pacific Aerospace (Fletcher)	FU–24, FU–24A.
Piaggio	P–149D; P136–L1 ROYAL GULL; P136–L2 ROYAL GULL; P149D; P166 ROYAL GULL.
Pilatus	PC–3; PC–6; PC–6–H1, -H2 PORTER.
Piper	PA–E23–250 AZTEC; PA14 FAMILY CRUISER; PA18(A)(S)–150 SUPER CUB; PA18A–150 SUPER CUB; PA22–150, PA22S–150 TRIPACER; PA23 SERIES APACHE; PA23–160 APACHE; PA23–235 AZTEC; PA23–250 AZTEC; PA24–250 COMANCHE; PA24–400 COMANCHE; PA24S COMANCHE; PA28 CHEROKEE; PA28–140 CHEROKEE.
Prop Jets Inc.	200; 200A,B,C.
Republic (STOL Amphibian)	RC3 SEABEE.
Scottish Aviation (BAE)	B.206 SERIES 2 BEAGLE.
Stinson	L–5; 108, –1, –2, –3; 108–2–3.
Sud Aviation (SOCATA)	GY.80–150 GARDAN; GY.80–160 GARDAN HORIZON.
Swift	GC–1B.
Taylorcraft	20.
Texas Bullet	205.
Windecker	EAGLE.

Note 1: The above is not a complete list of aircraft which may contain the affected Hartzell Propeller Inc. ( )HC–( )(2,3)(X,V)( )–( ) series and HA–A2V20–1B series propellers with aluminum blades because of installation approvals made by, for example, Supplemental Type Certificate or field approval under FAA Form 337 ''Major Repair and Alteration.'' It is the responsibility of the owner, operator, and person returning the aircraft to service to determine if an aircraft has an affected propeller.

Note 2: The parentheses that appear in the propeller models indicate the presence or absence of additional letter(s) which vary the basic propeller hub model designation. This airworthiness directive is applicable regardless of whether these letters are present or absent on the propeller hub model designation.

Note 3: This AD applies to each propeller 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 propellers 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 (h) 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: Compliance with this AD is required as indicated, unless already done.

To prevent blade separation due to cracked blades, hubs, or blade clamps, which can result in loss of control of the airplane, accomplish the following:

Hartzell Propeller Models With Hub Models ( )HC–(1,4,5,8)(2,3)(X,V)( )–( )

(a) On Hartzell propeller models with hub models ( )HC–(1,4,5,8)(2,3)(X,V)( )–( ) perform initial and repetitive inspections and, if necessary, replace with serviceable parts in accordance with Hartzell Propeller Inc. Service Bulletin (SB) No. HC–SB–61–217, Revision 1, dated July 11, 1997, as follows:

(1) Initially perform a fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, a dye penetrant inspection of the blade internal bearing bore, and a visual and magnetic particle inspection of the blade clamp and of the hub. The initial inspection is required within the following:

(i) 1,000 hours time-since-new (TSN) for propellers with less than 900 hours TSN on September 11, 1997, provided that the initial inspections are performed within 60 calendar months TSN or 24 calendar months after

September 11, 1997, whichever calendar time occurs later, or

(ii) 100 hours time in service (TIS) for propellers with 900 or more hours TSN, or unknown TSN, on September 11, 1997, provided that the initial inspections are performed within 24 calendar months after September 11, 1997.

(2) Thereafter, perform repetitive fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, and a visual and magnetic particle inspection of the blade clamp. The repetitive inspection is required at intervals not to exceed 500 hours TIS or 60 calendar months, whichever occurs first, since last inspection.

(3) Thereafter, perform a repetitive visual and magnetic particle inspection of the hub. This repetitive hub inspection is required at intervals not to exceed 250 hours TIS or 60 calendar months, whichever occurs first, since last inspection.

(4) Thereafter, perform repetitive dye penetrant inspections of the blade internal bearing bore. This repetitive blade internal bearing bore inspection is required at intervals not to exceed 60 calendar months since last inspection.

Hartzell Propeller Models With Hub Models ( )HC–(A,D)(2,3)(X,V)( )–( ), and HA–A2V20–1B, Except HC–A3VF–7( )

(b) On Hartzell propeller models With hub models ( )HC–(A,D)(2,3)(X,V)( )–( ), and HA–A2V20–1B, except HC–A3VF–7( ), perform initial and repetitive inspections and, if necessary, replace with serviceable parts in accordance with Hartzell SB No. HC–SB–61–217, Revision 1, dated July 11, 1997, as follows:

(1) Initially perform a fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, a visual and magnetic particle inspection of the blade clamp, and a dye penetrant inspection of the blade internal bearing bore. The initial inspection is required within the following:

(i) 1,000 hours TSN for propellers with less than 800 hours TSN on September 11, 1997, provided that the initial inspections are performed within 60 calendar months TSN or 24 calendar months after September 11, 1997, whichever calendar time occurs later; or

(ii) 200 hours TIS for propellers with 800 or more hours TSN, or unknown TSN, on September 11, 1997, provided that the initial inspections are performed within 24 calendar months after September 11, 1997.

(2) Thereafter, perform repetitive fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, and a visual and magnetic particle inspection of the blade clamp. The repetitive inspection is required at intervals not to exceed 500 hours TIS or 60 calendar months, whichever occurs first, since last inspection.

(3) Thereafter, perform repetitive dye penetrant inspections of the blade internal bearing bore. This repetitive blade internal bearing bore inspection is required at intervals not to exceed 60 calendar months since last inspection.

Hartzell Propeller Models with Hub Models HC–A3VF–7( )

(c) On Hartzell propeller models with hub models HC–A3VF–7( ), perform initial and repetitive inspections and, if necessary, replace with serviceable parts in accordance with Hartzell SB No. HC–SB–61–217, Revision 1, dated July 11, 1997, as follows:

(1) Initially perform a fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, a visual and magnetic particle inspection of the blade clamp, and a dye penetrant inspection of the blade internal bearing bore. The initial inspection is required within the following:

(i) 3,000 hours TSN for propellers that have never been overhauled and have less than 2,500 hours TSN on September 11, 1997, provided that the initial inspections are performed within 60 calendar months TSN or 24 calendar months after September 11, 1997, whichever calendar time occurs later, or

(ii) 3,000 hours TIS since last overhaul for propellers that have been overhauled but have less than 2,500 hours TIS since last overhaul on September 11, 1997, provided that the initial inspections are performed within 60 calendar months TIS since last overhaul or 24 calendar months after September 11, 1997, whichever calendar time occurs later, or

(iii) 500 hours TIS, for propellers that have never been overhauled and have 2,500 or more hours TSN on September 11, 1997, or propellers which have been overhauled and have 2,500 or more hours TIS since last overhaul on September 11, 1997, or propellers with unknown TSN, provided that the initial inspections were performed within 24 calendar months after September 11, 1997.

(2) Thereafter, perform repetitive fluorescent dye penetrant and eddy current inspection of the blade, an optical comparator inspection of the blade retention area, and a visual and magnetic particle inspection of the blade clamp. The repetitive inspection is required at intervals not to exceed 3,000 hours TIS or 60 calendar months, whichever occurs first, since last inspection.

(3) Thereafter, perform repetitive dye penetrant inspections of the blade internal bearing bore. This repetitive blade internal bearing bore inspection is required at intervals not to exceed 60 calendar months since last inspection.

(d) The initial inspection of the internal blade bearing bore required by paragraph (a)(1), (b)(1), or (c)(1) of this AD need not be done again if previously done in accordance with page 4 of Hartzell SB No. HC–SB–61–217, Revision 1, dated July 11, 1997.

(e) If not previously done, shot peen the propeller blade shank area during the initial inspection required by paragraph (a)(1), (b)(1), or (c)(1) of this AD, as appropriate, and perform the shot peening in accordance with Hartzell SB No. HC–SB–61–217, Revision 1, dated July 11, 1997. Re-shot peening of the propeller blade shank area during the initial or repetitive inspections required by paragraph (a)(1), (b)(1), or (c)(1) or (a)(2), (b)(2), or (c)(2) of this AD, as appropriate, is required only if the propeller blade shank area has been repaired or has excessive wear or damage in accordance with Hartzell SB No. HC–SB–61–217, Revision 1, dated July 11, 1997.

Reporting Requirements

(f) Report inspection results to the Manager, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018, within 15 working days of the inspection. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Optional Terminating Action

(g) Replacement of affected propellers with, or modification to Hartzell Propeller Inc. model ''MV'' series propellers constitutes terminating action for the initial and repetitive inspections specified in paragraphs (a) through (e) of this AD. The Hartzell ''MV'' series of propellers were certified as Hartzell propeller models ( )HC–( )(2,3)MV( )–( ) and HA–A2MV20–1. Information on modifying the propellers may be found in Hartzell SB No.'s HC–SB–61–232, dated March 20, 1998, and HC–SB–61–233, dated April 17, 1998.

Alternative Methods of Compliance

(h) 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, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office. Compliance with Hartzell SB No. HC–SB–61–217, Revision 2, dated October 7, 1999, is an alternative method of compliance to Hartzell SB No. HC–SB–61–217, Revision 1.

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(j) The inspections and replacements with serviceable parts must be done in accordance with Hartzell Propeller Inc. SB No. HC–SB–61–217, Revision 1, dated July 11, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of September 11, 1997 (62 FR 45309). Copies may be obtained from Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (937) 778–4200, fax (937) 778–4321. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the

Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(k) This amendment becomes effective on July 31, 2003.

Issued in Burlington, Massachusetts, on June 19, 2003.

Robert G. Mann,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–15991 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. FAA–01–ANM–16]

Establishment of Class E Airspace at Richfield Municipal Airport, Richfield, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action changes the effective date for the establishment of the Class E Airspace at Richfield Municipal Airport, Richfield, UT, to allow sufficient time for airspace charting and publication to coincide with the public's access to recently developed Area Navigation (RNAV)/ Global Positioning (GPS) Standard Terminal Arrival Routes (STARs) and Departure Procedures (DPs).

EFFECTIVE DATE: 0900 UTC, September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, ANM–520.7; telephone (425) 227–2527; Federal Aviation Administration, Docket Number 01–ANM–16, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

The Rule

Airspace Docket 01–ANM–16, published on May 7, 2003 (68 FR 24341), established Class E Airspace at Richfield Municipal Airport, Richfield, UT effective date of May 7, 2003. This action changes the effective date to September 4, 2003, to allow sufficient time for airspace charting and publication to coincide with public access to the RNAV procedures at Richfield Municipal Airport, Richfield, UT.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Correction to Final Rule

The effective date on Airspace Docket No. 01–ANM–16 is hereby corrected to September 4, 2003.

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Seattle, Washington, on June 16, 2003.

ViAnne Fowler,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 03–16226 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 78N–036D]

RIN 0910–AA01

Antidiarrheal Drug Products for Over-the-Counter Human Use; Final Monograph; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of April 17, 2003 (68 FR 18869). That document issued a final monograph that established conditions under which over-the-counter (OTC) antidiarrheal drug products (to control the symptoms of diarrhea) are generally recognized as safe and effective and not misbranded as part of its ongoing review of OTC drug products. The document published with an inadvertent error. This document corrects that error.

DATES: The rule is effective April 19, 2004.

FOR FURTHER INFORMATION CONTACT: Mary S. Robinson or Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–9380, appearing on page 18869 in the **Federal Register** of Thursday, April 17, 2003, the following correction is made:

§ 310.545 [Corrected]

On page 18881, in the first column, in § 310.545 *Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses*, in paragraph (d)(1), in line 8, ''(a)(18)(i)(A) of this section'' is corrected to read ''(a)(18) of this section (except as covered by paragraph (d)(22) of this section).''

Dated: June 19, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16111 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 41

RIN 1400–AB23

[Public Notice 4386]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Victims of Severe Forms of Trafficking in Persons

AGENCY: Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Department's regulations concerning nonimmigrant visa issuance by adding a new visa category (T). The amendment is necessary to implement section 107(e) of the Trafficking Victims Protection Act of 2000 that grants T nonimmigrant status to certain victims of severe forms of trafficking in persons, and in circumstances involving extreme hardship, to their immediate relatives.

DATES: *Effective Date:* The effective date of this regulation is August 25, 2003.

Comment Date: Written comments must be received on or before August 25, 2003.

ADDRESSES: Please submit written comments to Chief, Legislation and Regulations Division, Visa Services, Department of State 20522–0106 or by e-mail to *VisaRegs@state.gov*, or fax to (202) 663–3898.

FOR FURTHER INFORMATION CONTACT: Pam Chavez, Legislation and Regulations Division, Visa Services, U.S. Department of State, Washington, DC 20522–0106, 202–663–1206.

SUPPLEMENTARY INFORMATION:

What Is the Legislative Background of the T Visa?

Section 107 of Public Law 106–386 (October 28, 2000), the Trafficking Victims Protection Act of 2000 (TVPA), created a new nonimmigrant classification (T) for aliens (and in certain instances, their immediate family members) whom the Secretary for Homeland Security has determined are victims of a ''severe form of

trafficking in persons''. The TVPA in section 103(8) defines a ''severe form of trafficking in persons'' as either: (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Family members of victims may also be granted T status if the Secretary for Homeland Security has determined that granting such status would avoid extreme hardship. Because under the TVPA principal applicants for T status must be in the United States, American Samoa or the Commonwealth of Mariana Islands, or at a port of entry thereto, consular officers will not be issuing visas to principal (T1) aliens. Therefore, this rule only concerns visa issuance to derivative family members (T2, T3 or T4).

Who Qualifies for a ''T1'' Visa?

The Department of Justice regulation published January 31, 2002 [67 FR 4784] describes in detail how an alien can qualify for T1 status under 101(a)(15)(T) of the Immigration and Nationality Act (INA), as added by the TVPA. In addition to meeting the definition of ''victim'', an alien whom the Secretary for Homeland Security has identified as a ''victim'' must also be: (1) Physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or a port of entry thereto on account of trafficking in such persons; (2) if 15 years of age or older, must have complied with any reasonable request for assistance to law enforcement in the investigation or prosecution of acts of trafficking; and (3) must be likely to suffer extreme hardship involving unusual and severe harm upon removal.

Does T Nonimmigrant Status Apply to Relatives?

An alien granted T1 status may also seek derivative status for certain family members who are accompanying or following to join the alien if he or she can demonstrate that the removal of those family members from the United States (or failure to admit the family members to the United States) would result in extreme hardship. In such cases, the Secretary for Homeland Security may, if it is necessary to avoid extreme hardship, permit the spouse, children and, if the principal alien is under age 21, parents to accompany or follow to join the principal alien.

What Is the Validity of A T2, T3 or T4 Visa?

A T2, T3, or T4 visa may be issued for a maximum period of three years to run concurrently with the validity period of the T1. The derivative's status cannot be issued for a period that extends beyond the validity period of the principal's T1 status.

Are T Visa Applicants Subject to the Grounds of Ineligibility Under the INA?

T visa applicants are subject to all grounds of inadmissibility under INA 212(a). An alien found inadmissible under INA 212(a) may not be granted T nonimmigrant status unless the ground of inadmissibility is waived under either INA 212(d)(3) or INA 212(d)(13). Additionally, the TVPA creates a new ground of inadmissibility, INA 214(n), if there is substantial reason to believe that the alien has committed a severe form of trafficking in persons. Inadmissibility under INA 214(n) may not be waived.

Regulatory Analysis and Notices

Administrative Procedure Act

The publication of this rule as an interim rule is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). Publication of this regulation as an interim rule will expedite implementation of TVPA, which took effect on October 28, 2000. The expeditious promulgation of these regulations provides for protection and assistance to victims of severe forms of trafficking in persons and their close family members, and delay in issuing these regulations would be contrary to the public interest.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

■ In view of the foregoing, the Department amends 22 CFR as follows:

PART 41—[AMENDED]

■ 1. The authority citation for part 41 continues to read as follows: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801.

■ 2. Part 41 is amended by adding a new section 41.84 to read as follows:

§ 41.84 Victims of trafficking in persons.

(a) *Eligibility.* An alien may be classifiable as a parent, spouse or child under INA 101(a)(15)(T)(ii) if:

(1) The consular officer is satisfied that the alien has the required relationship to an alien who has been granted status by the Secretary for Homeland Security under INA 101(a)(15)(T)(i);

(2) The consular officer is satisfied that the alien is otherwise admissible under the immigration laws of the United States; and

(3) The consular officer has received an INS-approved I–914, Supplement A, evidencing that the alien is the spouse, child, or parent of an alien who has been granted status under INA 101(a)(15)(T)(i).

(b) *Visa validity.* A qualifying family member may apply for a nonimmigrant visa under INA(a)(15)(T)(ii) only during the period in which the principal applicant is in status under INA 101(a)(15)(T)(i). Any visa issued pursuant to such application shall be valid only for a period of three years or until the expiration of the principal alien's status as an alien classified under INA 101(a)(15)(T)(i), whichever is shorter.

Dated: April 18, 2003.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 03–16194 Filed 6–25–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. FHWA–2001–11819]

RIN 2125–AE94

Designation of Dromedary Equipped Truck Tractor-Semitrailers as Specialized Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA amends its regulation on truck size and weight to include within the definition of ''specialized equipment'' dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense (DoD) in compliance with the U.S. DOT's Hazardous Material Regulations. This change is necessary because shipping these non-compatible explosives in the same vehicle combination, where one part of the cargo may be separately carried in the dromedary unit, reduces the number of vehicles needed to transport munitions, increases military readiness, and reduces the number of vehicles on the road. This inclusion will allow the DOD, specifically the Department of the Army (DA) to expedite the movement of munitions for the military, especially in times of national emergency.

EFFECTIVE DATE: July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Forjan, Office of Freight Management and Operations (202) 366–6817, or Mr. Raymond W. Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

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

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

Background

On June 22, 2001, the FHWA received a petition from the U.S. Department of the Army (DA) to amend 23 CFR 658.13 to include as ''specialized equipment'' dromedary-equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives [1] for the DOD in compliance with the U.S. DOT's hazardous material regulations found at 49 CFR 177.835. A copy of the petition was included in FHWA Docket No. FHWA–2002–11819. The motivation for the petition and a summary of events leading up to its submission, was provided in a notice of proposed rulemaking (NPRM) published on October 23, 2002 (67 FR 65056).

In response to the Army's request, we proposed to amend our regulation on truck size and weight to address the issue of dromedary equipped truck tractors for munitions carriage by providing a specialized equipment designation for the combination vehicle in question. Specificially, we proposed that a truck tractor equipped with a dromedary unit operating in combination with a semitrailer was proposed to be designated ''specialized equipment,'' when transporting Class 1 explosives, and/or any munitions related security material, as specified by the DOD in compliance with 49 CFR 177.835. This designation would require States to allow operation of this combination on the National Network (NN), and provide reasonable access between the NN and service facilities and terminals. In order to accommodate the typical equipment in use today for this type of operation, the proposal included a requirement that all States allow these combinations up to an overall length of 75 feet.

This designation would apply only to dromedary-equipped truck tractor-semitrailer combination vehicles directly used in carrying munitions for the DOD. When operating empty, while returning from a delivery, the designation would continue to apply if the carrier can document that hauling munitions is the company's business, or that the most recent load consisted of a qualifying munitions or sensitive load. The designation would not apply if any other cargo were being carried in either the semitrailer or dromedary unit. For those instances, the combination would no longer be considered ''specialized equipment,'' and would become subject to State regulations for drom equipped truck truck-semitrailers.

Analyses of Comments

We received eight sets of comments to the docket. Of the eight commenters, we received four from motor carriers, (Tri State Motor Transit Company (TSMT), Landstar System, Carrier Group), Extreme Transportation Inc., and Baggett Transportation Company; two from States, (Connecticut and Missouri); Military Traffic Management Command (MTMC), and the American Trucking Association (ATA). For the most part, all comments were in favor of the proposed change.

The State of Connecticut stated in its response to the proposal that ''dromedary equipped truck tractor-semitrailers having an overall length not to exceed 75 feet may legally operate in the State of Connecticut and adding

[1] As defined in 49 CFR 173.50. As noted in 49 CFR 173.53, prior to January 1, 1991, Class 1 explosives were known as Class A, B, or C explosives.

them as ''specialized equipment'' under 23 CFR 658 would not be in conflict with existing State laws.''

The TSMT suggested that the most efficient way to transport non-compatible explosives to the end user (troops in the field) is through the use of dromedary equipment. It stated that the use of the dromedary equipment requires only one vehicle to transport the non-compatible explosives. Therefore, using a vehicle equipped with a dromedary box reduces the number of vehicles (tractor/trailers) on the nation's highways. The TSMT also indicated that it is a proponent of security, safety, and compliance and views this revision as a way to enhance its operation in these areas.

Landstar System Carrier Group, one of the Nation's largest truckload carriers and one of the principal motor carriers involved with the Department of Defense movements agreed with the proposed changes. Landstar cited delays in the accqusition of permits and inspections of its vehicles at the roadside, while moving critical arms, ammunition and explosives in support of our Nation's fighting forces. It indicated that including, as ''specialized equipment,'' dromedary-equipped truck-tractor-semitrailer combination vehicles when transporting Class 1 explosives for the DOD is, in its opinion, the proper decision.

Extreme Transportation Inc. and Baggett Transportation Company both fully support designating dromedary equipped truck tractors for munitions carriage by DOD carriers as ''specialized equipment.'' Furthermore, both carriers support the notion that the 75 feet length restriction should apply to all dromedary equipped vehicles. The U.S. Department of the Army's (DA) June 22, 2001, petition to the FHWA was very specific. The DA asked to include as ''specialized equipment'' dromedary-equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives for the DOD. The designation of all dromedary-equipped truck tractor-semitrailers as ''specialized equipment'' was not included in the DA petition and is outside the scope of this rulemaking.

The ATA commended the FHWA for its comprehensive discourse and framing of the dromedary subject. Furthermore, the ATA indicated that it strongly supports the proposed change, as set forth in the NPRM. However, the ATA did suggest one modification which reads as follows: ''The designation would not apply if any other cargo were being carried in either the semitrailer or dromedary unit.'' The ATA explained that the DOD ships many items which DOD (or other Federal agencies) deems to be sensitive, but which are not strictly an Arms, Ammunition and Explosives (AA&E) item or, as stated in the language of the NPRM, ''* * * and/or any munitions related security material, as specified by DOD in compliance with 49 CFR 177.835.'' Therefore, the ATA requested that the final rule also specify as excludable ''freight deemed sensitive by the United States Government.'' This would be in keeping with long-standing practices used by both carriers and their DOD customers, and would clarify the definition of permissible cargo shipped via subject vehicles.

The ATA argued that, without this expanded designation, if a dromedary-equipped truck were to include an item containing sensitive technology (such as a computer) on that same vehicle, and the item were not specifically associated with AA&E cargo, the new vehicle designation of ''specialized equipment'' would not apply, and the benefits noted above would be forfeited. The ATA expressed concern that this situation did not make sense because the computer with sensitive technology and the AA&E item both require DOD-specified protective services, and it would be necessary to order an additional motor carrier service to ship the security sensitive computer. Specifying, ''freight deemed sensitive by the United States Government'' would protect these shipments from localized arbitrary enforcement activities.

The ATA may be correct in assuming that the expanded designation of the allowable cargo, ''freight deemed sensitive by the United States Government'' may help accomplish DOD's overarching transportation capacity goals. However, the DOD's petition was quite specific and narrow in scope in requesting that dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense be defined as ''specialized equipment.'' Unfortunately, the issue of ''freight deemed sensitive by the United States Government'' was not addressed in the NPRM and we believe it to be outside the scope of this rulemaking. In addition, the term, ''freight deemed sensitive by the United States Government'' is too broad in scope, would be too difficult to define, and would impose complicated requirements. For these reasons, we have decided not to expand the definition of allowable cargo to include ''freight deemed sensitive by the U.S. government.'' We believe that the language proposed in the NPRM is sufficient to aid the DOD in the shipment of munitions cargo.

The MTMC submitted to the docket all the historical information relating to this subject matter, as explained briefly in the Background section. The FHWA believes that by including dromedary-equipped truck tractor-semitrailer combination vehicles carrying military munitions, as ''specialized equipment'' it will help the DOD, specifically the Department of the Army (DA), expedite the movement of munitions for the military, especially in times of national emergency.

Conclusion

All eight commenters are in favor of amending the FHWA regulation on truck size and weight to include within the definition of ''specialized equipment'' dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense (DOD) in compliance with 49 CFR 177.835. There were several requests to allow all dromedary equipped truck tractor-semitrailer combinations up to an overall length of 75 feet to transport general freight. Several commenters requested that the FHWA limit the length of the semitrailer to 53 feet and remove the overall length requirement of 75 feet. We believe these recommendations to be outside the scope of this rulemaking. Therefore, with the exception of one additional phrase, this final rule will contain the same regulatory language provided in a notice of proposed rulemaking (NPRM) published on October 23, 2002 (67 FR 65056). The phrase ''in compliance with 49 CFR 177.835'' will appear following ''as specified by the U.S. Department of Defense'' in part 658.5 Definitions and part 658.13 Length in this final rule. This additional statement makes clear that anything related to the munitions that are required to be segregated from those munitions in compliance with 49 CFR 177.835 will receive the benefit of the ''specialized equipment'' designation.

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

We have determined that this final rule is a significant regulatory action within the meaning of Executive Order 12866 and the U.S. DOT regulatory policies and procedures. This action comes in response to a request from, and will directly affect activities under the direct control, of the U.S.

Department of Defense: supplying munitions to the military. This final rule will improve the shipment of munitions by standardizing the regulatory control that States apply to the vehicles typically used for this activity. The anticipated result will be an improvement in the efficiency with which munitions are shipped. This potential improvement will aid the national security effort with respect to the armed forces, as well as activities associated with homeland security.

This final rule provides, at the Federal level, a regulatory standard that already exists in many States. Although it potentially preempts restrictions imposed by 23 States, it would not affect any State's ability to discharge a traditional State government function, *i.e.,* issuing citations to illegally overlength vehicles.

The vehicles covered by this final rule are already operating in most States, and will not have to be modified in any way to achieve compliance. Accordingly, the anticipated annual economic effect of this rulemaking will be negligible. This action will not have an adverse effect on any other governmental agency, any level of government, the industry, or the public, nor will it change any compliance or reporting requirements that already exist.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this final rule on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive order 13132, dated August 4, 1999, and the FHWA has determined that this action has sufficient federalism implications to warrant the preparation of a Federalism summary impact statement.

This final rule will provide a consistent national regulation applying only to vehicles hauling munitions for the Department of Defense in support of military activities. This final rule is based on the authority provided by 49 U.S.C. 31111(g) that allows the Secretary to make the decisions necessary to accommodate specialized equipment. The FHWA has also determined that, while this action will preempt any inconsistent State law or State regulation, it will not affect the State's ability to discharge traditional State government functions. The States would continue to be able to enforce length restrictions against these vehicles. What might change, however, depending on existing State law, would be the threshold at which an enforcement action is taken.

By allowing the vehicle described in this final rule to transport munitions, the total number of trucks needed to perform this task would be reduced. This reduction, in turn, improves the safety climate on the highway system and in a small way slows infrastructure wear. Less than half of the States (23) will be affected by this rule, and of those 23 States only 3 States fluctuate enforcing for overlength for the combination vehicle covered by this rulemaking. The additional 28 States allow this combination to operate in its State.

However, due to the needs of the military and the nature of the cargo, it is imperative that all States allow the combination vehicle under discussion to operate. Even if only one or two States can prohibit, or deter this vehicle and its cargo, timely support of the military can be severely impacted.

Consultation with States over this issue has occurred in past years. In February 1991, as a result of the activities surrounding the Desert Shield/Desert Storm campaign, the FHWA issued an emergency rule allowing the use of dromedary units to transport munitions (56 FR 4164, February 1, 1991) for many of the same reasons used in support of the current petition. That rule was in effect for 6 months, and was not renewed for various reasons deemed important in responding to the conditions at that time. After the emergency rule expired, in place of a regulatory solution the FHWA urged all States and in particular those where enforcement actions were taking place to recognize the importance of the situation, and to try and accommodate munitions haulers in some manner. According to the DOD's petitions, this ''persuasion'' method appeared to work, at least for a few years into the mid-1990's. As this verbal agreement method of handling the issue began to breakdown, a few States again began to enforce length rules on these combinations, causing interruptions in munitions delivery. While inconvenient, these actions did not become critically disruptive until the current activities aimed at terrorist actions around the world became a national priority.

Additionally, the FHWA solicited input on the Federalism implications of the rule from the National Governors' Association (NGA) as a representative for the State officials. On May 9, 2002, we sent a letter to the NGA seeking comment on any Federalism implications of our proposed changes to 23 CFR 658. Having received no responses, we published the NPRM on October 23, 2002, specifically soliciting comment on any Federalism issues associated with our proposed rule. We did not receive any comments to the docket addressing the issue of Federalism. On December 9, 2002, we sent a follow up letter to the NGA, again seeking comment on any Federalism implications to this final rule. To date, we have received no responses or indication of concerns about the Federalism implications of this rulemaking action from the NGA.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act of 1995

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

Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). This final rule does not add any regulatory requirement that will require any expenditure by any private sector party, or governmental agency.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

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

National Environmental Policy Act

The Agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

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

Executive Order 13211 (Energy Effects)

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

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

List of Subjects in 23 CFR Part 658

Grants program—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: June 19, 2003.

Mary E. Peters,

Federal Highway Administrator.

■ In consideration of the foregoing, the FHWA amends 23 CFR part 658 as follows:

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

■ 1. The authority citation for part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111–31114; 49 CFR 1.48(b).

■ 2. Amend § 658.5 by adding the term ''dromedary unit'', and revising the definition of ''tractor or truck tractor'', placing them in alphabetical order, to read as follows:

§ 658.5 Definitions.

* * * * *

Dromedary unit. A box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination.

* * * * *

Tractor or Truck Tractor. The noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit, and a truck tractor equipped with a dromedary unit operating in combination with a semitrailer transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835 may use the dromedary unit to carry a portion of the cargo.

* * * * *

■ 3. Add § 658.13 (e)(6) to read as follows:

§ 658.13 Length.

* * * * *

(e) *Specialized equipment*—* * *

(6) *Munitions carriers using dromedary equipment.* A truck tractor equipped with a dromedary unit operating in combination with a semitrailer is considered to be specialized equipment, providing the combination is transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835. No State shall impose an overall length limitation of less than 75 feet on the combination while in operation.

* * * * *

[FR Doc. 03–15998 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Office of the Inspector General

32 CFR Part 312

Privacy Act; Implementation

AGENCY: Office of the Inspector General, DoD.

ACTION: Final rule.

SUMMARY: The Inspector General, DoD, is exempting an existing system of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The exemptions are needed because during the course of a Freedom of Information Act (FOIA) and Privacy Act action, exempt materials from other systems of records may in turn become part of the case records in the system. To the extent that copies of exempt records from those ''other'' systems of records are entered into the Freedom of Information Act and/or Privacy Act case records, the Inspector General, DoD, hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary systems of records which they are a part. Therefore, the Inspector General, DoD is proposing to add exemptions to an existing system of records.

EFFECTIVE DATE: June 3, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl R. Aaron at (703) 604–9785.

SUPPLEMENTARY INFORMATION: A proposed rule was published on April 3, 2003, at 68 FR 16249. No comments were received; therefore, the rule is being adopted as final.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere

with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Office of the Inspector General of the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Office of the Inspector General and that the information collected within the Office of the Inspector is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 312

Privacy.

■ For the reasons stated in the preamble, 32 CFR part 312 is amended as follows:

PART 312—[AMENDED]

■ 1. The authority citation for 32 CFR part 312 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Section 312.1 is revised to read as follows:

§ 312.1 Purpose.

Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and 32 CFR part 310—DoD Privacy Program, the following rules of procedures are established with respect to access and amendment of records maintained by the Office of the Inspector General (OIG) on individual subjects of these records.

■ 3. Section 312.3 is revised to read as follows:

§ 312.3 Procedure for requesting information.

Individuals should submit written inquiries regarding all OIG files to the Office of Communications and Congressional Liaison, ATTN: FOIA/PA Office, 400 Army Navy Drive, Arlington, VA 22202–4704. Individuals making a request in person must provide acceptable picture identification, such as a current driver's license.

■ 4. Section 312.9, paragraph (a) is revised to read as follows:

§ 312.9 Appeal of initial amendment decision.

(a) All appeals on an initial amendment decision should be addressed to the Office of Communications and Congressional Liaison, ATTN: FOIA/PA Office, 400 Army Navy Drive, Arlington, VA 22202–4704. The appeal should be concise and should specify the reasons the requester believes that the initial amendment action by the OIG was not satisfactory. Upon receipt of the appeal, the designated official will review the request and make a determination to approve or deny the appeal.

* * * * *

■ 5. Section 312.12, is amended by adding paragraph (h) to read as follows:

§ 312.12 Exemptions.

* * * * *

(h) *System Identifier:* CIG 01.

* * * * *

(1) *System name:* Privacy Act and Freedom of Information Act Case Files.

(2) *Exemption:* During the processing of a Freedom of Information Act (FOIA) and Privacy Act (PA) request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Inspector General, DoD, claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(3) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(4) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16131 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is exempting those records contained in the systems of records identified as F033 AF A, entitled 'Information Requests-Freedom of Information Act' and F033 AF B, entitled 'Privacy Act Request Files' when an exemption has been previously claimed for the records in 'other' Privacy Act systems of records. The exemptions are intended to preserve the exempt status of the records when the purposes underlying the exemptions for the original records are still valid and necessary to protect the contents of the records.

EFFECTIVE DATE: June 7, 2003.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043 or DSN 329–4043.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 806b

Privacy.

■ For the reasons stated in the preamble, 32 CFR part 806b is amended as follows:

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Appendix C to part 806b, is amended by adding paragraphs (b)(24) and (b)(25) to read as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Appendix C to Part 806b—General and specific exemptions.

* * * * *

(b) Specific exemptions. * * *

(24) *System identifier and name:* F033 AF A, Information Requests-Freedom of Information Act.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from 'other' systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(25) *System identifier and name:* F033 AF B, Privacy Act Request Files.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16130 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Weapons Station Earle, Sandy Hook Bay, NJ

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending its regulations to establish a restricted area in waters adjacent to Naval Weapons Station Earle.

EFFECTIVE DATE: July 28, 2003.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–

4618, or Mr. Richard L. Tomer, U.S. Army Corps of Engineers, New York District, Regulatory Branch, at (212) 264–3996.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding section 334.102 to establish a restricted area in waters adjacent to Naval Weapons Station Earle at Sandy Hook Bay, Township of Middletown, New Jersey.

This amendment will close off an open area in Sandy Hook Bay within the following coordinates: latitude 40°25′55.6″ N, longitude 074°04′31.4″ W; thence to latitude 40°26′54.0″ N, longitude 074°03′53.0″ W; thence to latitude 40°26′58.0″ N, longitude 074°04′03.0″ W; thence to latitude 40°27′56.0″ N, longitude 074°03′24.0″ W; thence to latitude 40°27′41.7″ N, longitude 074°02′45.0″ W; thence to latitude 40°28′23.5″ N, longitude 074°02′16.6″ W; thence to latitude 40°28′21.2″ N, longitude 074°01′56.0″ W; thence to latitude 40°28′07.9″ N, longitude 074°02′18.6″ W; thence to latitude 40°27′39.3″ N, longitude 074°02′38.3″ W; thence to latitude 40°27′28.5″ N, longitude 074°02′10.4″ W; thence to latitude 40°26′29.5″ N, longitude 074°02′51.2″ W; thence to latitude 40°26′31.4″ N, longitude 074°02′55.4″ W; thence to latitude 40°25′27.1″ N, longitude 074°03′39.7″ W longitude; and thence along the shoreline to the point of origin (NAD 83).

These coordinates correct a small error in the coordinates in the proposed notice, but the change to the size and shape of the restricted area is considered to be negligible. The Department of the Navy plans to install buoys along these coordinates to outline the Restricted Area. These regulations are necessary to safeguard Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

Procedural Requirements

a. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The U.S. Army Corps of Engineers expects that the economic impact of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this amendment will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The New York District has prepared an Environmental Assessment (EA) for this action. We have concluded, based on the minor nature of this change to the restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the New York District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

e. Submission to Congress and the General Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

■ For the reasons set out in the preamble, the U.S. Army Corps amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Section 334.102 is added to read as follows:

§ 334.102 Sandy Hook Bay, Naval Weapons Station EARLE, Piers and Terminal Channel, Restricted Area, Middletown, New Jersey.

(a) *The area.* All of the navigable waters within the area bounded by these coordinates:

Latitude 40°25′55.6″ N, longitude 074°04′31.4″ W; thence to
Latitude 40°26′54.0″ N, longitude 074°03′53.0″ W; thence to
Latitude 40°26′58.0″ N, longitude 074°04′03.0″ W; thence to
Latitude 40°27′56.0″ N, longitude 074°03′24.0″ W; thence to
Latitude 40°27′41.7″ N, longitude 074°02′45.0″ W; thence to
Latitude 40°28′23.5″ N, longitude 074°02′16.6″W; thence to
Latitude 40°28′21.2″ N, longitude 074°01′56.0″ W; thence to
Latitude 40°28′07.9″ N, longitude 074°02′18.6″ W; thence to
Latitude 40°27′39.3″ N, longitude 074°02′38.3″ W; thence to
Latitude 40°27′28.5″ N, longitude 074°02′10.4″ W; thence to
Latitude 40°26′29.5″ N, longitude 074°02′51.2″ W; thence to
Latitude 40°26′31.4″ N, longitude 074°02′55.4″ W; thence to
Latitude 40°25′27.1″ N, longitude 074°03′39.7″W longitude;
and thence along the shoreline to the point of origin (NAD 83).

The Department of the Navy plans to install buoys along these coordinates to outline the Restricted Area.

(b) *The regulation.* (1) Except as set forth in subparagraph (b)(2), no persons, unauthorized vessels or other unauthorized craft may enter the restricted area at any time;

(2) Vessels are authorized to cross the Terminal Channel provided that there are no naval vessels then transiting the channel bounded by:

Latitude 40°27′41.7″ N, longitude 074°02′45.0″ W; thence to
Latitude 40°28′23.5″ N, longitude 074°02′16.6″ W; thence to
Latitude 40°28′21.2″ N, longitude 074°01′56.0″ W; thence to
Latitude 40°28′07.9″ N, longitude 074°02′18.6″ W; thence to
Latitude 40°27′39.3″ N, longitude 074°02′38.3″ W); and (3) No person may swim in the Restricted Area.

(c) *Enforcement.* The regulation in this section, promulgated by the U.S. Army Corps of Engineers, shall be enforced by the Commanding Officer, Naval Weapons Station Earle, and/or other persons or agencies as he/she may designate.

Dated: June 5, 2003.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–16014 Filed 6–25–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Air Station North Island, San Diego, CA

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending its regulations to establish a new restricted area in waters adjacent to the Naval Air Station North Island (NASNI), San Diego, California. This amendment will restrict activities by the public on the northeast side of the base. The regulations are necessary to safeguard Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of a similar nature.

EFFECTIVE DATE: July 28, 2003.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Russell L. Kaiser, Corps of Engineers, Los Angeles District, Regulatory Branch, at (213) 452–3293.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat .892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding a restricted area at 334.865. The restricted area is being established for safety and security purposes in support of accommodating the homeport of a third aircraft carrier at NASNI. The restricted area is adjacent to a current U.S. Coast Guard security zone, which is enclosed by latitude/longitude coordinates: 32°42′52.5″ N, 117°11′45.0″ W; 32°42′55.3″ N, 117°11′45.0″ W; 32°42′55.0″ N, 117°11′30.5″ W; 32°42′40.0″ N, 117°11′06.5″ W; 32°42′37.2″ N, 117°11′06.8″ W; 32°42′28.5″ N, 117°11′11.0″ W; 32°42′21.5″ N, 117°10′47.7″ W; and 32°42′13.1″ N, 117°10′51.2″ W. The connection of the restricted area with the security zone will occur at the following coordinates: 32°42′55.0″ N, 117°11′30.5″ W and 32°42′40.0″ N, 117 °11′06.5″ W.

Procedural Requirements

a. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of this new restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this rule will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Los Angeles District has prepared an Environmental Assessment (EA) for this action. The district has concluded, based on the minor nature of the addition of this restricted area, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Los Angeles District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

e. Submission to Congress and the General Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

■ For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Section 334.865 is added to read as follows:

§ 334.865 Naval Air Station North Island, San Diego, California, Restricted Area.

(a) *The area.* The waters within an area beginning at 32°42′55.0″ N, 117°11′30.5″ W; thence running easterly to 32°42′57.0″ N, 117°11′22.5″ W; thence running easterly to 32°42′56.0″ N, 117°11′19.0″ W; thence running southeasterly to 32°42′49.0″ N, 117°11′08.5″ W; thence running southeasterly to 32°42′44.5″ N, 117°11′06.5″ W; thence running southerly to 32°42′40.0″ N, 117°11′06.5″ W.

(b) *The regulation.* (1) The restricted area shall not be open to swimming, fishing, water-skiing, mooring or anchorage.

(2) Dragging, seining, other fishing operations, and other activities not under the direction of the United States, which might foul underwater installations within the restricted area, are prohibited.

(3) All tows entering the restricted area shall be streamed and shortened to the seaward of the area and towing appendages and catenaries shall not be dragged along the bottom while proceeding through the area.

(4) All vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay.

(5) No vessel or craft of any size shall lie-to or anchor in the restricted area at

any time other than a vessel operated by or for components, or other vessels authorized by Commander, Navy Region Southwest, or his/her designee.

(6) When security conditions dictate, Naval security forces may impose strict enforcement of stand-off distances within the restricted area. This enforcement will not prevent utilization of navigable channels, but will serve to control its use in order to protect vital National interests.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Navy Region Southwest, and such agencies or persons as he/she may designate.

Dated: June 5, 2003.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–16013 Filed 6–25–03; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 138–4098a; FRL–7511–7]

Approval and Promulgation of Air Quality Implementation Plans; Federally Enforceable State Operating Permit Program; Allegheny County, Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Allegheny County portion of the Commonwealth of Pennsylvania State Implementation Plan (SIP). The revision consists of Allegheny County's state operating permit program. EPA is approving this revision in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on August 25, 2003 without further notice, unless EPA receives adverse written comment by July 28, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Kristeen Gaffney, Acting Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *gaffney.kristeen@epa.gov* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part V of the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Paul Arnold, Permits and Technical Assessment Branch at (215) 814–2194 or by e-mail at *arnold.paul@.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 1998 as amended on March 1, 2001, the Pennsylvania Department of Environmental Protection (PADEP), on behalf of the Allegheny County Health Department (ACHD), submitted a revision to the State Implementation Plan (SIP). The SIP revision consists of a state operating permitting program for sources of air pollution in Allegheny County. The SIP revision contains a regulation to implement a state operating permit program that provides a procedural and legal basis for the issuance of federally enforceable operating permits. Pennsylvania also requested approval of Allegheny County's state operating permit program pursuant to section 112(l) of the Clean Air Act.

Federally enforceable state operating permits (FESOPs) may be used to establish emission standards and other source-specific regulatory requirements for stationary sources of air pollution. FESOPs are frequently employed by permitting authorities to accomplish one or more of the following objectives: To designate a source as a synthetic minor source with regard to applicability of Federal requirements and standards, such as new source review; to combine a source's requirements under multiple permits into one permit; to implement emissions trading requirements; to cap the emissions of a source contributing to a violation of any air quality standard; or, to establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or state air statutes and regulations.

On December 6, 1999, EPA proposed approval of the permit program (64 FR 68066). The ACHD subsequently revised its regulations on August 15, 2000, effective January 12, 2001. These revisions improve the ACHD permitting programs. EPA has withdrawn the previous proposal (64 FR 68066) and is approving the FESOP program submitted on November 9, 1998, as amended on March 1, 2001.

II. Evaluation of State Operating Permit Program Under Section 110 of the Act

On June 28, 1989, EPA amended the definition of ''federally enforceable'' to clarify that terms and conditions contained in state-issued operating permits are federally enforceable for purposes of limiting a source's maximum potential emission rates or potential-to-emit (PTE). This is true provided that the state's operating permit program is approved into the SIP under section 110 of the Clean Air Act as meeting certain conditions, and provided that the permit conforms to the requirements of the approved program. The conditions for EPA approval discussed in the June 28, 1989 notice establish five criteria for approving a state operating permit program. (See, 54 FR 27274–27286.) The following describes each of the criteria for approval of a state operating permit program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and how the ACHD's SIP submittal satisfies those criteria.

Criterion 1. The state operating permit program *i.e., the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision.* On November 9, 1998 as amended on March 1, 2001, the Commonwealth of Pennsylvania submitted an administratively and technically complete SIP revision request for approval of Allegheny County Health Department's operating permit program. The permit program, Article XXI, Parts B and C, provide the framework for permit issuance.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to

the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA. The permit program requires in Article XXI, section 2103.12.f.1 and 2103.10.c.3, the legal obligation to comply with terms and conditions of any permit.

Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''federally enforceable'' e.g. standards established under sections 111 and 112 of the Clean Air Act). Article XXI, section 2103.12.a.C. states that the conditions of the permit must provide for and require compliance with all applicable requirements. Section 2103.12.g states that all permits shall include standard emissions limit requirements. Additionally, if an alternative emission limit is provided, section 2103.g.2 requires that it must be demonstrated to be equivalent to or more stringent than the applicable limit.

Criterion 4. The limitations, controls, and requirements of the state operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. Article XXI, section 2103.12.g states that the permit must include those operational requirements and limitations that assure compliance with all applicable requirements. This includes appropriate testing, monitoring, recordkeeping and reporting.

Criterion 5. The permits are issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to the issuance of the final permit. Article XXI, subchapters B and C provide thorough procedures for public participation which meet the public participation criteria. Sections 2102.05.c, 2103.11.e, 2102.04.h, 2103.11.h detail the public participation requirements.

Allegheny County Health Department's operating permit program clearly satisfies the criteria for approval of a state program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and is, therefore, approved as a SIP revision. The criteria discussed above relates to operating permit programs that are to approved as part of the SIP under section 110 of the Clean Air Act. In general, FESOP permit programs approved under a SIP relate only to those pollutants regulated under section 110, that is criteria pollutants. Pennsylvania is also seeking approval of ACHD's operating permit program under section 112 of the Clean Air Act for the purpose of limiting the PTE of hazardous air pollutants. The following is a discussion of EPA's criteria for approval of the permit program under section 112.

III. Evaluation of State Operating Permit Program Under Section 112 of the Act

As part of this action, EPA is approving, pursuant to section 112(l) of the Clean Air Act. Pennsylvania's request on behalf of the ACHD for authority to regulate hazardous air pollutants (HAPs) through the issuance of a federally enforceable state operating permit. Approval pursuant to section 112(l) of the Act would grant the ACHD authority to issue federally enforceable permits which limit PTE of HAPs. The EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice referenced above, are also appropriate for evaluating and approving operating permit programs under section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to section 112 of the Act. Since the ACHD's operating permits program meets the five program approval criteria for both criteria and hazardous air pollutants, it may be used to limit the potential to emit of both criteria and hazardous air pollutants.

In addition to meeting the criteria discussed above, the ACHD's permit program for limiting potential to emit of HAPs must meet the statutory criteria for approval under section 112(l)(5) of the Act. This section allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with Section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA is approving the ACHD's state operating permit program pursuant to section 112(l) of the Act because the programs meet applicable approval criteria in section 112(l)(5) of the Act. Regarding the statutory criteria of section 112(l)(5) of the Act, EPA believes the ACHD's permit program contains adequate authority to assure compliance with section 112 requirements since the program does not waive any section 112 requirement(s). Sources would still be required to meet section 112 requirements applicable to non-major sources. Regarding adequate resources, ACHD has included in its state operating permit program provisions for the collection of fees from sources obtaining permits. Furthermore, EPA believes that the state operating permit program provides for an expeditious schedule for assuring compliance because they allow a source to establish a voluntary limit on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Nothing in the operating permit program would allow a source to avoid or delay compliance with a federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. The state operating permit program is consistent with the objectives of the section 112 program because its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. The EPA believes that this purpose is consistent with the overall intent of section 112.

IV. Final Action

EPA is approving a revision to the Allegheny County portion of the Commonwealth of Pennsylvania State Implementation Plan (SIP). The revision consists of Allegheny County's state operating permit program. EPA is approving this revision in accordance with the requirements of sections 110 and 112 of Clean Air Act.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision and section 112(l) approval if adverse comments are filed. This rule will be effective on August 25, 2003 without further notice unless EPA receives adverse comment by July 28, 2003. If EPA receives adverse comment, EPA will publish a timely

withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA138–4098 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. E-mail. Comments may be sent by electronic mail (e-mail) to [Branch Chief's e-mail address], attention PA138–4098. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov , EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. Regulations.gov. Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving the Allegheny County Health Department FESOP, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 4, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(209) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(209) Revisions to the Allegheny County, Pennsylvania Regulations for a federally enforceable state operating permit program, submitted on November 9, 1998 and March 1, 2001, by the Pennsylvania Department of Environmental Protection on behalf of the Allegheny County Health Department:

(i) Incorporation by reference.

(A) Letters of November 9, 1998 and March 1, 2001 from the Pennsylvania Department of Environmental Protection, on behalf of the Allegheny County Health Department, transmitting a federally enforceable state operating permit program.

(B) Addition of the following Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control:

(*1*) Regulation 2101.05, Regulation 2103.12—effective March 31, 1998.

(*2*) Regulation 2103.01, Regulation 2103.11, Regulation 2103.13, Regulation 2103.15—effective October 20, 1995.

(*3*) Regulation 2103.14—effective January 12, 2001.

(ii) Additional Material—Remainder of the State submittal(s) pertaining to the revisions listed in paragraph (c)(209)(i) of this section.

* * * * *

[FR Doc. 03–16024 Filed 6–25–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CA–282–0389; FRL–7515–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; 1-Hour Ozone Standard for San Diego, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to redesignate the San Diego County area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is also approving a 1-hour ozone maintenance plan and motor vehicle emissions budgets as revisions to the San Diego portion of the California State Implementation Plan (SIP).

EFFECTIVE DATE: This action is effective July 28, 2003.

ADDRESSES: You can inspect copies of the docket for this action during normal business hours at EPA's Region IX office. Please contact John Kelly if you wish to schedule a visit. You can inspect copies of the submitted SIP materials at the following locations:

U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

California Air Resources Board, 1001 I Street, Sacramento, California, 95812.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

The plan is also available electronically at: *http://www.sdapcd.co.san-diego.ca.us/reports/RedesigPlan.pdf.*

FOR FURTHER INFORMATION CONTACT: John J. Kelly, EPA Region IX, (415) 947–4151, or *kelly.johnj@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

I. Background

On March 20, 2003 (68 FR 13653–13657), we proposed to redesignate the San Diego County area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). We also proposed to approve a 1-hour ozone maintenance plan and motor vehicle emissions budgets as revisions to the San Diego portion of the California State Implementation Plan. The maintenance plan and budgets are contained in the Ozone Redesignation Request and Maintenance Plan for San Diego County, which was adopted December 11, 2002 by the board of the San Diego County Air Pollution Control District (''SDCAPCD'') and submitted by the California Air Resources Board on December 20, 2002.

In our March proposal, we stated that final approval would be contingent upon our affirmative finding that the latest update to California's motor vehicle emissions model, known as EMFAC2002, is acceptable for purposes of SIP development and transportation conformity. On April 1, 2003, we published a **Federal Register** notice, stating our conclusion that the EMFAC2002 emission factor model is acceptable for use in SIP development and transportation conformity. (68 FRN 15720–15723)

The proposal contains detailed information on the SIP submittal and our evaluation of the submittal against applicable CAA provisions and EPA policies relating to 1-hour ozone maintenance SIPs, redesignations and budgets.

II. Public Comments

We received no public comment on our proposed action.

III. EPA Action

In this document we are finalizing our proposed approval of the Ozone Redesignation Request and Maintenance Plan for San Diego County (December 2002), as meeting applicable provisions for 1-hour ozone maintenance plans, under CAA sections 175A and 110(k)(3). As part of this action, we are finalizing approval for the following specific plan elements. We indicate on which page of our proposal the element is discussed.

(1) Approval of the emissions inventories for 2001, 2005, 2010, and 2014, under CAA section 172(c)(3) and 175A (68 FR 13654).

(2) Approval of the maintenance demonstration through 2014, under CAA section 175A (68 FR 13654).

(3) Approval of the SDCAPCD commitment to continue ambient monitoring of the 1-hour ozone NAAQS, under CAA section 175A (68 FR 13655).

(4) Approval of the SDCAPCD commitment to track progress through annual review of monitoring data for the most recent three consecutive years, to verify continued attainment of the 1-hour ozone NAAQS, under CAA section 175A (68 FR 13655).

(5) Approval of the contingency measures, under CAA section 175A(d) (68 FR 13655).

(6) Approval of the 2010 and 2014 motor vehicle emissions budgets for volatile organic compounds (VOC) and nitrogen oxides (NO_X), under CAA sections 176(c)(2), as adequate for maintenance of the 1-hour ozone NAAQS and for transportation conformity purposes (68 FR 13655).

Finally, we are redesignating San Diego County to attainment for the 1-hour ozone standard under CAA section 107(d)(3)(E).

As discussed, we finalize these actions, in view of the fact that in a separate action, we have found that the EMFAC2002 emission factor model is acceptable.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 6, 2003.

Alexis Strauss,

Acting Regional Administrator, Region IX.

■ Part 52 Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(313) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(313) New and amended plan for the following agency was submitted on December 20, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) San Diego County Air Pollution Control District.

(*1*) Ozone Redesignation Request and Maintenance Plan for San Diego County, including motor vehicle emissions budgets for 2010 and 2014, Resolution #02–389, adopted on December 11, 2002.

* * * * *

PART 81—[AMENDED]

■ 1. The authority citation for Part 81 continues to read as follows:

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

■ 2. In § 81.305, the California Ozone (1–Hour Standard) table is amended by revising the entry for the San Diego area to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE (1.–HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * *	*	*	*	*
San Diego Area: San Diego County	7/28/03		Attainment	
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 03–16029 Filed 6–25–03; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 303

RIN 0970–AC09

Child Support Enforcement Program; Federal Tax Refund Offset

AGENCY: Office of Child Support Enforcement (OCSE), Health and Human Services (HHS).

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule revises existing regulations on collecting child support arrears through the Federal Tax Refund Offset process. The revisions are needed to reflect changes in OCSE's data processing protocols with the Department of the Treasury. We are also taking this opportunity to update the regulation to reflect current business practices and requests from State Child Support Enforcement agencies.

DATES: These regulations are effective June 26, 2003. Consideration will be given to comments received by August 25, 2003.

ADDRESSES: Send comments to: Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447. Attention: Director, Division of Policy, Mail Stop: OCSE/DP. Comments will be available for public inspection Monday through Friday 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address. You may also transmit written comments electronically via the Internet at: *http://www.acf.hhs.gov/hypernews/.* To download an electronic version of the rule, you may access the Office of Child Support Enforcement Policy page at: *http://www.acf.hhs.gov/programs/cse/csepol_r.htm.*

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Division of Policy, OCSE, 202–401–5369, e-mail: *ebrooks@acf.hhs.gov.* Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This regulation is issued under the authority granted to the Secretary of Health and Human Services (the Secretary) by section 1102 of the Social Security Act (the Act), 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Justification for Interim Final Rule

The Administrative Procedure Act requirements for notice of proposed rulemaking do not apply to rules when the agency finds that notice is impracticable, unnecessary or contrary to the public interest. We find proposed rulemaking unnecessary because the rule is not imposing new requirements or burdens on States, but is removing administrative requirements and burdens, principally the requirement that the support be 3 months delinquent before the debt is referred for Federal tax refund offset. The rule also removes the requirement to submit written notices, which requires the States to transmit a separate paper response or to submit referrals by magnetic tape. Under the new procedures, notices and referrals will be sent electronically which is much simpler for the States. Finally, the rule incorporates several policies which are already in effect and, therefore, advance notice and comment is unnecessary. The policies are being included in the regulations in order to have all the information pertaining to the submission of Federal tax refund offset cases in one place.

Background

The Federal Tax Refund Offset program collects past-due child support payments from the Federal tax refunds of parents who have been ordered to pay child support. The program is a collaborative effort between OCSE, the Internal Revenue Service, the Financial Management Service of the Department of the Treasury and State Child Support Enforcement agencies.

The Federal Tax Refund Offset program was enacted by Congress in 1981 and was originally restricted to child support debts owed in public assistance cases. It was expanded in 1984 to include child support debts in non-assistance cases. Federal Tax Refund Offset is a mandatory child support enforcement tool and must be used if a case meets the criteria found at 45 CFR 303.72. Essentially, in order for the Federal Tax Refund Offset remedy to be applied, the amount of unpaid child support (arrears) must meet a minimum threshold: $150 if the custodial parent is receiving services under title IV–A of the Act (assigned arrears) or $500 if services are provided in a non-assistance case under title IV–D (unassigned arrears). After ensuring that the case information is current, the State IV–D agency notifies OCSE which reviews the request. If it qualifies, OCSE forwards the request to the Treasury to offset any Federal tax refund due to the noncustodial parent. The noncustodial parent is notified at the time the case is initially submitted by the State to OCSE

that the past-due support will be reported to the Treasury for tax refund offset. When the offset is made, the Treasury notifies the noncustodial parent that it has occurred. Included in the process are opportunities for the noncustodial parent to contest and provisions for administrative review and notification of the noncustodial parent's spouse in cases of joint tax refunds.

Several years ago, OCSE formed a regulation workgroup to exchange views, information, and advice on existing regulations in order to eliminate or revise outdated, unduly burdensome, or unproductive regulations. This group was made up of representatives of Federal, State and local government staff and officials. The workgroup conducted its review which resulted in a final rule issued December 20, 1996 (61 FR 67235) which made both substantive and technical changes. However, not all of the workgroup's recommendations were included at that time, owing to the unknown nature of changes that might result from welfare reform proposals then circulating. Some of the changes in this rule result from those initial workgroup discussions and consultations, as well as from suggestions from a tax refund offset workgroup of Federal and State staff under the auspices of OCSE's Office of Automation and Program Operations.

Provisions of the Regulation

We are amending § 303.72(a)(2) to remove the requirement that support be at least 3 months delinquent in a case involving a recipient of title IV–A services before a State refers the case for Federal Tax Refund offset. There is no such requirement for non-title-IV–A cases. In our consultations, States requested the elimination of the 3-month delinquency rule, maintaining that it is difficult to track delinquencies in this way. For instance, how should the State count a month in which a token payment is received? Should a small payment toward the ordered amount of support allow a non-custodial parent to avoid offset for another 3-month period? There also has been confusion among the States about how the 3-month period should be computed. Under current procedures, pre-offset notices are sent to the obligor either by the State or, if the State requests it, by OCSE. The State tells OCSE how long to hold its cases (30, 45, 60, or 90 days) before forwarding them to the Treasury, so that the combination of State hold and OCSE hold will meet the 90-day delinquency requirement. OCSE agrees with the States that Treasury's regulatory requirement for a 30-day hold period beginning with the date of the pre-offset notice to the obligor is sufficient to ensure opportunity for appeal and that the additional 90-day delinquency period required by OCSE regulations before sending the case to Treasury is unnecessary and causes delay in the collection of support.

We have retained the requirement that the total amount of arrears assigned to the State in a Tax Refund Offset case must be a minimum of $150. We have added a clarification at the redesignated provision at § 303.72(a)(2) that States may combine assigned support arrears together to reach the $150 threshold in those instances where an obligor has more than one title IV–A case. We have added a parallel clarification on unassigned arrears at § 303.72(a)(3)(ii). However, different types of arrears (*i.e.*, assigned arrears and unassigned arrears) may not be combined to reach the thresholds of $150 for assigned arrears or $500 for unassigned arrears for Federal Tax Refund Offset. Paragraph (a)(3)(ii) now reads: '' The amount of support is not less than $500. The State may combine support amounts from the same obligor in multiple cases where the IV–D agency is providing IV–D services under § 302.33 of this chapter to reach $500. Amounts under this paragraph may not be combined with amounts under paragraph (a)(2) to reach the minimum amounts required under this paragraph or under paragraph (a)(2).'' These clarifications incorporate in regulation the policy already articulated in OCSE's policy interpretation question, PIQ–01–06, published July 9, 2001.

The regulation at § 303.72(b)(1) requires States to notify OCSE of a liability for past-due support by means of magnetic tape. We are amending this provision to reflect the fact that notification to OCSE is no longer done by magnetic tape. Hence the phrase ''on a magnetic tape'' is changed to the more general ''in the manner specified by the Office in instructions'' to allow for changing technology. Section 303.72(b)(2) lists specific information that must be included in the notification of liability for past-due support that the IV–D agency sends to OCSE regarding each delinquency submitted for offset. We are amending paragraph (b)(2) by adding ''to the extent specified by the Office in instructions'' before the list to allow OCSE to easily remove current requirements if they become unnecessary. Section 303.72(b)(3) permits the IV–D agency to add in its submittal the taxpayer's IV–D case number and FIPS code for the local IV–D agency where the case originated. We are amending the language to eliminate the specific types of identifiers permitted, so that States who wish to submit this optional item can submit the IV–D identifier of their choice. The information submitted is passed back to the States for their own use after Federal processing is complete.

Provisions at § 303.72(c)(2) and (4) and (g)(4) are amended to delete the requirement that notifications to States by OCSE are ''in writing'' or that ''written'' explanations from the IV–D agency are returned to OCSE, as the transmission of administrative review results is now done electronically.

Similarly, in § 303.72(d)(2) and (f)(3), the requirement for State IV–D agencies to inform OCSE ''in writing'' of changes in case status or the amount referred for collection is deleted. In addition, we are amending these sections to recognize that the amount to be offset may increase as well as decrease after the submittal, due to the transition from annual updates to a continuous data processing schedule. In both these sections, and at § 303.72(g)(4), where an administrative review may lead to an increase rather than a reduction in the amount due, the regulation is amended by replacing the word ''decrease'' with the word ''change''.

Paragraph (g) sets forth procedures for contesting an offset in interstate cases. The existing regulation at paragraph (g)(4) calls for the State having the order to report any change in the amount of past-due support to OCSE. This is in conflict with the overall goal that only one State be the submitting State for purposes of Tax Refund Offset. The submitting State controls every aspect of the submission. State officials have informed us that they prefer that any updates based on administrative review be conveyed to OCSE by the submitting State. Thus, we are amending § 303.72(g)(4) to require that changes based on administrative review in interstate cases be reported to the submitting State and that the submitting State in turn notifies OCSE.

We made a technical conforming change to update the reference at § 303.72(g)(8) to reflect the current regulatory citation for the State performance measure on collections of arrears.

The requirements at § 303.72(h)(6) are amended to clarify that collections from offset may only be applied to cases that were being enforced by the IV–D agency at the time the advance notice described in paragraph (e)(1) of this section was sent. Paragraph (h)(6) had provided that collections from offset could be applied only against the past-due support amount that was specified in the

advance notice to the obligor. Because cases are now certified on an ongoing basis—rather than once a year—that requirement is no longer appropriate. Collections should be applied against the balance certified as of the date of offset. That amount may vary up and down throughout the year as arrears change and States send in updated information. The current model pre-offset letter makes it clear to the obligor that the arrears balance may fluctuate up and down and that the debt will be offset at the amount which is certified as of the date of offset, not necessarily the amount shown in the notice. As noted earlier, a notice of offset is sent by the Treasury at the time of the offset, giving the exact amount offset and a contact at the State child support office for questions. This notice is required by Treasury regulations. However, if a new case is established, the IV–D agency must send an advance notice to the obligor before referring the associated debt for offset.

Paperwork Reduction Act of 1995

No new information collection requirements are imposed by these regulations, nor are any existing requirements changed as a result of their promulgation. Therefore, the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), regarding reporting and record keeping, do not apply.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments. State governments are not considered small entities under the Act.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

The Department has determined that this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. chapter 8.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulations may affect family well being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well being as defined in the legislation.

Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have Federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, or on the distributions of power and responsibilities among the various levels of government''.

This rule does not have Federalism implications for State or local governments as defined in the Executive Order.

List of Subjects in 45 CFR Part 303

Child support, Grant programs-social programs.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: January 9, 2003.

Wade F. Horn,

Assistant Secretary for Children and Families.

Date Approved: May 30, 2003.

Tommy G. Thompson,

Secretary of Health and Human Services.

■ For the reasons discussed above, title 45 CFR chapter III is amended as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(b)(d)(2), 1396b(o), 1396b(p) and 1396(k).

■ 2. Amend § 303.72 by revising paragraphs (a)(2), (a)(3)(ii), (b)(1), (b)(2) introductory text, and (b)(3), (c)(2), (c)(4), (d)(2), (g)(4), (g)(8) and (h)(6) to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) * * *

(2) For support that has been assigned to the State under section 408(a)(3) of the Act or section 471(a)(17) of the Act, the amount of the support is not less than $150. The State may combine assigned support amounts from the same obligor in multiple cases to reach $150. Amounts under this paragraph may not be combined with amounts under paragraph (a)(3) of this section to reach the minimum amounts required under this paragraph or under paragraph (a)(3) of this section.

(3) * * *

(ii) The amount of support is not less than $500. The State may combine support amounts from the same obligor in multiple cases where the IV–D agency is providing IV–D services under § 302.33 of this chapter to reach $500. Amounts under this paragraph may not be combined with amounts under paragraph (a)(2) of this section to reach the minimum amounts required under this paragraph or under paragraph (a)(2) of this section.

(b) Notification to OCSE of liability for past-due support. (1) A State IV–D agency shall submit a notification or (notifications) of liability for past-due support to the Office according to the timeframes and in the manner specified by the Office in instructions.

(2) To the extent specified by the Office in instructions, the notification of liability for past-due support shall contain with respect to each:

* * * * *

(3) The notification of liability for past-due support may contain with respect to each delinquency the taxpayer's IV–D identifier.

* * * * *

(c) * * *

(2) If a request meets all requirements, the Deputy Director will transmit the request to the Secretary of the Treasury and will notify the State IV–D agency of the transmittal.

* * * * *

(4) If a request cannot be corrected through consultation, the Deputy Director will return it to the State IV–D agency with an explanation of why the request could not be transmitted to the Secretary of the Treasury.

(d) * * *

(2) The State IV–D agency shall within time frames established by the Office in instructions, notify the Deputy Director of any deletion of an amount

referred for collection by Federal tax offset or any decrease in the amount if the decrease is significant according to the guidelines developed by the State. The notification shall contain the information specified in paragraph (b) of this section.

* * * * *

(f) * * *

(3) If the administrative review results in a deletion of, or decrease in, the amount referred for offset, the IV–D agency must notify OCSE within time frames established by the Office and include the information specified in paragraph (b) of this section.

* * * * *

(g) * * *

(4) If the administrative review results in a deletion of, or change in, the amount referred for offset, the State with the order must notify the submitting State within time frames established by the Office and include the information specified in paragraph (b) of this section. The submitting State must then notify the Office within timeframes established by the Office and include the information specified in paragraph (b) of this section.

* * * * *

(8) In computing the arrearage collection performance level under § 305.2(a)(4) of this chapter, if the case is referred to the State with the order for an administrative review, the collections made as a result of Federal tax refund offset will be treated as having been collected in full by both the submitting State and the State with the order.

* * * * *

(h) * * *

(6) Collections from offset may be applied only to cases that were being enforced by the IV–D agency at the time the advance notice described in paragraph (e)(1) of this section was sent.

[FR Doc. 03–14883 Filed 6–25–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–02–13678]

RIN 2127–AI32

Tire Safety Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule, correcting amendments.

SUMMARY: This document contains corrections to the final rule published on November 18, 2002 (67 FR 69600), that established a new safety standard to improve the information readily available to consumers regarding tires.

DATES: The effective date of this final rule is September 1, 2004. Voluntary compliance is permitted before that date. If you wish to submit a petition for reconsideration of this rule, your petition must be received by August 11, 2003.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues: Ms. Mary Versailles, Office of Planning and Consumer Standards. Telephone: (202) 366–2750. Fax: (202) 493–2290. Mr. Joseph Scott, Office of Crash Avoidance Standards. Telephone: (202) 366–2720. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–112. Telephone: (202) 366–2992. Fax: (202) 366–3820.

All of these persons may be reached at the following address: National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The standards that are the subject of these corrections are FMVSS No. 109, New pneumatic tires, FMVSS No. 110, Tire selection and rims for motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, and FMVSS No. 120, Tire selection and rims for motor vehicles with a GVWR or more than 4,536 kilograms (10,000 pounds). A final rule amending these standards was published in response to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000 on November 18, 2002 (67 FR 69600). The final rule also established a new Federal Motor Vehicle Safety Standard, FMVSS No. 139, New pneumatic tires for light vehicles. The final rule applies to all new and retreaded tires for use on vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less and to all vehicles with a GVWR of 10,000 pounds or less, except for motorcycles and low speed vehicles. The final rule requires improved labeling of tires to assist consumers in identifying tires that may be the subject of a safety recall. It also requires tire and vehicle manufacturers to provide other consumer information to increase public awareness of the importance and methods of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle.

On June 5, 2003, NHTSA published in the **Federal Register** (68 FR 33655) a final rule; response in part to petitions for reconsideration which delayed the effective date of the final rule published on November 18, 2002 to September 1, 2004.

Need for Correction

As published, the November 2002 final rule contained errors that need correction. The November 2002 final rule amended the title and application paragraph of FMVSS No. 110 to make it, in its entirety, applicable to all light vehicles. This document corrects the requirement paragraphs so passenger cars must meet the standard in its entirety, while light vehicles other than passenger cars need only meet the labeling requirements.

The November 2002 final rule also amended the title and application paragraphs of FMVSS No. 120 to make it, in its entirety, applicable to all heavy vehicles. This document amends the title and application paragraph so they read the same as they did before that final rule, referring to all vehicles other than passenger cars, regardless of GVWR. Thus, as before that final rule, all vehicles other than passenger cars must meet the standard's performance requirements. The document also amends the FMVSS No. 120 requirement paragraphs so all heavy vehicles other than passenger cars must meet the labeling requirements contained therein.

The tire performance requirements, and their applicability, are addressed in the final rule on tire performance upgrade that is published elsewhere in this issue of the **Federal Register**. A notice of proposed rulemaking on tire performance upgrade was published on March 5, 2002, at 67 FR 10050.

A March 13, 2003, meeting with General Motors (GM) and a subsequent GM submission to the docket dated March 21, 2003, brought to the agency's attention that regulatory text of the November 2002 final rule, contained in paragraph S2, ''Application'' of FMVSS No. 110 and paragraph S3, ''Application'' of FMVSS No. 120, indicated that the entirety of these standards, not only the labeling provisions, would be applicable to all vehicles 10,000 pounds or less GVWR as of the effective date of that final rule. In other words, it indicated that the performance aspects of FMVSS No. 110, formerly applicable only to passenger

cars, are applicable to all vehicles of 10,000 pounds or less GVWR.

As stated in the November 2002 final rule, the intent of the agency was to only revise and make applicable to all light vehicles the vehicle labeling provisions of FMVSS No. 110 and 120. The agency is making this clear by amending the regulatory text of FMVSS Nos. 110 and 120 accordingly. Amendments to the performance aspects of FMVSS Nos. 110 and 120 are addressed in the final rule on tire performance upgrade that is published elsewhere in this issue of the **Federal Register**.

The agency is also taking this opportunity to correct FMVSS No. 109 by moving certain aspects of the application paragraph into the subsequent requirement paragraphs.

Correction of Publication

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

■ In consideration of the foregoing, 49 CFR part 571 as amended at 67 FR 69623 (November 18, 2002) and at 68 FR 33655 (June 5, 2003) is further amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.109 is amended by revising S2, S4.3, S4.4.1, and S4.4.2 to read as follows:

* * * * *

§ 571.109 Standard 109; New pneumatic tires.

S2. Application. This standard applies to new pneumatic tires for use on passenger cars manufactured after 1948. However, it does not apply to any tire that has been altered so as render impossible its use, or its repair for use, as motor vehicle equipment.

* * * * *

S4.3 Labeling Requirements. Except as provided in S4.3.1 and S4.3.2 of this standard, each tire, except for those certified to comply with S5.5 of § 571.139, shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the information shown in paragraphs S4.3 (a) through (g) of this standard. On at least one sidewall, the information shall be positioned in an area between the maximum section width and bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires where the maximum section width falls in that area, locate all required labeling between the bead and a point one-half the distance from the bead to the shoulder of the tire. However, in no case shall the information be positioned on the tire so that it is obstructed by the flange or any rim designated for use with that tire in Standards Nos. 109 and 110 (Sec. 571.109 and Sec. 571.110 of this part).

(a) One size designation, except that equivalent inch and metric size designations may be used;

(b) Maximum permissible inflation pressure;

(c) Maximum load rating;

(d) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different;

(f) The words ''tubeless'' or ''tube type'' as applicable; and

(g) The word ''radial'' if the tire is a radial ply tire.

* * * * *

S4.4.1 Each manufacturer of tires not certified to comply with S4 of § 571.139 shall ensure that a listing of the rims that may be used with each tire that he produces is provided to the public. A listing compiled in accordance with paragraph (a) of S4.4.1 of this standard need not include dimensional specifications or diagram of a rim if the rim's dimensional specifications and diagram are contained in each listing published in accordance with paragraph (b) of S4.4.1 of this standard. The listing shall be in one of the following forms:

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to the Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; or

(b) Contained in publications, current at the date of manufacture of the tire or any later date, of at least one of the following organizations:

The Tire and Rim Association
The European Tyre and Rim Technical Organisation
Japan Automobile Tire Manufacturers' Association, Inc.
Deutsche Industrie Norm
British Standards Institution
Scandinavian Tire and Rim Organization
The Tyre and Rim Association of Australia

S4.4.2 Information contained in any publication specified in S4.4.1(b) of this standard which lists general categories of tires and rims by size designation, type of construction and/or intended use, shall be considered to be manufacturer's information pursuant to S4.4.1 of this standard for the listed tires and rims, unless the publication itself or specific information provided according to S4.4.1(a) of this standard indicates otherwise.

■ 3. Section 571.110 is amended by revising S4.1 to read as follows:

§ 571.110 Standard No. 110; Tire selection and rims for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds or less).

* * * * *

S4.1 General.

(a) Passenger cars shall be equipped with tires that meet the requirements of § 571.109, New Pneumatic Tires, except that passenger cars may be equipped with a non-pneumatic spare tire assembly that complies with § 571.129, New Non-Pneumatic Tires for Passenger Cars and S6 and S8 of this standard.

(b) Passenger cars and non-pneumatic spare tires assemblies for use on passenger cars shall comply with S4 through S8 of this standard.

(c) Motor vehicles with a gross vehicle weight rating (GVWR) or 10,000 pounds or less, except for passenger cars, and the non-pneumatic spare tire assemblies for use on those vehicles shall comply with S4.3, S4.3.1, S4.3.2, S4.3.3, S4.3.4, and S7.2(a) of this standard.

■ 4. Section 571.120 is amended by revising its heading, S3 and S5.3 to read as follows:

§ 571.120 Standard No. 120; Tire selection and rims for motor vehicles other than passenger cars.

* * * * *

S.3 Application. This standard applies to multipurpose passenger vehicles, trucks, buses, trailers, and motor cycles, to rims for use on those vehicles, and to non-pneumatic spare tire assemblies for use on those vehicles.

* * * * *

S5.3 Each vehicle with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, and motorcycles, shall show the information specified in S5.3.1 and S5.3.2 and, in the case of a vehicle equipped with a non-pneumatic spare tire, the information specified in S5.3.3, in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either—

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location, and form described in § 567.4 (b) through (f) of this chapter as appropriate of each GVWR-GAWR combination listed on the certification label.

* * * * *

Issued: June 18, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–15875 Filed 6–23–03; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 68, No. 123
Thursday, June 26, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–03–001]

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges need to be increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

DATES: Comments must be received on or before July 28, 2003.

ADDRESSES: Send written comments to David Bowden, Jr., Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, room 3944–South, 1400 Independence Avenue, SW, Washington, DC 20250. Comments may be faxed to (202) 690–0941.

State that your comments refer to Docket No. PY–03–001 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, (202) 720–3271.

SUPPLEMENTARY INFORMATION:

Background and Proposed Changes

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered. The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable.

A recent review determined that the existing fee schedule, effective January 1, 2003, will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2004. Costs in FY 2004 are projected at $29.8 million. Without a fee increase, FY 2004 revenues are projected at $29.0 million and trust fund balances would be $14.6 million. With a fee increase, FY 2004 revenues are projected at $29.8 million and trust fund balances would remain at $15.2 million.

Employee salaries and benefits account for approximately 82 percent of the total operating budget. The last general and locality salary increase for Federal employees became effective on January 1, 2003 and it materially affected program costs. Projected cost estimates for that increase were based on a salary increase of 2.6 percent, however, the increase was actually 4.02 to 4.87 percent, depending on locality. Another general and locality salary increase estimated at 2 percent is expected in January 2004. Also, from October 2002 through September 2004, salaries and fringe benefits of federally-licensed State employees will have increased by about 3 percent.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate would be increased by approximately 3 percent and the fee rate would be increased by approximately 4 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision.

As shown in the table below, only the maximum monthly administrative charge that covers overhead costs for resident poultry and shell egg grading would be increased, while other administrative charges would not be changed.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

Service	Current	Proposed
Resident Service (egg, poultry, and rabbit grading)		
Inauguration of service	310	310
Hourly charges: Regular hours	33.36	34.36
Administrative charges—Poultry grading:		
Per pound of poultry	.00037	.00037
Minimum per month	260	260
Maximum per month	2,675	2,755
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs	.048	.048
Minimum per month	260	260
Maximum per month	2,675	2,755
Administrative charges—Rabbit grading: Based on 25% of grader's salary, minimum per month	260	260

Service	Current	Proposed
Nonresident Service (egg and poultry grading)		
Hourly charges: Regular hours	33.36	34.36
Administrative charges: Based on 25% of grader's salary, minimum per month	260	260
Fee and Appeal Service (egg, poultry, and rabbit grading)		
Hourly charges:		
Regular hours	57.68	60.00
Weekend and holiday hours	66.64	69.32

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if fees are adequate and if costs are reasonable. A recent review determined that the existing fee schedule, effective January 1, 2003, will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance in FY 2004. Costs in FY 2004 are projected at $29.8 million. Without a fee increase, FY 2004 revenues are projected at $29.0 million and trust fund balances would be $14.6 million. With a fee increase, FY 2004 revenues are projected at $29.8 million and trust fund balances would remain at $15.2 million.

This action would raise the fees charged to users of grading services. The AMS estimates that overall, this rule would yield an additional $800,000 during FY 2004. The hourly rate for resident and nonresident service would increase by approximately 3 percent and the fee rate would increase by approximately 4 percent. The impact of these rate changes in a poultry plant would range from less than 0.0001 to 0.025 cents per pound of poultry handled. In a shell egg plant, the range would be less than 0.00002 to 0.11 cents per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

A 30-day comment period is provided for interested persons to comment on this proposed rule. This period is appropriate in order to implement, as early as possible in FY 2004, any fee changes adopted as a result of this rulemaking action.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that Title 7, Code of Federal Regulations, parts 56 and 70 be amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 56.46 is revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $60.00 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $69.32 per hour. Information on legal holidays is available from the Supervisor.

3. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.048, except that the minimum charge per billing period shall be $260 and the maximum charge shall be $2,755. The minimum charge also applies where an approved application is in effect and no product is handled.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

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

Authority: 7 U.S.C. 1621–1627.

5. Section 70.71 is revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $60.00 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $69.32 per hour. Information on legal holidays is available from the Supervisor.

6. In § 70.77, paragraph (a)(4) is revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00037, except that the minimum charge per billing period shall be $260 and the maximum charge shall be $2,755. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: June 23, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–16166 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Regulations for the Safe Transport of Radioactive Material; Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT) are jointly seeking public views on the proposed changes to the requirements of the 1996 Edition for the Safe Transport of Radioactive Material (TS–R–1). The changes will likely necessitate domestic compatibility rulemakings by both NRC and DOT. To aid in preparing comments, DOT is convening a public meeting as the U.S. competent authority for transportation matters before IAEA. Recognizing DOT's role, in lieu of separate meeting, NRC will participate at the meeting.

DATES: The public meeting will be held on July 22, 2003, from 9:30 a.m. to 11:30 a.m. Written comments will be accepted at the meeting and until August 8, 2003. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: The meeting will be conducted at the Department of Transportation, Nassif Building, 400 Seventh Street, SW., Room 6244, Washington, DC 20590–0001. Details of the meeting can be found at *http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-14585.pdf.*

Mail comments concerning the meeting to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to Two White Flint North, 11545 Rockville Pike (Mail Stop T6D59), Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays.

FOR FURTHER INFORMATION CONTACT: John Cook, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–8521; e-mail: *jrc1@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2003, the International Atomic Energy Agency (IAEA) posted 63 proposed changes to the requirements of the 1996 Edition of the Agency's Regulations for the Safe Transport of Radioactive Material (TS–R–1) on the world wide web (see *http://hazmat.dot.gov/files/IAEA_TS–R–1_rev_prop.pdf).* IAEA's revision process calls for Member States and International Organizations to have an opportunity for a period of 120 days to provide comments. The objective is publication of revised regulations in 2005, nominally to become effective worldwide in 2007.

The IAEA periodically revises its transportation regulations (referred to as TS–R–1) to reflect new information and accumulated experience. In 2000, IAEA requested proposals for change to ultimately result in a 2005 edition of TS–R–1. Over 200 proposals were submitted to IAEA to change the regulations, guidance material, or identify problems for further work. These were later narrowed down to 63 proposals that were accepted for comment.

Because some of the proposed changes being considered for the 2005 edition of TS–R–1 would, if approved, result in a need to consider a revision of U.S. transport regulations (49 CFR 100–185 and 10 CFR part 71), the DOT and the NRC are jointly seeking public views on the proposed changes. This information will assist DOT and NRC in having a full range of views as the proposals are developed. Note that future domestic rulemakings, if necessary, will continue to follow established rulemaking procedures, including the opportunity to formally comment on proposed rules.

NRC is currently reviewing the proposed changes and will provide comments to DOT. The DOT is the U.S. competent authority before IAEA for radioactive material transportation matters, and will be consolidating U.S. comments to IAEA. On June 10, 2003 (68 FR 34695), DOT published a notice in the **Federal Register** announcing that DOT will conduct a public meeting to accept comments and answer questions pertaining to the proposed changes on July 22, 2003, at DOT Headquarters. Rather than convene a separate public meeting, as co-regulators for U.S. radioactive material transportation matters, the NRC staff will participate at DOT's public meeting. NRC staff will be available to respond to any technical questions concerning the proposals' potential impacts to Type B or fissile materials regulated in 10 CFR part 71.

Dated at Rockville, Maryland, this 20th day of June 2003.

For the Nuclear Regulatory Commission.

David W. Pstrak,

Transportation and Storage Project Manager, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–16175 Filed 6–25–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–144–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on a proposal to remove a required amendment.

SUMMARY: We are announcing the proposed removal of a required amendment to the Pennsylvania regulatory program (the ''Pennsylvania program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment required Pennsylvania to demonstrate that the revenues generated by its collection of the reclamation fee will assure that the Surface Mining Conservation and Reclamation Fund (Fund) can be operated in a manner that will meet the alternative bonding system requirements contained in the Federal regulations. In addition, the amendment required Pennsylvania to clarify the procedures to be used for bonding the surface impacts of underground mines and the procedures to reclaim underground mining permits where the operator has defaulted on the obligation to reclaim.

This document gives the times and locations that the Pennsylvania program is available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., e.s.t. July 28, 2003. If requested, we will hold a public hearing on the amendment on July 21, 2003.

We will accept requests to speak at a hearing until 4 p.m., e.s.t. on July 11, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to George Rieger, Acting Director, Harrisburg Field Office at the address listed below.

You may review copies of the Pennsylvania program, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

George Rieger, Acting Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036, Internet: *grieger@osmre.gov.*

Joseph Pizarchik, Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103.

FOR FURTHER INFORMATION CONTACT:

George Rieger, Telephone: (717) 782–4036. Internet: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning Pennsylvania's program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Action

In the May 31, 1991, **Federal Register** (56 FR 24687), we required Pennsylvania to amend its program as described above in the **SUMMARY** section. We required the amendment, which is codified at 30 CFR 938.16(h), as a result of our review of changes Pennsylvania made to its program at 25 Pennsylvania Code (Pa. Code) 86.17. This section of Pennsylvania's regulations describes permit and reclamation fees. In 1991, Pennsylvania amended 25 Pa. Code 86.17 in four ways by: (1) Clarifying that a per acre reclamation fee is required in addition to the bond required under 25 Pa. Code sections 86.145, 86.149 and 86.150; (2) Exempting the underground mining operations from the requirement to pay the $50 reclamation fee; (3) Adding a statement that the reclamation fee may be paid, as acreage within the mining permit is authorized for mining; and (4) Requiring that the reclamation fee deposited in the Surface Mining Conservation and Reclamation Fund shall only be used for reclaiming mining operations which have defaulted on their obligation to reclaim.

In the 1991 rulemaking, we indicated that the proposed revisions raised questions concerning the ability of Pennsylvania's alternative bonding system (ABS) to meet the requirements of 30 CFR 800.11(e) (56 FR at 24689). Specifically, the proposed revisions exempt underground mining operations from the requirement to submit the $50 reclamation fee without also excluding the use of the funds generated from the fee to reclaim the surface effects of underground mines that default on their obligation to reclaim.

Also in the 1991 rulemaking, we mentioned a letter we wrote to Pennsylvania on January 15, 1991, (Administrative Record No. PA 799.00) in which we noted our concerns regarding the adequacy of Pennsylvania's ABS. Specifically, we noted that the ABS must be modified to provide the resources needed to reclaim existing permanent program forfeiture sites within a reasonable timeframe and to ensure that future forfeiture sites will be reclaimed in a timely manner. These resources must be sufficient to complete the reclamation plan approved in the permit.

Pennsylvania responded, by letter dated February 27, 1991 (Administrative Record No. PA 779.01), with information pertaining to its ABS. The response reported that analysis of the solvency of the ABS for 1989 and 1990 showed a deficit in the fund in both years. Pennsylvania also noted that all adjudicated and final forfeitures have been or are in the contracting process, and that it is taking action to eliminate the deficit.

Because of the concerns regarding the effect of the revision of 25 Pa. Code 86.17 to exempt underground mines from payment of the $50 reclamation fee and the ability of the Fund to meet the requirements of 30 CFR 800.11(e), and

in consideration of the State's findings regarding the solvency of this Fund, we conditionally approved the amendment on May 31, 1991, with the requirements as noted in 30 CFR 938.16(h).

Subsequent to the May 31, 1991, decision discussed above, our continuing oversight activities determined that the Pennsylvania ABS contained unfunded reclamation liabilities for backfilling, grading, and revegetation. In addition, our oversight determined that the ABS was financially incapable of abating or treating pollutional discharges from bond forfeiture sites. Based upon oversight findings and consistent with 30 CFR 732.17, we notified Pennsylvania on October 1, 1991 (Administrative Record No. PA 802.00), that the Pennsylvania ABS * * * [was] ''no longer in conformance with SMCRA (section 509) and Federal regulations.'' [30 CFR 800.11(e)] The notice concluded that the Pennsylvania Department of Environmental Protection (PADEP) must submit either proposed amendments or a description of amendments to be proposed to remedy the ABS deficiencies, together with a timetable for adoption and implementation consistent with the established administrative procedures in Pennsylvania. The notice also required that the PADEP submission must include provisions for an actuarial study of a scope sufficient to address the identified concerns.

Our required amendment at 30 CFR 938.16(h) required Pennsylvania to submit information, sufficient to demonstrate that the revenues generated by the collection of the reclamation fee, as amended in 25 Pa. Code Section 86.17(e), will assure that the Fund can be operated in a manner that will meet the requirements of 30 CFR 800.11(e). We stated that Pennsylvania could provide such a demonstration through an actuarial study showing the Fund's soundness or financial solvency.

As a result, by letter dated June 5, 2003 (Administrative Record No. PA 802.27), PADEP provided a document to us entitled: *Pennsylvania Bonding System Program Enhancements.* PADEP asserts that the information in this document, developed jointly by OSM and PADEP, will satisfy our concerns as to whether the Fund can be operated in a manner that will meet the requirements of 30 CFR 800.11(e). For that reason, the PADEP stated that the program enhancements it had implemented should be sufficient to satisfy the concerns we expressed in our October 1, 1991, Part 732 Notification letter. Specifically, PADEP has, within existing statutory and regulatory authorities, implemented a number of bond system and program enhancements to cover both land reclamation and post-mining discharge treatment on existing active/inactive permits and forfeited sites. Pennsylvania's efforts include:

Revising the Conventional Bonding System—Pennsylvania has revised the conventional bonding system (CBS) for all active/inactive permits. Pennsylvania's revised CBS contains two components: A full cost/conventional bond for land reclamation and a water treatment bond based on revised bond rate guidelines.

Conversion to CBS—Pennsylvania has converted all active permits and is completing the conversion of the inactive permits that operated under the ABS to a full cost bond under the CBS.

Funding for ABS Forfeiture Land Reclamation—Pennsylvania has provided general revenue funding to address the land reclamation funding shortfall on primacy bond forfeiture sites.

ABS Primacy Forfeiture Discharge Abatement—Pennsylvania has developed a plan to address long-term pollutional discharges on ABS primacy bond forfeiture sites. The plan will use existing reclamation and funding mechanisms to abate discharges through a watershed approach.

Mandatory Bond Adjustment—Pennsylvania is proposing to replace the discretionary bond adjustment language in 25 Pa. Code Section 86.152(a) with the Federal mandatory bond adjustment language. This change, which we will consider in a future rulemaking, will ensure that bonds on sites under the CBS will contain sufficient funds to allow PADEP to complete the reclamation plan in the event of forfeiture.

Also, PADEP performed both an actuarial study and an internal review of the Pennsylvania bonding program. The actuarial study was completed in September 1993, and the internal review resulted in a report issued in February 2000 titled: *Assessment of Pennsylvania's Bonding Program for Primacy Coal Mining Permits.*

On June 12, 2003 (Administrative Record No. PA 802.29), we sent a letter to the Secretary of the PADEP, informing her that the State's bonding program enhancements are sufficient to satisfy the concerns contained in our October 1, 1991, Part 732 Notification Letter. That 1991 letter dealt with the same subject matter, *i.e.*, the solvency of the State's Surface Mining Conservation and Reclamation Fund, as does the first portion of the required amendment at 30 CFR 938.16(h). Since we are now satisfied that the State's bonding program enhancements adequately address our concerns about the ability of the bonding program to ensure the completion of the reclamation plans for all operations on which the operators default on their obligations to reclaim, we are proposing the removal of the first portion of 30 CFR 938.16(h).

Finally, a second letter dated June 5, 2003, from PADEP (Administrative Record No. PA 802.28) contained a clarification concerning the procedures Pennsylvania uses for bonding the surface impacts of underground mines and the procedures to reclaim underground mining permits where the operator has defaulted on the obligation to reclaim, also required by 30 CFR 938.16(h). At the time we issued the required amendment, we were concerned that the $50 reclamation fee would be used to reclaim the surface effects of underground mine forfeitures. We are proposing herein to remove the remaining portion of the required amendment based upon this clarification.

In summary, our required amendment at 30 CFR 938.16(h) required Pennsylvania to submit information sufficient to demonstrate that the revenues generated by the collection of the reclamation fee, as amended in 25 PA Code 86.17(e), will assure that the Fund can be operated in a manner that will meet the requirements of 30 CFR 800.11(e). We stated that Pennsylvania could provide such a demonstration through an actuarial study showing the Fund's soundness or financial solvency. In addition, Pennsylvania shall clarify the procedures to be used for bonding the surface impacts of underground mines and the procedures to reclaim underground mining permits where the operator has defaulted on the obligation to reclaim.

Based upon the information contained in PADEP's letter of June 5, 2003, which was submitted to address OSM's October 1, 1991, notice under 30 CFR 732.17 and OSM's May 31, 1995, follow-up letter, and based upon PADEP's second letter dated June 5, 2003 (Administrative Record No. PA 802.28), we are proposing the removal of the required amendment at 30 CFR 938.16(h).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether OSM should consider the information submitted by Pennsylvania sufficient to satisfy the required amendment at 30 CFR 938.16(h). Because we decided on June 12, 2003, that PADEP's bonding

program enhancements satisfy the concerns expressed in our October 1, 1991, Part 732 Notification Letter, we are not seeking comments on the adequacy of those bonding program enhancements.

Written Comments

Send your written or electronic comments to OSM at the address given above.

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Harrisburg Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. PA–144–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Harrisburg Field Office at (717) 782–4036.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on July 11, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This proposed rule applies only to the Pennsylvania program and therefore does not affect tribal programs.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement

because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 12, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–16101 Filed 6–25–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–03–026]

RIN 1625–AA09

Drawbridge Operation Regulations; Charles River, Dorchester Bay, and Saugus River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of three bridges, the Craigie Bridge, mile 1.0, across the Charles River, the William T. Morrisey Boulevard Bridge, mile 0.0, across Dorchester Bay, and the General Edwards SR1A Bridge, mile 1.7, across the Saugus River, all in Massachusetts. This proposed rule would require an eight-hour advance notice for openings during the time periods at night when these bridges have historically received few requests to open. This action is expected to meet the reasonable needs of navigation while relieving the bridge owner from the burden of crewing these bridges at periods when they seldom open for navigation.

DATES: Comments must reach the Coast Guard on or before August 25, 2003.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, 408 Atlantic Avenue, Boston, Massachusetts, 02110, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–026), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The owner of the bridges, the Metropolitan District Commission (MDC), requested a change to the operating regulations for three of their bridges, the Craigie Bridge, the William T. Morrisey Boulevard Bridge, and the General Edwards SR1A Bridge. The requested change to the drawbridge operation regulations would require an eight-hour advance notice during various time periods when these bridges have historically received few requests to open.

The Coast Guard reviewed the drawbridge opening logs submitted by the bridge owner, and determined that the bridges had few requests to open during the time periods the bridge owner has requested the eight-hour advance notice requirement. This

proposed change will apply to the following bridges and during the following times:

Craigie Bridge

The MDC Craigie Bridge, mile 1.0, across the Charles River has a vertical clearance of 5 feet at mean high water and 15 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.591(e). This proposed rule would allow the bridge owner to require an eight-hour advance notice for openings midnight to 8 a.m., during April, May, October, and November.

William T. Morrisey Boulevard Bridge

The William T. Morrisey Boulevard Bridge, at mile 0.0, across Dorchester Bay has a vertical clearance of 12 feet at mean high water and 22 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.597. This proposed rule would allow the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., during April, May, and October.

General Edwards SR1A Bridge

The General Edwards SR1A Bridge, at mile 1.7, across the Saugus River has a vertical clearance of 27 feet at mean high water and 36 feet at mean low water in the closed position. The existing operating regulations listed at 33 CFR 117.618(b). This proposed rule would allow the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., April through November.

The Coast Guard believes this rule is reasonable because all three bridges historically receive very few requests, if any, to open during the time periods they will require an eight-hour advance notice for bridge openings.

Discussion of Proposal

This proposed change would amend 33 CFR 117.591, which governs operation of the Metropolitan District Commission Craigie Bridge, by adding a new paragraph paragraph (e)(3) to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., April, May, October, and November.

This proposed change would revise 33 CFR 117.597, which governs the operation of the William T. Morrisey Boulevard Bridge, by adding the requirement for an eight-hour advance notice from midnight to 8 a.m., for April, May, and October.

This proposed change would also amend 33 CFR 117.618, which governs the operation of the General Edwards SR1A Bridge, by revising paragraph (b) to add the requirement for an eight-hour advance notice for bridge openings midnight to 8 a.m., April through November, and from 4 p.m. to 8 a.m. from December through March.

The language in the existing regulation regarding bridge openings for public vessels of the United States, state and local vessels used for public safety will be removed. That requirement is now listed under 33 CFR 117.31.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that the bridges normally receive few requests to open during the times the advance notice will be required.

Small Entities

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

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

This conclusion is based on the fact that the normally receive few requests to open during times the advance notice will be required.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.591 is amended by adding a new paragraph (e)(3) to read as follows:

§ 117.591 Charles River.

* * * * *

(e) * * *

(3) From midnight to 8 a.m., April, May, October, and November, the draw shall open on signal after at least an eight-hour advance notice is given.

* * * * *

3. Section 117.597 is revised to read as follows:

§ 117.597 Dorchester Bay.

The draw of the William T. Morrisey Boulevard Bridge, mile 0.0, at Boston, shall operate as follows:

(a) From 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not open for the passage of vessel traffic.

(b) The draw shall open on signal from April 16 through May 31, from 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(c) The draw shall open on signal at all times from June 1 through September 30, except as provided in paragraph (a) of this section.

(d) The draw shall open on signal from October 1 through October 14, 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(e) The draw shall open on signal from October 15 through April 15, after at least a 24 hours notice is given, except as provided in paragraph (a) of this section.

4. Section 117.618 is amended by revising paragraph (b) to read as follows:

§ 117.618 Saugus River.

* * * * *

(b) The draw of the General Edwards SR1A Bridge, mile 1.7, between Revere and Lynn, shall open on signal; except that, from April 1 through November 30, from midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings, and at all times from December 1 through March 31, at least an eight-hour advance notice is required for bridge openings.

* * * * *

Dated: June 13, 2003.

John L. Grenier,

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

[FR Doc. 03–15999 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

United States Coast Guard Restricted Area, San Francisco Bay, Yerba Buena Island, San Francisco, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U. S. Army Corps of Engineers is proposing to establish a new Restricted Area in the waters of San Francisco Bay on the east side of Yerba Buena Island, San Francisco, San Francisco County, California. The designation would ensure public safety and satisfy the security, safety, and operational requirements as they pertain to the Coast Guard Group San Francisco on Yerba Buena Island, by establishing an area into which unauthorized vessels and persons may not enter.

DATES: Comments must be submitted on or before July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761–4618 or Mr. Bryan Matsumoto, Corps San Francisco District, at (415) 977–8476.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by establishing a new Restricted Area at 334.1244, in the waters of San Francisco Bay on the east side of Yerba Buena Island, San Francisco, San Francisco County, California. The points defining the proposed Restricted Area were selected to isolate dock-side and pier face activity that appear to, or potentially present a terrorist threat. Additionally, the Restricted Area would reduce the potential damage to the public in the event of a rapid response by Coast Guard assets for Homeland Defense and Search and Rescue Operations. In addition to the publication of this proposed rule, the San Francisco District Engineer is concurrently soliciting public comment on these proposed rules by distribution of a public notice to all known interested parties.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to security and safety functions of the U.S. Coast Guard and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will

have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments). The Corps expects that the economic impact of the establishment of this Restricted Area would have no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The San Francisco District has prepared a preliminary Environmental Assessment (EA) for this action. The preliminary EA concluded that this action will not have a significant impact on the human environment. After receipt and analysis of comments from this **Federal Register** posting and the San Francisco District's concurrent Public Notice, the Corps will prepare a final environmental document detailing the scale of impacts this action will have upon the human environment. The EA will be available for review at the San Francisco District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** paragraph above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, we propose to amend 33 CFR part 334 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.1244 is added to read as follows:

§ 334.1244 San Francisco Bay on the east side of Yerba Buena Island, San Francisco, San Francisco County, California; Coast Guard Restricted Area.

(a) *The area.* San Francisco Bay on the east side of Yerba Buena Island: From a point along the southeastern shore of Yerba Buena Island at latitude 37°48′27″ North, longitude 122°21′44″ West; east to latitude 37°48′27″ North, longitude 122°21′35″ West; north to latitude 37°48′42″ North, longitude 122°21′35″ West, a point on the northeastern side of Yerba Buena Island.

(b) *The regulation.* (1) All persons and vessels are prohibited from entering the waters within the Restricted Area for any reason without prior written permission from the Commanding Officer of the Coast Guard Group San Francisco on Yerba Buena Island.

(2) Mooring, anchoring, fishing, transit and/or swimming shall not be allowed within the Restricted Area without prior written permission from the Commanding Officer of the Coast Guard Group San Francisco on Yerba Buena Island.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer of the Coast Guard Group San Francisco on Yerba Buena Island, and such agencies and persons as he/she shall designate.

Dated: June 5, 2003.

Approved:

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–16016 Filed 6–25–03; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA138–4098b; FRL–7511–8]

Approval and Promulgation of Air Quality Implementation Plans; Allegheny County, PA; Federally Enforceable State Operating Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Allegheny County, Pennsylvania for the purpose of establishing Allegheny County's state operating permit program. EPA is approving this revision in accordance with the requirements of sections 110 and 112 of the Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 28, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Kristeen Gaffney, Acting Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *gaffney.kristeen@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Paul Arnold, (215) 814–2194, or by e-mail at *arnold.paul@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA 138–4098 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the

close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *gaffney.kristeen@epa.gov*, attention PA 138–4098. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through *Regulations.gov*, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov.* Your use of *Regulation.gov* is an alternative method of submitting electronic comments to EPA. Go directly to *Regulations.gov* at *http://www.regulations.gov*, then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: June 4, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 03–16025 Filed 6–25–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH057–7174B; A–1–FRL–7518–7]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Control of Mobile Sources of Air Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Hampshire on August 31, 2000 which contains the New Hampshire regulation Chapter Env-A 1100, Part Env-A 1101 entitled ''Diesel and Gasoline Powered Motor Vehicles.'' This regulation adopted by New Hampshire includes maintenance and operational requirements for diesel and gasoline powered engines. This regulation sets maximum opacity limits from vehicles, prohibits removing pollution control equipment from vehicles, and also sets time limits for allowing engines to idle. EPA is proposing to approve these New Hampshire requirements into the New Hampshire SIP because EPA has found that the requirements will strengthen the SIP. The intended effect of this action is to propose approval of the New Hampshire regulation entitled ''Diesel and Gasoline Powered Motor Vehicles.'' This action is being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before July 28, 2003.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the New Hampshire submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Air Resources Division, Department of Environmental Services (DES), 6 Hazen Drive, P.O. Box 95, Concord, NH 03302.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 918–1045.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. What Is the Background for This Action?

Chapter Env-A 1100 was adopted to minimize the environmental impact from mobile sources operating in New Hampshire. It was initially adopted in 1973 and amended several times prior to this version of the rule. Prior to the September 25, 1996 version of the rule which we are acting on, this rule was last amended on December 27, 1990. The most substantive changes made between that earlier version and this version of the rule are related to the specific opacity standards which diesel engines must meet, and the specific prohibitions and conditions for allowing both diesel and gasoline engines to idle. Both versions of the rule prohibited pollution control equipment from being removed. No version of Chapter Env-A 1100 has been submitted previously for approval in the state's air quality plan. However provisions of this rule have been incorporated into the state's inspection programs administered by the Department of Safety, and those have been approved into the SIP. For example, a roadside testing program has been established to ensure that diesel opacity standards are met. Also, as part of the existing safety inspection program, vehicles will not pass the test if pollution control equipment has been removed from a vehicle.

The adoption of this rule will aid the state in meeting and maintaining compliance with air quality standards, including the standard for ground level ozone, and strengthen the SIP. The state has adopted this program to help reduce the impact of motor vehicle pollution by

setting opacity standards for vehicle emissions, requiring that pollution control equipment is not removed and prohibiting unnecessary idling of vehicles. New Hampshire air pollution control regulations apply statewide. New Hampshire submitted this rule to EPA on August 31, 2000 for inclusion in the SIP.

II. What Are the Requirements of Chapter 1100, Part Env-A 1101?

The New Hampshire rule, Part Env-A 1101 includes sections Env-A 1101.01 through 1101.10. New Hampshire has also submitted Env-A 101.63 and Env-A 101.109, which are the definitions of ''Emergency motor vehicle'' and ''Motor vehicle,'' respectively. Specifically, sections being proposed for approval establish opacity standards for diesel engines built on or before 1990 to be no higher than 55 percent opacity, those diesel engines built after 1990 to have no higher than 40 percent opacity, and for gasoline engines to have no visible emissions other than water vapor, except at start up. The rule also prohibits the owner or operator of a diesel or gasoline powered vehicle from altering or removing any emission control equipment or system, and requires that equipment to be maintained and operational. Finally, with limited exceptions as provided for in the rule, such as for emergency vehicles or when the vehicle is stuck in traffic, no diesel or gasoline powered engine may be allowed to idle for more than 5 consecutive minutes if the temperature is above 32 degrees Fahrenheit, nor for more than 15 consecutive minutes if the temperature is between 32 degrees and minus 10 degrees Fahrenheit. This rule will result in emissions reductions of volatile organic compounds, nitrogen oxides, carbon monoxide, and fine particulate.

III. Proposed Action

EPA is proposing to approve a SIP revision at the request of the New Hampshire DES. This version of the rule was adopted on September 25, 1996 and submitted to EPA for approval on August 31, 2000. We are proposing to approve the September 25, 1996 version of Chapter Env-A 1100, Part Env-A 1101 entitled ''Diesel and Gasoline Powered Motor Vehicles.'' EPA is proposing to approve these New Hampshire requirements into the SIP because EPA has found that the requirements will help prevent emissions of volatile organic compounds, nitrogen oxides, carbon monoxide and fine particles and will strengthen the New Hampshire SIP.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this document.

IV. What Are the Administrative Requirements?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 13, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 03–16238 Filed 6–25–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 030612150–3150–01; I.D. 051503B]

RIN 0648–AQ94

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Regulatory Amendment

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a regulatory amendment to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This amendment was submitted

by the Pacific Fishery Management Council (Council) for review and approval by the Secretary of Commerce. The proposed amendment would change the management subareas and the allocation process for Pacific sardine. The purpose of this proposed amendment is to establish a more effective and efficient allocation process for Pacific sardine and increase the possibility of achieving optimum yield (OY).

DATES: Comments must be received by July 28, 2003.

ADDRESSES: Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562–980–4036.

SUPPLEMENTARY INFORMATION: Pacific sardines are managed pursuant to the CPS FMP, which was implemented by regulations published at 64 FR 69893, December 15, 1999. The annual harvest guideline for Pacific sardine is allocated two-thirds south of Pt. Piedras Blancas, CA (35°40′ N. lat.) (a point south of Monterey, California, which includes the fishery in Southern California) and one-third north (includes fisheries in Monterey, CA, Oregon, and Washington), beginning annually on January 1. On October 1, the harvest guideline remaining in each sub-area is added together, then divided equally between the two areas.

In 2002, the northern allocation was reached before October 1, which required closure of the fishery while significant amounts of sardine remained unharvested in the south (67 FR 58733, September 18, 2002). Rough ocean conditions in the Pacific Northwest beginning in October make fishing with purse seine gear difficult or impossible. Because the fisheries off Oregon and Washington would be virtually over by October, the Council requested an emergency rule to make the required allocation in 2002 earlier than October 1, to avoid losses in jobs and revenue. An emergency rule was implemented on September 26, 2002 (67 FR 60601), that reallocated the harvest guideline and reopened the fishery.

The FMP established a limited entry fishery south of Pt. Arena, CA (39° N. lat.), which is a point north of San Francisco, CA. An open access fishery exists north of Pt. Arena, CA made up of fisheries off Northern California, Oregon, and Washington.

There was no sardine fishery in Oregon and Washington when the CPS FMP was implemented. The allocation procedure included in the CPS FMP was adopted from California rules and was designed to protect the Monterey, CA fishery (in the northern subarea or Subarea A) from the possibility of the fishery in Southern California (in the southern subarea or Subarea B) catching the entire harvest guideline before sardine became available in Monterey. The fishing pattern that has developed is that, generally, sardine become available to the Southern California fishery at the beginning of the year, the Pacific Northwest in the summer, and Monterey in the fall. As a result, there are three areas affected by the existing allocation system rather than two, and the possibility exists that the fishery in the Pacific Northwest might preempt the Monterey fishery. If Pacific sardine remain unharvested in either area following the reallocation on October 1, there currently is no procedure to make further reallocations to increase the likelihood of achieving optimum yield (OY).

The Council recognized that a process with more flexibility for making allocation decisions was needed. Therefore, the Council considered a regulatory amendment pursuant to the framework process identified in 50 CFR 660.517 of the regulations implementing the CPS FMP. At its November 2002 meeting in Foster City, CA, the Council adopted a set of management alternatives to address the allocation issue and directed its Coastal Pelagic Species Management Team (Management Team) to analyze these alternatives and others it believed appropriate. The primary goal was to avoid closing any segment of the fishery while a portion of the harvest guideline remain unharvested. The Management Team provided a draft environmental assessment for the Council's March 2003 meeting in Sacramento, CA, which included a range of options that showed the projected harvest in the three areas and how much of the harvest guideline would remain at the end of the fishing season. After receiving reports from its Coastal Pelagic Species Advisory Subpanel (Subpanel) and its Management Team, and after hearing public comments, the Council adopted a range of alternatives for public review. A revised environmental assessment was provided to the public during the week of March 24, 2003.

At its meeting in Vancouver, WA on April 10, 2003, the Council received reports from its Subpanel and its Management Team, and heard public comments. The Council then adopted an option that: (1) changes the definition of subarea A and subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40′ 00'' N. lat. to Pt. Arena at 39° 00′ 00'' N. lat., (2) moves the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changes the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocates all unharvested sardine that remain on December 1 coast wide. This procedure is proposed to be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

An interim approach was taken because the sardine resource has recovered after decades of absence and there is insufficient information available on stock structure and migration patterns to assess the impacts of a more detailed allocation process on the fishing communities along the Pacific coast. The proposed change would most likely avoid the need for an emergency rule to reallocate unharvested portions of the OY and would have a greater possibility of achieving OY than the current allocation process. Information from resource surveys scheduled for the Pacific Northwest in 2003 and 2004 plus accumulated data on size and age of sardine from all areas of the fishery will improve the assessment model and provide better data for measuring the impacts of various allocation options for the longer-term.

While the proposed action is being taken as a regulatory amendment under a framework, implementing the proposed action permanently will eventually require a change in Section 5.2 of the FMP, which describes the north-south allocation. The only regulatory change that would be required is to redefine Subarea A and Subarea B at 50 CFR 660.503. If the regulatory amendment is approved, the fishery in Monterey, CA would become a part of the Subarea B fishery rather than Subarea A, and Pacific sardine landed in Monterey in 2003 would become part of the Subarea B landings.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from the Council (*see* **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** sections of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 140 vessels are permitted in the sardine fisheries off the U.S. West Coast; 65 vessels are permitted in the Federal coastal pelagic species (CPS) limited entry fishery off California, while approximately 55 vessels are permitted in State of Oregon and Washington sardine fisheries. An additional 18 live bait vessels are permitted in Southern California and 2 live bait vessels are permitted in Oregon and Washington. All of these vessels would be considered small businesses under the Small Business Administration standards. Therefore, there would be no disproportionate economic impacts resulting between small and large vessels under the proposed action. Because cost data are lacking for the harvesting operations of CPS finfish vessels, it was not possible to evaluate the economic impacts from estimated changes in sardine landings in terms of vessel profitability. Instead, economic impacts were evaluated based only on changes in sardine ex-vessel revenues compared to sardine landings under the status quo. Therefore, the difference between vessel revenues generated by 2003 proposed quotas and those generated by 2003 projected landings were used as a proxy for vessel profitability among the three regions evaluated. All projections utilized 2001 data and changes in ex-vessel revenues are described in 2001 dollars. CPS finfish vessels typically harvest a number of other species, including anchovy, mackerel, squid, and tuna. However, since data on individual vessel operations were not readily available, it was not possible to evaluate potential changes in fishing strategies by these vessels in response to different opportunities to harvest sardines under each of the allocation alternatives and what this would mean in terms of total ex-vessel revenues from all species.

Under the proposed action, sardine landings for CPS vessels for the entire West Coast are estimated to increase 9,846 metric tons (mt) from the status quo, with a corresponding increase in ex-vessel value of $1,077,540. All of the coastwide harvest guideline OY would be caught by the end of the season under the proposed action. Sardine landings by vessels participating in the Oregon/Washington fishery were estimated to be 7,622 mt greater than the status quo, with ex-vessel revenues increasing by $873,526. Landings by CPS vessels that historically would have participated in the Northern California sardine fishery would increase 2,449 mt above the status quo with a corresponding rise in ex-vessel revenues of $228,035. Under the proposed action, a loss of 225 mt in landings was estimated for vessels that historically fished out of Southern California ports, which equates to foregone ex-vessel revenues amounting to $24,021, or approximately $370 per vessel, in lost ex-vessel revenue relative to the status quo. Twenty live bait vessels landed approximately 2,000 mt per year of mixed species from 1993 through 1997. Those landings were comprised mostly of Pacific sardine and northern anchovy. The estimated live bait 18 vessels fishing in Southern California are expected to be only minimally impacted by this action similar to results for the CPS limited entry vessels fishing in that area. The two live bait vessels fishing in Oregon and Washington are not expected to be impacted by this action.

For the 65 CPS limited entry vessels that could participate in either the Southern California or Northern California sardine fisheries, the 225 mt loss represents a potential loss in ex-vessel revenues for the CPS vessels choosing to operate in Southern California, which is substantially less than 0.01 percent per vessel. If the 65 CPS limited entry vessels choose to fish in the traditional Northern California sardine fishery, the potential gain in ex-vessel revenue for that fishery is estimated to be approximately $3,508 per vessel per year. However, this amount could be underestimated since data from the 2001 SAFE report show that only 27 CPS vessels landed in Monterey/Santa Cruz and only 13 CPS vessels landed in San Francisco.

Even though limited entry vessels based in Southern California are not restricted from participating in the Northern California or the open access Oregon/Washington sardine fisheries, it is unlikely that it would be profitable for all Southern California vessels to do so due to additional travel time and fuel costs. However, any loss in profitability by the CPS vessels choosing to fish in Southern California could be mitigated to a certain extent by moving northward to land larger, higher-priced sardines in Northern California ports.

Vessels that participate in the Oregon/Washington sector of the fishery are estimated to increase ex-vessel revenues by $15,882 per vessel based on the estimated 55 State sardine permits issued. However, this figure may be underestimated since data show that, of the 35 Washington permitted vessels, only 19 vessels participated in these fisheries in 2002 with the majority of the catch accomplished by only 13 vessels.

The Council considered 3 alternatives to the proposed action in addition to the no-action alternative. All alternatives resulted in ex-vessel revenue gains of various magnitudes for the fishery as a whole. However, the proposed alternative yielded the greatest overall gain, with the least negative impacts to individual vessels from any one region while also providing the fishery with the possibility of achieving OY as required under the Magnuson-Stevens Fishery Conservation and Management Act.

Alternative 1 (status quo) With a 10 percent increase in harvest from 2002, total landings would be 101,061 mt and total ex-vessel revenues would amount to $10,587,481. Southern California vessels would realize ex-vessel revenues of $5,749,562, Northern California vessels $1,039,424, and Oregon/Washington vessels $3,798,405.

Alternative 2 (start year with 66–33 allocation, subarea line to 39° N lat., September [50–50] reallocation, and December [coastwide] reallocation). Relative to the status quo, Southern California vessels would lose 3,618 mt or $386,201 in ex-vessel revenues. Northern California vessels would gain 35 mt or $3,306, and Oregon/Washington would gain 10,108 mt or $1,158,314, for a net increase in coastwide ex-vessel revenues of $775,420.

Alternative 4 (start year with 66–33 allocation, subarea line not changed, September [50–50] reallocation, and December [coastwide] reallocation). Compared to the status quo, Southern California vessels would realize no change in landings, Northern California vessels would gain 274 mt or $25,518 in ex-vessel revenues, and Oregon/Washington vessels would gain 8,091 mt or $927,167. This results in an overall net increase of $952,685 in ex-vessel revenues.

Alternative 5 (start year with 66–33 allocation, subarea line to 39° N lat., September coastwide reallocation).

Relative to the status quo, Southern California vessels would lose 2,500 mt or $266,924 in ex-vessel revenues. Northern California vessels would gain 2,239 mt or $208,547, and Oregon/Washington vessels would gain 10,108 mt or $1,099,937, for a net increase in overall ex-vessel revenues of $1,099,937.

List of Subject in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 19, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.503, paragraphs (b)(2) and (c)((1) are revised to read as follows:

§ 660.503 Management subareas.

* * * * *

(b) * * *

(2) Southern boundary - at 39° 00′ 00′′ N. lat. (Pt. Arena).

(c) * * *

(1) Northern boundary - at 39° 00′ 00′′ N. lat. (Pt. Arena); and

* * * * *

3. Section 660.509 is revised to read as follows:

§ 660.509 Closure of directed fishery.

(a) The date when Pacific sardine that remains unharvested will be reallocated to Subarea A and Subarea B has been changed from October 1 to September 1 for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

(b) All unharvested sardine that remains on December 1 will be available for harvest coast wide.

4. In § 660.511, new paragraph (f) is added to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(f) The percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B has been changed from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B.

[FR Doc. 03–16084 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 123
Thursday, June 26, 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

Animal and Plant Health Inspection Service

[Docket No. 03–064–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations requiring permits for the interstate movement of certain animals.

DATES: We will consider all comments that we receive on or before August 25, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–064–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–064–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–064–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations requiring permits for movement of restricted animals, contact Dr. Michael Gilsdorf, Director, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–6954. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Permit for Movement of Restricted Animals.

OMB Number: 0579–0051.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture is responsible for, among other things, preventing the spread of contagious, infectious, or communicable animal diseases interstate and for eradicating such diseases from the United States. In connection with this mission, Veterinary Services (VS), Animal and Plant Health Inspection Service, carefully monitors animals which either have, or have been exposed to, diseases of quarantine significance as these animals are transported to appropriate slaughtering facilities.

When farm animals (such as cattle, swine, sheep, or horses) become sick or have been exposed to a disease of quarantine significance, it is important that they be removed promptly from the farm to prevent exposing and infecting other animals. In such situations, the owner of sick or exposed animals may have the animals transported from the farm to a slaughtering establishment. When this movement requires animals to be transported across State lines, the owner is required to complete a ''Permit for Movement of Restricted Animals,'' also known as VS Form 1–27.

It is imperative that these animals not be removed from the vehicle during transport or be otherwise diverted from their destination, since such an event could result in the spread of a disease of quarantine significance among healthy animals. VS Form 1–27, which is completed by specified personnel at the farm of origin and again at the point of destination, is our primary means of ensuring that these animals move directly from the farm to the slaughtering establishment.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. We need this outside input to help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.083 hours per response.

Respondents: State field personnel, accredited veterinarians, meat inspectors, animal health technicians, and other regulated entities, including owners of cattle, swine, horses, sheep, and goats.

Estimated annual number of respondents: 4,000.

Estimated annual number of responses per respondent: 3.

Estimated annual number of responses: 12,000.

Estimated total annual burden on respondents: 996 hours. (Due to averaging, the total annual burden hours

may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 23rd day of June, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16183 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–065–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the domestic tuberculosis eradication program.

DATES: We will consider all comments that we receive on or before August 25, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–065–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–065–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–065–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding the domestic tuberculosis eradication program, contact Dr. Michael Gilsdorf, Director, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–6954. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Tuberculosis.

OMB Number: 0579–0146.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, preventing the interstate spread of pests and diseases of livestock within the United States and for conducting eradication programs. In connection with this mission, USDA's Animal and Plant Health Inspection Service (APHIS) participates in the Cooperative State-Federal Bovine Tuberculosis Eradication Program, which is a national program to eliminate bovine tuberculosis from the United States. This program is conducted under various States' authorities supplemented by Federal authorities regulating interstate movement of affected animals.

Our tuberculosis regulations in title 9, part 77, of the Code of Federal Regulations provide for the assignment of tuberculosis risk classifications for State, for the creation of tuberculosis risk status zones within the same State, and for the conducting of tests before regulated animals are permitted to move interstate. The zone and testing requirements enhance the ability of States to move healthy, tuberculosis-free cattle, bison, goats, and captive cervids interstate as well as the effectiveness of our eradication program.

The requirements of the tuberculosis regulations necessitate the use of several information collection activities that include (1) the submission of a formal request for a zone classification change in a State; (2) an epidemiological review of reports of all testing for all zones within a State within 30 days of testing; (3) the submission of an annual report to APHIS in order to qualify for renewal of accredited free State or zone status; (4) the completion of a certificate of tuberculin test that must accompany certain regulated animals moved interstate; (5) the retention for 2 years of any certificates documenting the movement of regulated animals into and out of zones; and (6) the creation of a tuberculosis herd management plan as a tool for eradicating tuberculosis within a State or zone, thus avoiding a downgrade in a State's or zone's tuberculosis status.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. We need this outside input to help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.291666 hours per response.

Respondents: State animal health authorities, including State veterinarians and designated State tuberculosis epidemiologists.

Estimated annual number of respondents: 210.

Estimated annual number of responses per respondent: 9.6.

Estimated annual number of responses: 2,016.

Estimated total annual burden on respondents: 588 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of June, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16184 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–066–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations restricting the importation of poultry products into the United States in order to prevent the introduction of poultry disease.

DATES: We will consider all comments that we receive on or before August 25, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–066–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–066–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–066–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding regulations for the importation of poultry products, contact Dr. Michael David, Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737; (301) 734–6194. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Poultry Products.

OMB Number: 0579–0141.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service of the United States Department of Agriculture is responsible for, among other things, preventing the introduction of exotic diseases of livestock and poultry into the United States. To fulfill this mission, USDA's Animal and Plant Health Inspection Service regulates the importation of animals and animal products into the United States. The regulations are contained in title 9, chapter 1, subchapter D, parts 91 through 99, of the Code of Federal Regulations.

Part 94, § 94.6, governs the importation of poultry products to prevent the introduction of exotic Newcastle disease (END). Among other things, the regulations provide for the importation of poultry carcasses, and parts and products of poultry carcasses, that originate in a region free of END but are processed in a region where END exists. These carcasses, and parts and products of carcasses, are not required to meet the more stringent requirements imposed on products that originate in regions where END exists, provided they are processed and shipped under specified conditions.

These conditions include four information collection activities: (1) a certificate of origin that must be issued, (2) serial numbers that must be recorded, (3) records that must be maintained, and (4) cooperative service agreements that must be signed.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.147 hours per response.

Respondents: Full-time salaried veterinarians employed by the national government of the exporting region.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 51.

Estimated annual number of responses: 204.

Estimated total annual burden on respondents: 30 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 23rd day of June, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16185 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Domestic Sugar Program—Revisions of 2002-Crop Sugar Marketing Allotments and Allocations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) increased the 2002-crop overall allotment quantity (OAQ) of domestic sugar by 463,000 short tons, raw value (STRV) to 8.663 million STRV on May 13, 2003. In addition, CCC reassigned unused cane and beet sugar allocations between respective processors on May 19, 2003.

ADDRESSES: Barbara Fecso, Dairy and Sweeteners Analysis Group, Economic Policy and Analysis Staff, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0516, Washington, DC 20250–0516; telephone (202) 720–4146; FAX (202) 690–1480; e-mail: *barbara.fecso@usda.gov*.

FOR FURTHER INFORMATION CONTACT: Barbara Fecso at (202) 720–4146.

SUPPLEMENTARY INFORMATION: Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359c), as amended, requires adjustments to marketing allotments and allocations quarterly, as CCC determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports. The initial OAQ amount set in August 2002 for the 2002 crop year was 7.7 million STRV. CCC adjusted that to 8.2 million STRV in January 2003. Because market prices for both refined and raw sugar remained well above loan forfeiture levels, CCC again increased the OAQ in May 2003 to make domestic sugar available to the market. The cane sector was allotted 45.65 percent (3.955 million STRV) of the OAQ, while beet received 54.35 percent (4.708 million STRV).

Section 359e(a) of the Farm Security and Rural Investment Act of 2002 requires a periodic review to determine (in view of current sugar inventories, estimated sugar production, expected marketings and other pertinent factors) whether (1) any sugarcane processor will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor; and (2) any sugar beet processor will be unable to market its allocation. Section 359e(b)(1)(B) further provides for the reassignment of the estimated quantity of a State deficit proportionately to the allotments for other cane sugar States (depending on each State's capacity to market) when a State does not have the capacity to fulfill its allotment among its own processors.

In April 2003, CCC surveyed sugarcane and sugar beet processors asking for revisions to 2002-crop production and ending stocks estimates for the purpose of calculating reassignments. CCC determined that the cane sector could only fulfill 3.945 million STRV of its allotment. The remaining unfulfilled portion of its allotment, 10,000 STRV, was reassigned to CCC for sale of inventory. However, CCC did not reduce the cane sector allotment 10,000 STRV at that time due to uncertainties in company production estimates provided in the survey. Likewise, it was determined that the beet sector would only be able to fulfill 4.534 million STRV of its new allotment. Thus, 77,641 STRV of beet sugar were reassigned among beet processors. The unfilled balance, 174,000 STRV, was reassigned to CCC for the sale of its inventory.

The allotments/allocations were calculated differently for the cane and beet sectors:

Cane Sector

- Allotments/allocations were changed to incorporate the 211,360 STRV increase in the cane sugar allotment and the updated 2002-crop production/marketing estimates. (Column C of the attached table).
- Allocations were reduced for processors with surplus allocations and reassigned to processors with surplus supply within the same State. This occurred for Florida and Louisiana (Column D of the attached table).
- The remaining excess Louisiana allocation that could not be eliminated by reassignment within Louisiana plus excess allocations from Hawaii and Puerto Rico were reassigned to cane processors in Florida and Texas. These two states indicated in the survey that they had a shortfall in allocation for the current crop year (Column E of the attached table).

Beet Sector

- Allotments/allocations were changed to incorporate the 77,641 STRV increase in the beet sugar allotment (Column C of the attached table).
- Allocations were reassigned from beet processors with unused allocation, as indicated in the April 2003 survey for the current year, to those indicating an allocation shortfall (Column E of the attached table).

CCC will continue to closely monitor market performance and critical program variables throughout the year to ensure that program objectives are met, including maintaining market balance. Sugar allotment/allocation reassignments will be reevaluated periodically as production estimates improve.

These actions apply to all domestic cane and beet sugar marketed for human consumption in the United States from October l, 2002, through September 30, 2003. The revised 2002-crop sugar marketing allotments and allocations (in short tons, raw value) are listed in the following table:

FISCAL YEAR 2003 SUGAR MARKETING ALLOTMENTS AND ALLOCATIONS (REVISED MAY 2003)

[Short Raw Value—Tons]

	B Last allotment/ allocation	C Change due to increase in OAQ	D Cane reassignments within states	E Reassignments across all processors by sector	F New allotment/ allocation
Overall Beet/Cane Allotments:					
Beet Sugar	4,456,700	251,641	.....	0	4,708,341
Cane Sugar (includes P. Rico)	3,743,300	211,360	.....	0	3,954,660
Total OAQ	8,200,000	463,000	.....	0	8,663,000
Beet Reassignment to CCC	.....	.....	.....	.....	174,000
Cane Reassignment to CCC	.....	.....	.....	.....	10,000
Allotment Available to Beet	.....	.....	.....	.....	4,534,341
Allotment Available to Cane	.....	.....	.....	.....	3,954,660
Beet Processors' Marketing Allocations:					
Amalgamated Sugar Co.	975,245	16,176	.....	−15,400	976,021
American Crystal Sugar Co.	1,593,720	27,854	.....	32,380	1,653,954
Holly Sugar Corp.	299,019	5,209	.....	−5,128	299,100

FISCAL YEAR 2003 SUGAR MARKETING ALLOTMENTS AND ALLOCATIONS (REVISED MAY 2003)—Continued

[Short Raw Value—Tons]

	B Last allotment/ allocation	C Change due to increase in OAQ	D Cane reassignments within states	E Reassignments across all processors by sector	F New allotment/ allocation
Michigan Sugar Co.	299,050	4,960		36,498	340,509
Minn-Dak Farmers Co-op	292,029	4,844		8,194	305,067
Monitor Sugar Co.	171,362	2,842		64	174,268
Pacific Northwest Sugar Co.	22,314	2,090		−24,023	381
So. Minn Beet Sugar Co-op	300,708	4,988		−4,910	300,785
Western Sugar Co.	443,799	7,642		−4,669	446,772
Wyoming Sugar Co.	59,454	1,036		−23,007	37,483
Total Beet Sugar	4,456,700	77,641		0	4,534,341
State Cane Sugar Allotments:					
Florida	1,945,380	112,245		46,712	2,104,337
Louisiana	1,340,192	86,369		−45,348	1,381,212
Texas	161,625	12,746		3,956	178,326
Hawaii	295,878	0		−5,094	290,784
Puerto Rico	225	0		−225	0
Total Cane Sugar	3,743,300	211,360		0	3,954,660
Cane Processors' Marketing Allocations:					
Florida					
Atlantic Sugar Assoc.	148,371	17,509	−2,104	0	163,777
Growers Co-op. of FL	347,976	27,387	1,924	11,802	389,088
Okeelanta Corp.	420,688	2,918	3,457	21,211	448,274
Osceola Farms Co.	229,575	23,154	2,233	13,699	268,661
U.S. Sugar Corp.	798,769	41,277	−5,510	0	834,536
Total	1,945,381	112,245	0	46,712	2,104,337
Louisiana					
Alma Plantation	72,635	4,304	318	0	77,257
Caire & Graugnard	6,091	392	−113	−279	6,091
Cajun Sugar Co-op.	101,056	6,293	−135	−503	106,711
Cora-Texas Mfg. Co.	119,297	7,733	−1,081	−4,043	121,906
Harry Laws & Co.	55,048	3,128	3,816	0	61,992
Iberia Sugar Co-op.	64,543	4,155	−993	−3,162	64,543
Jeanerette Sugar Co.	62,422	3,351	−453	−1,694	63,626
Lafourche Sugars Corp.	64,441	4,146	−869	−3,249	64,470
Louisiana Sugarcane Co-op	81,006	5,178	−994	−3,718	81,471
Lula Westfield, LLC	147,826	9,516	−2,004	−7,497	147,840
M.A. Patout & Sons	183,290	10,280	8,603	0	202,174
Raceland Sugars	82,516	6,897	−1,112	−4,161	84,140
St. Mary Sugar Co-op.	88,669	5,562	−1,001	−3,745	89,485
So. Louisiana Sugars Co-op.	118,366	7,620	−4,323	−13,298	108,366
Sterling Sugars	92,986	7,814	340	0	101,140
Total	1,340,192	86,369	0	−45,348	1,381,212
Texas					
Rio Grande Valley	161,625	12,746		3,956	178,326
Hawaii					
Gay & Robinson, Inc.	64,298	979		−979	64,298
Hawaiian Commercial & Sugar Company	231,580	−979		−4,115	226,486
Total	295,878	0		−5,094	290,784
Puerto Rico					
Agraso	225	−26		−199	0
Roig	0	26		−26	0
Total	225	0		−225	0

Signed in Washington, DC on June 13, 2003.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 03–16140 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Survey on Recreation and the Environment

AGENCY: Forest Service, USDA.

ACTION: Notice of intent: request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), the U.S. Department of Agriculture, Forest Service, as part of its continuing effort to reduce paperwork and respondent burden, is seeking comments from all interested individuals and organizations on an extension of a previously approved information collection for a National Survey on Recreation and the Environment.

DATES: Comments must be received in writing on or before August 25, 2003.

ADDRESSES: Send written comments to H. Ken Cordell, USDA Forest Service, 320 Green Street, Athens, GA 30602–2044. The public may inspect comments in Research Work Unit SRS–4901, USDA Forest Service, 320 Green Street, Athens, GA 30602–2044.

FOR FURTHER INFORMATION CONTACT: H. Ken Cordell at (703) 559–4264, or email *kcordell@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Description of Information Collection

OMB Number: 0596–0127.

Expiration date: 10/31/2003.

Form Number: None.

Type of Review: Regular submission. Renewal of previously approved collection.

Affected Public: American civilians, age 16 and older, living in U.S. households.

Estimated Number of Respondents: 75,000 total, 25,000 per year over 3 years.

Estimated Time Per Response: 15 minutes average response time.

Estimated Total Annual Burden Hours: 6,250.

Estimated Total Annual Cost to Public: $0.

Abstract: The National Survey on Recreation and the Environment (NSRE) was established through a multi-agency partnership with the U.S. Department of Agriculture, Forest Service and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration as the lead agencies. The NSRE 2005 is the eighth edition of this survey administered since 1960. The survey is used: (1) To measure the outdoor recreation demands the public makes on the Nation's land, water and other natural resources ; (2) to identify the public's perceptions of accessibility to recreational sites, especially persons with disabilities; (3) to gain public feedback about the management of public recreation sites and natural resources; (4) to request public opinion regarding how public agencies can improve management of public recreation areas and natural resources; (5) to understand public attitudes about the environment and preferences of visitors for public and private recreational sites; and (6) to keep abreast of shifts in recreational demands that might influence delivery of recreational services.

Method of Collection

The NSRE 2005 will be conducted via telephone to a representative sample population of 75,000 American civilians (25,000 per year over a three year period), age 16 or older, living in U.S. households. The data collected will be used to conduct a stratified random sample based on geographic subgroups including urban, rural, and near urban locations.

The NSRE 2005 consists of 15 versions, each made up of sets of questions called modules. Activity participation and demographics modules constitute the core of each version of the survey. A nationally representative sample of approximately 5,000 people will be surveyed for each version. Some over-sampling will be done to ensure a minimum sample size of 500 per State across all versions or for some modules that focus on rural outdoor recreation use (*i.e.*, over-sampling of people living in rural areas). All versions are tested in advance to ensure a 15-minute average completion time. The U.S. Department of Commerce, Bureau of the Census, 2000 Census data is used to construct post-sample weights to correct for over-sampling.

Both English and Spanish versions of the questionnaires are used and interviews are conducted bilingually to overcome language barriers.

Request for Comments

The agency invites comments on the following: (a) The necessity of the proposed information collection for the proper performance of agency functions, including the practical utility of the information; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the enhancements of the quality, utility, and clarity of the information to be collected; and (d) the minimization of the burden of collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: June 13, 2003.

Robert Lewis, Jr.,

Deputy Chief, Research & Development.

[FR Doc. 03–16100 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Grasshopper Fuels Management Project, Beaverhead-Deerlodge National Forests, Beaverhead County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Beaverhead-Deerlodge National Forest (FS) and the Dillon Area Office, Bureau of Land Management (BLM) will prepare an environmental impact statement to document the analysis and disclose the environmental impacts of a proposed action to reduce hazardous fuels that pose a risk of wildfire on about 3900 acres administered by both agencies in the Grasshopper Valley, 35 miles northwest of Dillon, Montana. The purpose of the ''Grasshopper Fuels Management'' project is to: ''Provide an increased margin of safety to the public; reduce threats to dwellings, structures, and improvements in the Grasshopper Valley, and create areas of defensible space providing a safer environment for firefighters when fires do occur.'' The decisions to be made are the location, design, and scheduling of the proposed hazardous fuel reduction activity, and associated silvicultural practices; the

estimated timber volume, if any, to make available from the project area; any access management measures (road construction, reconstruction, area restrictions and closures if connected to fuels reduction), mitigation measures and monitoring requirements.

Alternatives: This EIS will evaluate alternative methods to meet the designated Purpose and Need for action. The ''Proposed Action'' Alternative 1 (3900 acres) is essentially the proposed action that was identified in the scoping letter to the public in May 2002. It includes hazardous fuels reduction on 1700 acres of FS and BLM lands to reduce stand density, remove ladder fuels, and treat fuels buildup using a combination of mechanical treatments and prescribed fire. Thinning, Group Selection, Salvage and Sanitation are treatments proposed, using commercial timber harvest where appropriate to remove and utilize merchantable trees. On another 700 acres, a combination of cutting encroaching conifers and applying prescribed fire would maintain non-forest vegetation types and provide areas of defensible space. On 1500 acres located in an Inventoried Roadless Area, a combination of chainsaw felling of small diameter trees and prescribed fire would be used to remove ladder fuels and treat fuels buildup. Over 8,000 acres in the western and southwestern portion of the project area are part of an inventoried roadless area. No commercial timber harvest, permanent or temporary road construction is proposed within the inventoried roadless area. No permanent road construction is proposed in the project area; however, approximately 5 miles of temporary road and 1–2 miles of private land road maintenance are proposed for access purposes. Helicopter yarding to remove merchantable trees is proposed on a small BLM tract in the southern portion of the project area. As required by NEPA, ''No Action'' Alternative 2 will be analyzed as a baseline for gauging the potential impacts of action alternatives. Alternative 3 (2300 acres) will exclude any treatments within the inventoried roadless area and use less temporary road. Alternative 4 (3400 acres) will be the prescribed fire alternative, utilizing the felling of small diameter trees; ladder fuels and brush reduction, followed by low intensity underburns, broadcast or jackpot burning (of fuels concentrations). No temporary road construction is proposed in Alternative 4.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than 30 days from the publication of this notice of intent.

ADDRESSES: The responsible official is Bradley Powell, Regional Forester-Northern Region. Please send written comments to Thomas D. Osen, Dillon District Ranger, 420 Barrett Street, Dillon, Montana 59725. Comments may also be electronically submitted to *rl_b-d_coments@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Greg Clark, project leader, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, Montana 59725 or phone (406) 683–3935 or by e-mail to *giclark@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The BLM is a cooperating agency in the development of the EIS for the Grasshopper Fuels Management project. The project area is located in the upper Grasshopper Creek watershed within the Pioneer Mountains in southwestern Montana (Townships 4, 5, 6 South, Range 12 West and Townships 5, 6 South, Range 13 West, Big Hole Guide Meridian). The scope of this proposal is limited to the analysis area covering approximately 17,000 acres. The analysis area abuts 3,100 acres BLM, 4,600 acres State and over 23,000 acres of country and privately owned lands.

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues. In March 2002 a postcard providing project information was mailed to 525 individuals and groups. A total of 50 responses to this initial mailing were received. From the initial mailing, a scoping notice describing the proposed action and purpose/need was mailed in May 2002 to 65 individuals, organizations, Native Americans groups, federal and state agencies. Key issues for the Grasshopper Fuels Management project were identified through public and internal scoping. The following key issues were used in the development of alternatives to the proposed action:

(1) Analyze alternative effects on potential lynx habitat and habitat connectivity.

(2) Consider alternative effects on various resource values and roadless characteristics in inventoried roadless areas.

A number of other resource issues or concerns were identified during scoping and will be considered during the development of the draft EIS. The analysis will consider all reasonably foreseeable activities.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process, and (2) during the draft EIS period.

During the scoping process, the Forest Service seeks additional information and comments from individuals or organization that may be interested in or affected by the proposed action, and Federal, State and local agencies. The Forest Service invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The draft EIS is anticipated to be available for review in August 2003. The final EIS is planned for completion in December 2003.

The Environmental Protection Agency will publish the Notice of Availability of the draft Environmental Impact Statement in the **Federal Register.** The Forest will also publish a Legal Notice of its availability in the Montana Standard Newspaper, Butte, Montana. A 45-day comment period on the draft environmental impact statement will begin the day following the Legal Notice.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental

impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. The responsible official will make the decision on this proposal after considering comments and responses, environmental consequences discussed in the final EIS, applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: June 19, 2003.

Thomas K. Reilly,

Forest Supervisor.

[FR Doc. 03–16151 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Jarbidge Rangeland Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Jarbidge Ranger District, Humboldt-Toiyabe National Forest will prepare an environmental impact statement (EIS) on a proposal to authorize continued livestock grazing in the project area under updated grazing management direction in order to move existing rangeland, riparian, and forest resource conditions toward a set of desired conditions. The project area includes all Forest System lands managed by the Jarbidge Ranger District.

DATES: Comments concerning the scope of the analysis must be received by August 26, 2003. The draft environmental impact statement is expected December 2003 and the final environmental impact statement is expected September 2004.

ADDRESSES: Send written comments to James Winfrey, Project Manager, Humboldt-Toiyabe National Forest, 2035 Last Chance Road, Elko, Nevada 89801.

FOR FURTHER INFORMATION CONTACT: For further information, mail correspondence to or contact James Winfrey, Project Manager, Humboldt-Toiyabe National Forest, 2035 Last Chance Road, Elko, Nevada 89801. The telephone number is 775–778–0229. E-mail address is *jwinfrey@fs.fed.us.*

Purpose and Need for Action

The Jarbidge Rangeland Project was identified to address livestock grazing and its effects on the overall diversity of fish, wildlife, vegetation species, and rangeland, riparian and watershed condition. While wildlife and natural resource management direction has been evolving over the last decade, livestock management direction and practices have been slower to change. This project is an opportunity to align the livestock management practices in the Jarbidge Rangeland project area with the specific management direction for the other resources in the project area.

The purpose of the Jarbidge Rangeland project is to evaluate current livestock grazing practices in relation to their effects on other resources and, where necessary, adjust those practices to maintain or move toward the desired environmental conditions.

Proposed Action

The Jarbidge Ranger District, Humboldt-Toiyabe National Forest, is proposing to authorize continued livestock grazing in the project area under updated grazing management direction in order to move existing rangeland, riparian, and forest resource conditions toward a set of desired conditions. After scoping and during the analysis phase of this project the interdisciplinary team (IDT) will use the existing rangeland condition and other resources to identify where and how livestock grazing management practices may need to be adjusted to meet the desired conditions.

Possible Alternatives

In addition to the proposed action we have tentatively identified two additional alternatives that will be analyzed in the EIS.

(1) No Action Alternative: This would be continuation of the current grazing management.

(2) No Grazing Alternative: This would be not issuing new grazing permits when existing permits expire.

Responsible Official

Robert L. Vaught, Forest Supervisor, Humboldt-Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431

Nature of Decision To Be Made

Based on the environmental analysis and disclosure in the EIS, the Forest Supervisor will decide whether or not to continue grazing on the allotments within the Jarbidge Rangeland Project area, and, if the decision is made to continue grazing, then he will also decide which standards, mitigation measures, monitoring criteria, and modifications, should be applied.

Scoping Process

The Forest Service will use a mailing of information to interested parties. Public involvement will be ongoing throughout the analysis process and at certain times public input will be specifically requested. There are currently no scoping meetings planned.

Preliminary Issues

The following are some potential issues identified through internal Forest Service scoping based on our experience with similar projects:

- Livestock grazing has the potential to adversely affect water quality and aquatic habitat.
- Livestock grazing has the potential to adversely affect soils and vegetation, which may result in a decline in condition of wildlife habitats, the long-term availability of forage, and the diversity of species.
- Livestock grazing has the potential to adversely affect riparian habitat conditions and ecologic function.

The list is not considered all-inclusive, but should be viewed as a starting point. We are asking you to help us further refine these issues and identify other issues or concerns relevant to the proposed project.

Comment Requested

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made

available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: June 23, 2003.

Robert L. Vaught,

Forest Supervisor, Humboldt-Toiyabe National Forest.

[FR Doc. 03–16143 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Bear Hodges Vegetation Project; Wasatch-Cache National Forest, Cache and Rich Counties, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Supervisor of the Wasatch-Cache National Forest gives notice of the agency's intent to prepare an environmental impact statement on a proposal to harvest mature dense, large diameter spruce stands through individual tree removal, small group selection, and shelterwood with reserves. Much of this proposal takes place in Utah State University's T.W. Daniel Experimental Forest. This is northern Utah's Wasatch Mountains about 10 miles south of the Utah-Idaho borders and about 7 miles west of Bear Lake. The project area is in the upper reaches of the Little Bear and West Hodges drainages. The proposal addresses lands located primarily in the drainages located in Township 13 North, Range 4 East, Salt Lake Meridian, in Sections 15, 21, and 22 of the T.W. Daniels Forest and in two other sections of the national forest (27 and 28) immediately to the south of the land under permit to the Daniels Forest.

The proposed action was developed to move the vegetation toward desired future condition by regenerating young spruce. The proposal is to treat approximately 700–800 acres. Access to the area will require some new specified and temporary road construction.

DATES: Comments concerning the scope of the analysis must be received in writing by July 21, 2003. A draft environmental impact statement is expected to be published in September 2003, with public comment on the draft material requested for a period of 45 days, and completion of a final environmental impact statement is expected in February, 2003.

ADDRESSES: Send written comments to Wasatch-Cache National Forest, Federal building, 125 S. State St., Salt Lake City, Utah 84138, Attn: Bear Hodges II.

FOR FURTHER INFORMATION CONTACT: Tom Scott, Environmental Coordinator, (801) 625–5404.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The spruce-fir in the analysis area are dense, large diameter, mature to old age and lacking in regeneration and young trees. With this structural pattern in place the spruce-fir stands become increasingly susceptible to epidemic levels of insects and disease. There is a need to restore the health of these ecosystems and move them towards the desired conditions of biodiversity and viability expressed in the revised Forest Plan (2003). The purpose of the project is to restore these systems to regimes more closely resembling natural patterns of disturbance. A secondary purpose to this project is to work collaboratively with Utah State University and their experimental forest to conduct research on silvicultural treatments.

Proposed Action

The proposal is to thin nearly 600 acres of the forest to reduce the susceptibility to spruce bark beetle mortality. Thinning could increase the risk of trees being blown down in extremely dense clumps of forest. In these situations adjustments to the thinning method would be made to compensate and decrease blow down risks.

About 100 small openings will be created across the project area to establish spruce regeneration. Openings will not exceed ¼ acre in size, and will be planted with containerized spruce after harvest. A majority of these openings will be within the thinning units, and the remainder will be in the research units. Existing small openings will be used whenever possible.

Clumps of wildlife trees will be retained in all units except the research units. Clumps will consist of 4–6 trees of all species and size classes and will be distributed throughout the area.

On about 150 acres several small cutting units will test different spruce silvicultural strategies, including single-tree selection, small group selection, and shelterwood with reserves. There would be the same number of test harvest units for each of the three strategies.

Access to the units will require approximately 2 miles of new specified road construction, which will be stabilized, gated and managed as closed to public use traffic following the sale. In addition to specified road construction, an additional 1.5 miles of temporary road will be needed, which will be restored to original contour, seeded and covered with slash or rocks when the project is completed.

Responsible Official

The Responsible Official is Thomas L. Tidwell, Forest Supervisor, Wasatch-Cache National Forest, 8236 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

Nature of Decision To Be Made

The decision to be made is whether to implement the proposed activities listed above.

Scoping Process

The Forest Service invites comments and suggestions on the scope of the analysis to be included in the Draft Environmental Impact Statement (DEIS). In addition, the Forest Service gives notice that it is beginning a full environmental analysis and decision-making process for this proposal so that interested or affected people may know how they can participate in the environmental analysis and contribute to the final decision. This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The Forest Service welcomes any public comments on the proposal.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** It is very important that those interested in this proposed action participate at that time. To be the

most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objection are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.) Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: June 16, 2003.

Faye L. Krueger,

Deputy Forest Supervisor.

[FR Doc. 03–16179 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Scientific Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Giant Sequoia National Monument Scientific Advisory Board (Scientific Advisory Board) will hold a teleconference meeting on Tuesday, July 15, 2003. Scientific Advisory Board members will be phoning in from various points around the country. A telephone will be set up for members of the public to hear the meeting, at the Sequoia National Forest Supervisor's Office, 900 West Grand Avenue, Porterville, California. The purpose of the meeting is for the Scientific Advisory Board to discuss and deliberate on their final report to the Secretary of Agriculture.

DATES: The meeting will be held Tuesday, July 15, 2003, from 8 a.m. to 12 p.m., Pacific daylight time.

ADDRESSES: Members of the public will be able to listen to the meeting at the Sequoia National Forest Supervisor's Office, 900 West Grand Avenue, Porterville, California, in Room 8.

FOR FURTHER INFORMATION CONTACT: To receive further information, contact Arthur L. Gaffrey, (559) 784–1500, or (559) 781–6650 TDD.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If you are planning to attend, please contact Arthur L. Gaffrey to ensure adequate seating. The meeting is accessible to persons with disabilities. If you need accommodations, please contact Arthur L. Gaffrey at the number provided. No presentations by the public will occur.

Written comments for the Scientific Advisory Board may be submitted to Forest Supervisor, Arthur L. Gaffrey, Sequoia National Forest, 900 West Grand Avenue, Porterville, California 93257.

A final agenda can be obtained by contacting Arthur L. Gaffrey or by visiting the Giant Sequoia National Monument Web site at *http://www.r5.fs.fed.us/giant_sequoia.*

Dated: June 20, 2003.

Arthur L. Gaffrey,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 03–16152 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rogue/Umpqua Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA Forest Service.

ACTION: Action of meeting.

SUMMARY: The Rogue/Umpqua Resource Advisory Committee (RAC) will meet on Thursday and Friday, July 17 and 18, 2003. The meeting is scheduled to begin at 8 a.m. and conclude at approximately 5 p.m. on July 17 and begin at 8 a.m. and conclude at approximately 2 p.m. on July 18. The meeting will be held at the Options Building, 1215 SW. G Street, Grants Pass, OR. On July 17, the agenda includes (1) Approval of the 2003 budget/expense summary and the 2004 projected summary at 9 a.m., (2) Review of 2002 and 2003 Title II projects on the Rogue River and Umpqua national forests at 10:30 a.m., (3) Public Forum at 1 p.m., (4) Review of Title II projects in Jackson County proposed for 2004 by the Forest Service and private individuals at 1:30 p.m., (5) Review of Title II projects in Klamath County proposed for 2004 by the Forest Service and private individuals at 3:30 p.m., and (6) Discussion on overhead percentages charged to Title II funds at 4:15 p.m. The agenda on July 18 includes (1) Public Forum at 8:10 a.m., (2) Review of Title II projects in Douglas County proposed for 2004 by the Forest Service and private individuals at 8:30 a.m., (3) Review of Title II projects in Lane County proposed for 2004 by the Forest Service and private individuals at 10:45 a.m., (4) Review of Title II projects in Josephine County proposed for 2004 by the Forest Service and private individuals at 12:30 p.m., and (5) Selecting next meeting date at 1:30 p.m. Written public comments may be submitted prior to the July meeting by sending them to Designated Federal Official Jim Caplan at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Jim Caplan; Umpqua National Forest; PO Box 1008, Roseburg, Oregon 97470; (541) 957–3203.

Dated: June 19, 2003.

John Sloan,

Acting Deputy Forest Supervisor, Umpqua National Forest.

[FR Doc. 03–16149 Filed 6–25–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30–2003]

Foreign-Trade Zone 82—Mobile, AL Application for Manufacturing Authority Kvaerner Oilfield Products (Undersea Umbilicals) Mobile, AL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, grantee of FTZ 82, requesting manufacturing authority within a proposed general-purpose zone expansion site for the manufacturing and warehousing facilities of Kvaerner Oilfield Products (Kvaerner), located in Mobile, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 18, 2003.

The Kvaerner facility (50 employees) is located within proposed Site 7 of FTZ 82, the Theodore Industrial Complex, located on the western shore of Mobile Bay. The facility will be used for the manufacturing and warehousing of undersea umbilicals (HTS 8544.60, duty rate 3.5%). Components and materials sourced from abroad (representing 25–35% of all parts consumed in manufacturing) include: super duplex steel tubes, power and signal cables, fiber optic cables and plastic conduits (HTS 7304.10, 7304.21–7304.59, 8544.11–8544.20 and 9001.10, duty rate ranges from .3% to 6.7 %).

FTZ procedures would exempt Kvaerner from Customs duty payments on the foreign components used in export production. The company anticipates that some 50 percent of the plant's shipments will be exported. On its domestic sales, Kvaerner would be able to choose the duty rates during Customs entry procedures that apply to finished umbilicals (3.5%) for the foreign inputs noted above. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building–Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB–Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is August 25, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 9, 2003).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the Office of the City Clerk, City of Mobile, 9th Floor, South Tower, Government Plaza, 205 Government Street, Mobile, AL 36602.

Dated: June 18, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–16221 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 29–2003]

Foreign-Trade Zone 70—Detroit, MI; Application for Subzone, Wacker Chemical Corporation (Silicone and Ceramics Products), Adrian, MI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, requesting special-purpose subzone status for the manufacturing and warehousing facilities of Wacker Chemical Corporation (Wacker), located in Adrian, Michigan. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 18, 2003.

The Wacker facility (236 acres, 600 employees) is located at 3301 Sutton Road, Adrian, Michigan. The facility will be used for the manufacturing and warehousing of silicone and ceramics products including heat curable rubber, liquid silicone rubber, sealants and adhesives, antifoam and release agents, paint raw materials, paper release coatings, textile finishings and silicone raw materials (HTS 2526.20, 2811.22, 2931.00, 3206.49, 3208.90, 3209.90, 3214.10, 3214.90, 3403.91, 3403.99, 3405.40, 3405.90, 3815.90, 3824.90, 3825.69, 3910.00, 8547.90, duty rate ranges from duty-free to 7.6%). Components and materials sourced from abroad (representing 70% of all parts consumed in manufacturing) include: silicon dioxide; chlorides and chloride oxides; silicates; cerium compounds; carbides, ketones and quinines; palmitic acid; stearic acid, their salts and esters; acyclic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids, and their derivatives; esters of other inorganic acids of non-metals; organo-inorganic compounds; pigments; glazier's putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings; nonionic organic sulfur-active agents; preparations for the treatment of textile materials; lubricating preparations; anti-microbial agents; prepared rubber accelerators; reaction initiators; prepared binders for foundry molds or cores; silicones; and glass fibers (HTS 2811.22, 2812.10, 2839.90, 2846.10, 2849.90, 2914.50, 2915.70, 2917.19, 2920.90, 2931.00, 3206.19, 3206.20, 3206.49, 3214.10, 3214.90, 3402.13, 3403.91, 3403.99, 3808.90, 3812.30, 3815.90, 3824.90, 3910.00, 4819.10 and 7019.11, duty rate ranges from duty-free to 7.8%).

FTZ procedures would exempt Wacker from Customs duty payments on the foreign components used in export production. Some 7 percent of the plant's shipments are exported. On its domestic sales, Wacker would be able to choose the duty rates during Customs entry procedures that apply to silicone and ceramics products (duty-free to 7.6%) for the foreign inputs noted above. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230. The closing period for their receipt is August 25, 2003. Rebuttal comments in

response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 9, 2003).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 211 W. Fort St., Suite 2220, Detroit, MI 48226.

Dated: June 18, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–16220 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 31–2003]

Foreign-Trade Zone 93—Research Triangle Park, NC, Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, requesting authority to expand FTZ 93, in the Research Triangle Park, North Carolina, area, within the Raleigh-Durham Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 18, 2003.

FTZ 93 was approved on November 4, 1983 (Board Order 233, 48 FR 52108, 11/16/83). The zone project currently consists of the following sites: *Site 1* (121 acres)—within the Imperial Center Industrial Park, adjoining the Research Triangle Park in Durham County; *Site 1A* (temporary; 85 acres)—World Trade Park, adjacent to Raleigh-Durham International Airport; *Site 2* (6 acres)—5604 Departure Drive, Raleigh; and, *Site 3* (110 acres)—Woodland Industrial Park, Highway 56 and I–85, Granville County.

The applicant is now requesting authority to expand the general-purpose zone to replace existing Site 3 with a new site and to make temporary Site 1A permanent. *Proposed New Site 3* (240 acres) would be located at the Holly Springs Business Park (owned by G&G Properties), at the intersection of West Balletine Street and Irving Parkway, Holly Springs. It is also being requested at this time that temporary Site 1A (expires 10/1/03), which has been fully activated, be made permanent. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the addresses below:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW., Washington, DC 20230.

The closing period for their receipt is August 25, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 9, 2003).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the Office of the Economic Development Department, Town of Holly Springs, 128 South Main Street, Holly Springs, North Carolina 27540.

Dated: June 19, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–16222 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061303A]

Incidental Take of Marine Mammals; Bottlenose Dolphins and Spotted Dolphins

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

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that 4 letters of authorization (LOAs) to take bottlenose and spotted dolphins incidental to oil and gas structure removal activities were issued.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and the Southeast Region, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Kimberly Skrupky, Office of Protected Resources, NMFS, (301) 713–2055, ext. 163.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in the Gulf of Mexico were published on August 1, 2002 (67 FR 49869), and remain in effect until February 2, 2004. Issuance of these letters of authorization are based on a finding that

the total takings will have a negligible impact on the bottlenose and spotted dolphin stocks of the Gulf of Mexico.

Letters of Authorization were issued to:

(1) Comstock Offshore, LLC, Chase Tower, 600 Travis, Suite 6375, Houston, TX 77002, on May 08, 2003;

(2) Spinnaker Exploration Company, LLC., 1200 Smith Street, Suite 800, Houston, TX 77002, on May 22, 2003;

(3) J.M. Huber Corporation, 11451 Katy Freeway, Suite 400, Houston, TX 77079 on May 22, 2003;

(4) Torch Energy Services, Inc., 1221 Lamar, Suite 1600, Houston, TX 77010–3039, on June 13, 2003.

Dated: June 20, 2003.

Laurie K. Allen,

Acting Office Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16218 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061703B]

Marine Mammals; Photography Permit Application No. 997–1704

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Bob McLaughlin, P.O. Box 496, 339 Glenwood, Eastsound, Washington 98245, has applied in due form for a permit to take several species of non-listed marine mammals for purposes of commercial/educational photography.

DATES: Written or telefaxed comments must be received on or before July 28, 2003.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426; and,

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Jennifer Jefferies or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of section 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a ''pilot'' application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes.

The purpose of the proposed project is to film several species of non-listed marine mammals for an ongoing project that is tentatively titled ''Death of an Ecosystem?''. While this project has been ongoing for several years, Mr. McLaughlin desires to film from a closer vantage point, i.e. within 100 yards of an individual animal. The closeness of filming would be considered Level B harrassment and therefore would require a permit under the MMPA. The photographers intend to attempt to document marine mammal movement and aggregation under varying conditions including the presence of boat traffic. This will be done using a fusion of passive acoustic recording equipment with different filming equipment, including still and video, as well as different filming platforms, including elevated filming platforms. The action area would include waters off the coasts of California, Oregon, Washington and Alaska. The resulting film footage will be dispensed in part for print and broadcast media, to researchers as well as for educational purposes. The Permit would expire 2 years after the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile to (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 23, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16219 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032503B]

Endangered Species; File No.1429

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Southeast Fisheries Science Center (SEFSC), National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149, has been issued a permit to take loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), and olive ridley (*Lepidochelys olivacea*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9328; fax (978)281–9371.

FOR FURTHER INFORMATION CONTACT: Patrick Opay (301) 713–1401, or Carrie Hubard (301) 713–2289.

SUPPLEMENTARY INFORMATION: On April 1, 2003, notice was published in the **Federal Register** (68 FR 15707) that a request for a scientific research permit

to take loggerhead, leatherback, green, hawksbill, olive ridley, and Kemp's ridley sea turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The permit will allow the SEFSC to conduct sea turtle bycatch reduction research in the pelagic longline fishery of the western north Atlantic Ocean. The purpose of the research is to develop and test methods to reduce bycatch that occurs incidental to commercial, pelagic longline fishing. The goal is to develop a means to reduce turtle take and retain viable fishing performance that may be adopted by the U.S. pelagic longline fleet as an alternative to more restrictive sea turtle protection measures, such as closures. The technologies developed through this research are expected to be transferrable to other nations' fleets as well, so this work will address the larger problem of sea turtle bycatch by pelagic longlines throughout the entire Atlantic Ocean and in other regions where sea turtle bycatch is a concern. The research will also attempt to determine the feasibility of using pop-up satellite tags to study the post-hooking survival of turtles impacted by the fishery. The permit expires on December 31, 2003.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 20, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–16217 Filed 6–25–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 28, 2003.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 228, Bonds and Insurance, and Related Clauses at 252.228; OMB Number 0704–0216.

Type of Request: Extension.

Number of Respondents: 49.

Responses Per Respondent: 1.

Annual Responses: 49.

Average Burden Per Response: 17.5 hours.

Annual Burden Hours: 859.

Needs and Uses: DoD uses the information obtained through this collection to determine the allowability of a contractor's costs of providing war-hazard benefits to its employees; to determine the need for an investigation regarding an accident that occurs in connection with a contract; and to determine whether a contractor performing a service or construction contract in Spain has adequate insurance coverage.

Affected Public: Business or Other For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jackie Zeiher. Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 03–16122 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 28, 2003.

Title and OMB Number: Contractor Manpower Reporting Pilot Study; OMB Number 0702—(To Be Determined)

Type of Request: New Collection.

Number of Respondents: 31,870.

Responses Per Respondent: 30 (average).

Annual Responses: 969,216.

Average Burden Per Response: 5 minutes (average).

Annual Burden Hours: 80,445.

Needs and Uses: Section 345 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–194) requires that the Secretary of the Army to submit to Congress a report describing the use, during the previous fiscal year, of non-Federal entities providing services to the Department of the Army. The pilot program will greatly enhance the ability of the Army to identify and track its contractor workforce. Modern systems do not have contractor manpower data that is collected by the Contractor Manpower Reporting System, *ie.,* estimated direct labor hours, estimated direct labor dollars, and organization supported. Existing financial and procurement systems have obligation amounts of an unknown mix, and the Department of the Army is not able to trace the funding of the organization supported. The pilot study will use a streamlined, user-friendly, and secure website to obtain contractor work force information.

Affected Public: Business or Other For-Profit.

Frequency: Annually.

Respondent's Obligation: Required to Obtain or Retain benefits.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215, Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16123 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Advisory Committee

AGENCY: Defense Policy Board Advisory Committee, Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session at the Pentagon on July 14, 2003 from 0900 to 2100 and July 15, 2003 from 0900 to 1200.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App II (1982)), it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–16124 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

United States Marine Corps

Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps, DoD.

ACTION: Notice to delete a records system.

SUMMARY: The U.S. Marine Corps is deleting one system of records notice from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The deletion will be effective on July 28, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC–ARSE), 2 Navy Annex, Room 1005, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps' records system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The U.S. Marine Corps proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records system being amended is set forth below, as amended, published in its entirety.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

MFD00004

SYSTEM NAME:

Bond and Allotment (BA) System (February 22, 1993, 58 FR 10630).

REASON:

These records are now under the cognizance of the Defense Finance and Accounting Service (DFAS). DFAS is maintaining these records under the Privacy Act systems of records notices T7335, Defense Civilian Pay System, T7340, Defense Joint Military Pay System-Active Component, T7346, Defense Joint Military Pay System-Reserve Component, and T7347b, Defense Military Retiree and Annuity Pay System.

[FR Doc. 03–16127 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Inspector General

Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Office of the Inspector General, DoD, is deleting a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Room 201, Arlington, VA 22202–4704.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl R. Aaron at (703) 604–9785.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General, DoD, systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

CIG–14

SYSTEM NAME:

Auditor and Inspector Log (February 22, 1993, 58 FR 10213).

REASON:

Records are now being maintained in the system of records CIG–20, entitled 'Defense Audit Management Information System (DAMIS)' published November 29, 2002, at 67 FR 71151.

[FR Doc. 03–16128 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

National Reconnaissance Office, Privacy Act of 1974; System of Records

AGENCY: National Reconnaissance Office, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The National Reconnaissance Office is adding a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the National Reconnaissance Office, 14675 Lee Road Chantilly, VA 20151–1715.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Freimann at (703) 808–5029.

SUPPLEMENTARY INFORMATION: The National Reconnaissance Office's system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 17, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 23, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NRO–08

SYSTEM NAME:

Employee Assistance Program Case Files.

SYSTEM LOCATION:

Management Services and Operations, Employee Assistance Program Office, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Reconnaissance Office (NRO) civilian, military, and contractor personnel, who have chosen to request assistance or, in some cases, have been referred by management for assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, date of birth, home telephone number, and home address, and questionnaires completed by patients. Case records may include medically confidential evaluations and assessments on the conditions, current status, and progress of counselees; records of medical/psychological testing, treatment, and services; and counselee and third party interview comments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 7904, Employee assistance programs relating to drug abuse and alcohol abuse; 42 U.S.C. 290dd, Substance abuse among government and other employees; 42 U.S.C. 290dd–2; Confidentiality of records; 5 CFR part 792, subpart A, Regulatory Requirements for Alcoholism and Drug Abuse Programs and Services for Federal Civilian Employees; National Security Act of 1947, as amended; E.O. 12333, U.S. Intelligence Activities; E.O. 12564, Drug-Free Federal Workplace; and E.O. 9397 (SSN).

PURPOSE(S):

The Employee Assistance Program (EAP) provides in-house confidential professional counseling and referral services. The files contain information that is used in the course of counseling.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routines Uses' published at the beginning of the NRO compilation of systems of records notices apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The DoD ''Blanket Routine Uses'' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and automated information system, maintained in computer and computer output products.

RETRIEVABILITY:

Information is retrieved by the client's assigned case number.

SAFEGUARDS:

Records are stored in a secure, gated facility, guard, badge, and password access protected. Access to and use of these records are limited to the EAP staff whose official duties require such access. The automated information system is protected by a special encryption device; paper files are kept in a safe in a locked room. EAP records are separate from and do not become part of any employee security or personnel file.

RETENTION AND DISPOSAL:

Records are temporary, to be destroyed when 5 years old. After termination of all sessions EAP will hold counseling files in a current file area for 3 years before transferring them to the NRO Archive for the remaining time.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Employee Assistance Program, Management Services and Operations, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name and address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: I declare (or certify, verify, or state) under penalty of perjury under the laws if the United States of America that the foregoing is true and correct. Executed on (date). Signature.

If executed within the United States, its territories, possessions, or commonwealth: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). Signature.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the National Reconnaissance Office, Information Access and Release Center, 14675 Lee Road, Chantilly, VA 20151–1715.

Request should include the individual's full name, address, Social Security Number, and other information identifiable from the record.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C.1746, in the following format:

If executed without the United States: I declare (or certify, verify, or state)

under penalty of perjury under the laws if the United States of America that the foregoing is true and correct. Executed on (date). Signature.

If executed within the United States, its territories, possessions, or commonwealths: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). Signature.

CONTESTING RECORD PROCEDURES:

The NRO rules for accessing records, for contesting contents and appealing initial agency determinations are published in NRO Directive 110–3A and NRO Instruction 110–5A; 32 CFR part 326; or may be obtained from the Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151–1715.

RECORD SOURCE CATEGORIES:

Information is supplied by the client, by third parties, and by the EAP staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–16132 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 232. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 232 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: July 1, 2003.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 231. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: June 19, 2003

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 232 ARE REVISED RATES FOR ADAK, COPPER CENTER, AND CORDOVA, ALASKA AND UPDATES TO THE RATES FOR GUAM AND NORTHERN MARIANA ISLANDS.						
ALASKA						
ADAK	120		79		199	07/01/2003
ANCHORAGE [INCL NAV RES]						
05/01 - 09/15	170		66		236	04/01/2003
09/16 - 04/30	85		66		151	04/01/2003
BARROW	159		95		254	05/01/2002
BETHEL	129		66		195	05/01/2002
CLEAR AB	80		55		135	09/01/2001
COLD BAY	90		73		163	05/01/2002
COLDFOOT	135		71		206	10/01/1999
COPPER CENTER						
05/16 - 09/15	109		63		172	07/01/2003
09/16 - 05/15	99		63		162	07/01/2003
CORDOVA	90		75		165	07/01/2003
CRAIG	100		53		153	04/01/2003
DEADHORSE	95		67		162	05/01/2002
DELTA JUNCTION	79		60		139	04/01/2003
DENALI NATIONAL PARK						
06/01 - 08/31	115		41		156	04/01/2003
09/01 - 05/31	80		38		118	04/01/2003
DILLINGHAM	95		69		164	05/01/2002
DUTCH HARBOR-UNALASKA	120		86		206	04/01/2003
EARECKSON AIR STATION	80		55		135	09/01/2001
EIELSON AFB						
05/01 - 09/15	149		83		232	04/01/2003
09/16 - 04/30	75		76		151	04/01/2003
ELMENDORF AFB						
05/01 - 09/15	170		66		236	04/01/2003
09/16 - 04/30	85		66		151	04/01/2003
FAIRBANKS						
05/01 - 09/15	149		83		232	04/01/2003
09/16 - 04/30	75		76		151	04/01/2003
FOOTLOOSE	175		18		193	06/01/2002
FT. GREELY	79		60		139	04/01/2003
FT. RICHARDSON						
05/01 - 09/15	170		66		236	04/01/2003
09/16 - 04/30	85		66		151	04/01/2003
FT. WAINWRIGHT						
05/01 - 09/15	149		83		232	04/01/2003
09/16 - 04/30	75		76		151	04/01/2003
GLENNALLEN						
05/01 - 09/30	137		61		198	09/01/2001
10/01 - 04/30	89		56		145	09/01/2001
HEALY						
06/01 - 08/31	115		41		156	04/01/2003
09/01 - 05/31	80		38		118	04/01/2003

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
HOMER				
05/15 - 09/15	109	72	181	04/01/2003
09/16 - 05/14	76	68	144	04/01/2003
JUNEAU	99	75	174	04/01/2003
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
04/01 - 10/31	110	83	193	04/01/2003
11/01 - 03/31	69	75	144	04/01/2003
KENNICOTT	179	81	260	04/01/2003
KETCHIKAN				
05/01 - 09/30	110	82	192	04/01/2003
10/01 - 04/30	89	80	169	04/01/2003
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	100	53	153	04/01/2003
KODIAK	90	83	173	04/01/2003
KOTZEBUE				
05/01 - 08/31	141	91	232	04/01/2003
09/01 - 04/30	125	89	214	04/01/2003
KULIS AGS				
05/01 - 09/15	170	66	236	04/01/2003
09/16 - 04/30	85	66	151	04/01/2003
MCCARTHY	179	81	260	04/01/2003
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	149	83	232	04/01/2003
09/16 - 04/30	75	76	151	04/01/2003
NOME	115	91	206	04/01/2003
NUIQSUT	180	53	233	05/01/2002
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/01 - 09/30	189	67	256	06/01/2003
10/01 - 04/30	79	56	135	06/01/2003
SITKA-MT. EDGECUMBE				
05/01 - 09/30	110	81	191	06/01/2003
10/01 - 04/30	99	80	179	06/01/2003
SKAGWAY				
05/01 - 09/30	110	82	192	04/01/2003
10/01 - 04/30	89	80	169	04/01/2003
SPRUCE CAPE	90	83	173	04/01/2003
ST. GEORGE	105	55	160	05/01/2003
TALKEETNA	100	89	189	07/01/2002
TANANA	115	91	206	04/01/2003

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TOGIAK	100		39		139	07/01/2002
TOK						
05/01 - 09/30	81		76		157	04/01/2003
10/01 - 04/30	60		74		134	04/01/2003
UMIAT	150		98		248	04/01/2003
UNALAKLEET	79		80		159	04/01/2003
VALDEZ						
05/01 - 10/01	139		91		230	04/01/2003
10/02 - 04/30	79		86		165	04/01/2003
WAINWRIGHT	120		83		203	05/01/2002
WASILLA	99		68		167	04/01/2003
WRANGELL						
05/01 - 09/30	110		82		192	04/01/2003
10/01 - 04/30	89		80		169	04/01/2003
YAKUTAT	110		68		178	03/01/1999
[OTHER]	80		55		135	09/01/2001
AMERICAN SAMOA						
AMERICAN SAMOA	85		67		152	03/01/2000
GUAM						
GUAM (INCL ALL MIL INSTAL)	135		80		215	07/01/2003
HAWAII						
CAMP H M SMITH	112		82		194	05/01/2003
EASTPAC NAVAL COMP TELE AREA	112		82		194	05/01/2003
FT. DERUSSEY	112		82		194	05/01/2003
FT. SHAFTER	112		82		194	05/01/2003
HICKAM AFB	112		82		194	05/01/2003
HONOLULU (INCL NAV & MC RES CTR)	112		82		194	05/01/2003
ISLE OF HAWAII: HILO	100		80		180	06/01/2003
ISLE OF HAWAII: OTHER	150		79		229	06/01/2003
ISLE OF KAUAI	158		88		246	05/01/2003
ISLE OF MAUI	159		89		248	06/01/2002
ISLE OF OAHU	112		82		194	05/01/2003
KEKAHA PACIFIC MISSILE RANGE FAC	158		88		246	05/01/2003
KILAUEA MILITARY CAMP	100		80		180	06/01/2003
LANAI	395		138		533	05/01/2003
LUALUALEI NAVAL MAGAZINE	112		82		194	05/01/2003
MCB HAWAII	112		82		194	05/01/2003
MOLOKAI	101		98		199	05/01/2003
NAS BARBERS POINT	112		82		194	05/01/2003
PEARL HARBOR [INCL ALL MILITARY]	112		82		194	05/01/2003
SCHOFIELD BARRACKS	112		82		194	05/01/2003
WHEELER ARMY AIRFIELD	112		82		194	05/01/2003
[OTHER]	72		61		133	01/01/2000
JOHNSTON ATOLL						
JOHNSTON ATOLL	0		14		14	05/01/2002
MIDWAY ISLANDS						
MIDWAY ISLANDS [INCL ALL MILITAR	150		47		197	02/01/2000
NORTHERN MARIANA ISLANDS						
ROTA	129		88		217	07/01/2003
SAIPAN	121		90		211	07/01/2003

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
TINIAN	85	72	157	07/01/2003
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	93	72	165	01/01/2000
12/15 - 04/14	129	76	205	01/01/2000
ST. JOHN				
04/15 - 12/14	219	84	303	01/01/2000
12/15 - 04/14	382	100	482	01/01/2000
ST. THOMAS				
04/15 - 12/14	163	73	236	01/01/2000
12/15 - 04/14	288	86	374	01/01/2000
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

[FR Doc. 03–16125 Filed 6–25–03; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Fort Sam Houston, Camp Bullis and Canyon Lake Recreation Center Record of Decision (ROD) for the Master Plan Final Programmatic Environmental Impact Statement (PEIS)

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the ROD for the Fort Sam Houston, Camp Bullis and Canyon Lake Recreation Area Master Plan Final PEIS, which assesses the potential environmental impacts of implementing three master planning alternatives. Alternative 1, the No Action Alternative, includes the continuation of the currently identified stationed population reductions, as reflected in the Army Stationing and Installations Plan; the projected reductions in the Real Property Maintenance Activity budget program for facility maintenance and repair; the ''zero investment'' maintenance expenditures for vacant historical facilities, and the projected reductions in the base operations budget program for utilities and other engineering services. Alternative 2, Reuse of Facilities and Property by Federal Users, would result in an adaptive reuse of currently vacant historical facilities using the existing appropriated funds process. This may be accomplished by bringing to Fort Sam Houston additional military missions through individual stationing decisions that take advantage of the capabilities of Fort Sam Houston; and/or additional federal missions through individual stationing decisions that take advantage of the capabilities of Fort Sam Houston. Alternative 3, Reduction of Underutilized/Unutilized Property through Lease, Sale, or Removal, would result in the reduction of underutilized/unutilized facilities and property on Fort Sam Houston and Camp Bullis, in addition to changes in the Land Use Plan. The reduction in underutilized/unutilized property may be accomplished through: Outgrant leases to the city, county, state, private citizens, businesses, or investors; sale to the city, county, state, private citizens, businesses, or investors; removal from the site; or demolition.

ADDRESSES: To obtain copies of the ROD, contact Ms. Jackie Schlatter, ATTN: MCCS–BFE, 2202 15th Street, STE 36 (Bldg. 4196), Fort Sam Houston, Texas 78234–5036.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Schlatter via e-mail at *Jackie.schlatter@cen.amedd.army.mil*; by phone at (210) 221–5093; or by facsimile at (210) 221–5419.

SUPPLEMENTARY INFORMATION: Fort Sam Houston has de and planning at Fort Sam Houston, Camp Bullis, and Canyon Lake Recreation area as described in the Fort Sam Houston, Camp Bullis, and Canyon Lake Recreation Area Master Plan Final PEIS. This decision was reached after analysis of the potential environmental impacts of each alternative, the evolving mission responsibilities of Fort Sam Houston and the U.S. Army, and the public comments received on the Draft and Final PEIS. By allowing public and private tenants, the combination of Alternatives 2 and 3 is the environmentally preferable alternative, as it gives the greatest flexibility to Fort Sam Houston for adaptively reusing its historic buildings and so preserving them.

It is national policy, as reflected in the National Historical Preservation Act (NHPA), to preserve historical sites to the extent possible within a Federal agency's resources. This consideration influenced the decision to select a combination of Alternatives 2 and 3 as they best meet this policy. As required under Federal regulations, Fort Sam Houston will notify the State Historic Preservation Officer regarding any adverse effects on individual projects affecting historic sites. Once Fort Sam Houston implements the Army Alternate Procedures, any adverse effects will be appropriately addressed by Fort Sam Houston's internal procedures.

Implementation of a combination of Alternatives 2 and 3 provides the Army maximum flexibility and offers the greatest potential for Fort Sam Houston to continue to serve as a viable Army installation while making efficient use of facilities and maintaining important cultural resource values within existing and anticipated future fiscal restraints. Alternatives 2 and 3 involve the reduction of the number of underutilized/unutilized facilities and property on Fort Sam Houston and Camp Bullis, in addition to changes in the Land Use Plan.

Dated: June 19, 2003.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 03–16144 Filed 6–25–03; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 28, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/ Privacy Act Office, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–FP, 7798 Cissna Road, Suite 205, Springfield, VA 22153–3166.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–7137 / DSN 656–7137.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0608–18 DASG

SYSTEM NAME:

Army Family Advocacy Program Files (April 4, 2003, 68 FR 16484).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete first paragraph and replace with 'Primary location: Commander, U.S. Army Medical Command, ATTN: MCHO–CL–H(ACR), 2050 Worth Road, Fort Sam Houston, TX 78234–6010.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are destroyed 25 years after case is closed.'

* * * * *

A0608–18 DASG

SYSTEM NAME:

Army Family Advocacy Program Files.

SYSTEM LOCATION:

Primary location: Commander, U.S. Army Medical Command, ATTN: MCHO–CL–H(ACR), 2050 Worth Road, Fort Sam Houston, TX 78234–6010.

Secondary location: Any Army medical treatment facility that supports the Family Advocacy Program (FAP). Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible military members and their family, and DoD civilians who participate in the Family Advocacy Program (FAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Family Advocacy Case Review Committee (CRC) records of established cases of child/spouse abuse or neglect to include those occurring in Army sanctioned or operated activities.

Files may contain extracts of law enforcement investigative reports, correspondence, Case Review Committee reports, treatment plans and documentation of treatment, follow-up and evaluative reports, supportive data relevant to individual family advocacy Case Review Committee files, summary statistical data reports and similar relevant files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10606 *et seq.*, Victims' Rights, as implemented by Department of Defense Instruction 1030.2, Victim and Witness Assistance Program; Army Regulation 608–18, The Family Advocacy Program; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain records that identify, monitor, track and provide treatment to alleged offenders, eligible victims and their families of substantiated spouse/child abuse, and neglect. To manage prevention programs to reduce the incidence of abuse throughout the Army military communities.

To perform research studies and compile statistical data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to departments and agencies of the Executive Branch of government in performance of their official duties relating to coordination of family advocacy programs, medical care and research concerning child abuse and neglect, and spouse abuse.

The Attorney General of the United States or his authorized representatives in connection with litigation or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

To federal, state, or local governmental agencies when it is deemed appropriate to use civilian resources in counseling and treating individuals or families involved in child abuse or neglect or spouse abuse; or when appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement; or when a state, county, or municipal child protective service agency inquires about a prior record of substantiated abuse for the purpose of investigating a suspected case of abuse.

To the National Academy of Sciences, private organizations and individuals for health research in the interest of the Federal government and the public and authorized surveying bodies for professional certification and accreditation such as Joint Commission on the Accreditation of Health Care Organizations.

To victims and witnesses of a crime for purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By the sponsor's Social Security Number of an abused victim.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specified monitored or controlled areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and have an official need-to-know. Computer terminals are located in supervised areas with access controlled by password or other user code system.

RETENTION AND DISPOSAL:

Records are destroyed 25 years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Medical Command, ATTN: MCHO–CL–H(ACR), 2050 Worth Road, Fort Sam Houston, TX 78234–6010.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the local Patient Administration Division Office; to the commander of the medical center or hospital where treatment was received; or to the Commander, U.S. Army Medical Command, ATTN: MCHO–CL–H(ACR), 2050 Worth Road, Fort Sam Houston, TX 78234–6010. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number of the patient's sponsor, and current address, date and location of treatment, and any details that will assist in locating the record, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this record system should address

written inquiries to the local Patient Administration Division Office; to the commander of the medical center or hospital where treatment was received; or to the Commander, U.S. Army Medical Command, ATTN: MCHO–CL–H(ACR), 2050 Worth Road, Fort Sam Houston, TX 78234–6010. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

For verification purposes, the individual should provide the full name, Social Security Number of the patient's sponsor, and current address, date and location of treatment, and any details that will assist in locating the record, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations by the concerned individual are published in the Department of the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, educational institutions, medical institutions, police and investigating officers, state and local government agencies, witnesses, and records and reports prepared on behalf of the Army by boards, committees, panels, auditors, etc. Information may also derive from interviews, personal history statements, and observations of behavior by professional persons (*i.e.*, social workers, physicians, including psychiatrists and pediatricians, psychologists, nurses, and lawyers).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 03–16129 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Deauthorization of Water Resources Projects

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of project deauthorizations.

SUMMARY: The Corps of Engineers is publishing the lists of water resources projects deauthorized under the provisions of § 1001(b)(2), Public Law 99–662, 33 U.S.C 579a(b)(2); projects removed from the deauthorization list due to obligations of funds, or continuation of authorization by law. In addition, the authorization of one water resource project expired, and two projects were specifically reauthorized by law.

FOR FURTHER INFORMATION CONTACT: Ms. Susan B. LeBleu, Headquarters, U.S. Army Corps of Engineers, Attention: CECW–BA, Washington, DC 20314–1000. Tel. (202) 761–4094.

SUPPLEMENTARY INFORMATION: The Water Resources Development Act of 1986, Public Law 99–662, 100 Stat. 4082–4273, as amended, provides for the automatic deauthorization of water resource projects and separable elements of projects.

Section 1001(b)(2), 33 U.S.C. 579a(b)(2), requires the Secretary of the Army to submit to the Congress a biennial list of unconstructed water resources projects and separable elements of projects for which no obligations of funds have been incurred for planning, design or construction during the prior seven full fiscal years. If funds are not obligated within thirty months from the date the list was submitted, the project/separable element is deauthorized. Notwithstanding these provisions, projects may be specifically deauthorized or reauthorized by law.

For purposes of the Water Resources Development Act of 1986, ''separable element'' is defined in section 103(f), Public Law 99–662, 33 U.S.C. 2213(f).

In accordance with section 1001(b)(2), the Assistant Secretary of the Army (Civil Works) submitted a list of 145 projects and separable elements to Congress on October 15, 1999 (1999 List). From this list, 127 projects/separable elements were deauthorized on April 16, 2002, 16 were removed due to obligations of funds, and the authorization of 2 were continued by section 350 of the Water Resources Development Act of 2000 (11 Dec 2000), Public Law 106–541, 114 Stat. 2632 and 2633.

Additionally, two projects were reauthorized by section 349 of the Water Resources Development Act of 2000, Public Law 106–541, 114 Stat. 2631 and 2632, subject to a Secretarial determination that no construction on any such project may be initiated until each project is technically sound, environmentally acceptable, and economically justified.

Authority: This notice is required by the Water Resources Development Act of 1986, Public Law 99–662, section 1001(c), 33 U.S.C. 579a(c), and the Water Resources Development Act of 1988, Public Law 100–676, section 52(d), 102 Stat. 4012, 4045.

Dated: April 18, 2003.

George S. Dunlop,

Deputy Secretary of the Army (Policy and Legislation).

District	Project name	Primary State	Purpose
Projects Deauthorized on 16 Apr 02 Under Sec. 1001(B)(2) WRDA 86, as Amended			
LRB	LORAIN HARBOR	OH	N
LRB	OTTAWA (BLANCHARD RIVER)	OH	FC
LRC	LAKE MICHIGAN, EDGEWATER DRIVE, ROGERS PARK	IL	BE
LRE	MENOMINEE HARBOR	MI	N
LRE	MONROE HARBOR	MI	N
LRH	COAL RIVER BASIN	WV	FC
LRH	MUSKINGUM RIVER, KILLBUCK, OH	OH	FC

District	Project name	Primary State	Purpose
LRH	MUSKINGUM RIVER, MANSFIELD, OH	OH	FC
LRH	NELSONVILLE	OH	FC
LRH	NORTH CHILLICOTHE	OH	FC
LRL	BIG PINE LAKE (1965 ACT)	IN	FC
LRL	BIG WALNUT LAKE (1968 ACT)	IN	FC
LRL	BOONEVILLE LAKE (1938 & 1944 ACTS)	KY	FC
LRL	CAMPGROUND LAKE	KY	FC
LRL	GALLATIN COUNTY STREAMBANK EROSION, AREA 1, OHIO RIVER	IL	FC
LRL	ISLAND LEVEE (1946 ACT)	IN	FC
LRL	LAFAYETTE LAKE (1965 ACT)	IN	FC
LRL	MCALPINE LOCK & DAM, KY & IN, ALTERATION OF RAILROAD BRIDGE	KY	N
LRL	MINING CITY LAKE (1938 ACT)	KY	FC
LRL	RED RIVER LAKE (1962 ACT)	KY	FC
LRL	TAYLORSVILLE LAKE, FLOYD FORK BRIDGE REPLACEMENT	KY	FC
LRL	WEST POINT (1938 ACT)	KY	FC
LRP	ROWLESBURG LAKE	WV	FC
MVK	BAYOU BODCAU & TRIBUTARIES (1965 ACT)	LA	FC
MVK	PEARL RIVER, SHOCCOE DAM	MS	FC
MVK	PEARL RIVER, VICINITY OF JACKSON, MS	MS	FC
MVK	TENSAS BASIN BELOW RED RIVER AREA	LA	FC
MVK	TENSAS BASIN, TENSAS RIVER	LA	FC
MVK	YAZOO BASIN, ASCALMORE-TIPPO	MS	FC
MVK	YAZOO BASIN, ROCKY BAYOU	MS	FC
MVP	BOIS DE SIOUX & RED RIVER, WAHPETON & BRECKENRIDGE, ND	ND	FC
MVP	SHEYENNE RIVER, MAPLE RIVER RESERVOIR	ND	FC
MVP	TWIN VALLEY LAKE, WILD RICE RIVER	MN	FC
MVR	AMES LAKE	IA	FC
MVR	MOLINE	IL	FC
MVR	MUCK LEVEE, SALT CREEK	IL	FC
MVS	ELDRED AND SPANKEY DRAINAGE & LEVEE DISTRICT	IL	FC
MVS	HARTWELL DRAINAGE & LEVEE DISTRICT	IL	FC
MVS	HILLVIEW DRAINAGE & LEVEE DISTRICT	IL	FC
MVS	MAUVAISE TERRE DRAINAGE & LEVEE DISTRICT	IL	FC
MVS	MEREDOSIA LAKE & WILLOW CREEK DRAINAGE & LEVEE DISTRICT	IL	FC
MVS	MEREDOSIA, WILLOW CREEK AND COON RUN DRAINAGE & LEVEE DISTRICT	IL	FC
NAB	SUSQUEHANNA BASIN AT HARRISBURG	PA	FC
NAE	BRISTOL HARBOR	RI	N
NAE	FALL RIVER HARBOR (INACTIVE PORTIONS)	MA	N
NAE	NEW HAVEN HARBOR	CT	N
NAN	GOWANUS CREEK CHANNEL TERMINAL	NY	N
NAN	POPLAR BROOK, DEAL, NJ	NJ	FC
NAN	RAHWAY RIVER BASIN, ROBINSON BRANCH, AT RAHWAY, NJ	NJ	FC
NAP	BARNEGAT INLET TO LONGPORT, ABSECON ISLAND (1986 ACT)	NJ	BE
NAP	BARNEGAT INLET TO LONGPORT, BRIGANTINE ISLAND (1986 ACT)	NJ	BE
NAP	COLD SPRING INLET (NJIWW), MIDDLE THOROFARE (PED)	NJ	N
NAP	COLD SPRING INLET (NJIWW), OTTEN'S HARBOR (PED)	NJ	N
NAP	CORSON INLET AND LUDLAM BEACH (SEC. 201, 1965 ACT) (1986 ACT)	NJ	BE
NAP	LONG BEACH ISLAND	NJ	BE
NAP	SCHUYILKILL RIVER, MOUTH TO PENROSE, PHILADELPHIA	PA	N
NAP	TOWNSEND INLET & SEVEN MILE BEACH (SEC. 201, 1965 ACT) (1986 ACT)	NJ	BE
NWK	BRAYMER LAKE, SHOAL CREEK	MO	FC
NWK	BROOKFIELD LAKE, YELLOW CREEK	MO	FC
NWK	EAST MUDDY CREEK	MO	FC
NWK	HARRY S TRUMAN FISH & WILDLIFE MITIGATION	MO	MP
NWK	LOWER GRAND RIVER (1965 ACT)	MO	FC
NWK	MERCER LAKE (1965 ACT)	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT L–100	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT L–294	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT L–319–325	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT L–330–345	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT L–504–512–519	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT R–328	MO	FC
NWK	MISSOURI RIVER LEVEE SYSTEM, UNIT R–331	MO	FC
NWK	PATTONSBURG LAKE (1965 ACT)	MO	FC
NWK	PLATTE RIVER & SMITHVILLE CHANNEL, LITTLE PLATTE RIVER	MO	FC
NWK	SMITHVILLE CHANNEL IMPROVEMENT, PLATTE & CLAY	MO	FC
NWK	TRENTON LAKE (1965 ACT) GRUNDY HARRISON DAVIESS	MO	FC
NWK	UPPER GRAND RIVER (1965 ACT)	MO	FC
NWO	ELM CREEK AT DECATUR, STREAMBANK EROSION	NE	FC
NWO	MOTT	ND	FC
NWP	BONNEVILLE POWER UNITS, OR & WA (1935 ACT)	OR	MP
NWP	STRUBE LAKE & COUGAR ADDITIONAL UNIT	OR	MP
NWS	BLAIR SITCUM WATERWAYS (1986 ACT)	WA	N

District	Project name	Primary State	Purpose
NWS	EAST WEST DUWAMISH WATERWAY, SEATTLE HARBOR, WA	WA	N
NWS	YAKIMA RIVER AT UNION GAP, WA	WA	FC
NWW	LITTLEWOOD RIVER, VICINITY GOODING & SHOSHONE, ID	ID	FC
NWW	McNARY SECOND POWERHOUSE, OR & WA	OR	MP
POH	AGANA RIVER, GUAM	GU	FC
POH	COCONUT POINT, NU'UULI, TUTUILA ISLAND, AMERICAN SAMOA	AS	BE
POH	HILO DEEP DRAFT HARBOR, HAWAII	HI	N
SAJ	CENTRAL & SOUTHERN FLORIDA PROJECT, MARTIN COUNTY BACKFLOW	FL	FC
SAJ	CENTRAL & SOUTHERN FLORIDA PROJECT, MARTIN COUNTY FLOOD CONTROL	FL	FC
SAM	HIGHWAY 39 BRIDGE, GAINESVILLE, AL	AL	FC
SAM	TALLAHALA CREEK LAKE (1968 ACT)	MS	FC
SAS	METRO ATLANTA AREA, LAKE LANIER REREGULATION DAM	GA	MP
SAS	SATILLA RIVER BASIN	GA	N
SAW	RANDLEMAN LAKE	NC	FC
SAW	REDDIES RIVER LAKE	NC	FC
SAW	ROARING RIVER LAKE	NC	FC
SPK	COTTONWOOD CREEK	CA	FC
SPK	GREAT SALT LAKE	UT	FC
SPK	LOWER SAN JOAQUIN RIVER & TRIBUTARIES	CA	FC
SPK	WILDCAT AND SAN PABLO CREEK, REACH 2	CA	FC
SPL	AVALON BAY	CA	N
SPL	SAN LUIS OBISPO	CA	N
SPL	WHITEWATER FLOODWARNING	CA	FC
SPN	MONTEREY HARBOR	CA	N
SPN	NOYO RIVER AND HARBOR, CHANNEL EXTENSION	CA	N
SPN	SALT AND EEL RIVER	CA	FC
SWF	CHANNEL TO LIBERTY, TRINITY RIVER PROJECT	TX	N
SWF	LAKE WORTH, TARRANT COUNTY	TX	FC
SWF	SAN GABRIEL RIVER, SOUTH FORK LAKE	TX	FC
SWF	TARRANT COUNTY, TONY'S CREEK & MARINE CREEK	TX	FC
SWG	CARPENTERS BAYOU, HOUSTON (BUFFALO BAYOU)	TX	FC
SWG	GIWW, SABINE RIVER, HOUSTON SHIP CHANNEL (1962 ACT)	TX	N
SWG	PORT ARTHUR, HURRICANE-FLOOD PROTECTION, GULF OIL CO. RESERVOIR	TX	FC
SWG	TAYLORS BAYOU (PHASE III AND ARMOR ALLIGATOR)	TX	FC
SWL	BELL FOLEY LAKE (1938 ACT)	AR	FC
SWL	DARDANELLE LOCK & DAM, CANE CREEK BRIDGE REPLACEMENT	AR	N
SWL	LITTLE RIVER, HORATIO, AR	AR	FC
SWL	VILLAGE CREEK (1962 ACT)	AR	FC
SWT	ARCADIA LAKE (UNCOMPLETED RECREATION)	OK	FC
SWT	ARK-RED BASINS CHLORIDE CONTROL, ARK BASIN (1966, 1970, 1976 ACTS)	OK	FC
SWT	BIG & LITTLE SALLISAW CREEKS	OK	N
SWT	BOSWELL LAKE (1946 ACT)	OK	FC
SWT	CRUTCHO CREEK, OKLAHOMA COUNTY	OK	FC
SWT	DENISON DAM POWER UNIT 3 (1938 & 1957 ACTS)	OK	MP
SWT	DOUGLASS LAKE	KS	FC
SWT	LUKFATA LAKE (1958 ACT)	OK	FC
SWT	UPPER LITTLE ARKANSAS RIVER WATERSHED	KS	FC
Total: 127			
Projects/Separated Elements Removed From Deauthorization List Due to Obligations of Funds for Planning, Design or Construction			
LRC	ILLINOIS BEACH STATE PARK	IL	BE
LRH	MASSILLON, OH, BRIDGE	OH	FC
MVR	DAVENPORT	IA	FC
NAN	ARDSLEY	NY	FC
NWW	JACKSON HOLE, SNAKE RIVER, WY	WY	FC
POH	WAIKIKI BEACH, OAHU	HI	BE
SAJ	PONCE HARBOR	PR	N
SAM	MONTGOMERY TO GADSDEN, AL (1945 ACT)	AL	N
SAS	HARTWELL LAKE, 5TH UNIT	GA	MP
SAS	HARTWELL LAKE, UPPER & LOWER DIVERSION	SC	FC
SPN	LARKSPUR FERRY CHANNEL	CA	N
SWF	MILLICAN LAKE (1968 ACT)	TX	FC
SWG	LITTLE WHITE OAK BAYOU, HOUSTON (BUFFALO BAYOU)	TX	FC
SWG	UPPER WHITE OAK BAYOU & TRIBUTARIES, VICINITY OF HOUSTON, TX	TX	FC
SWL	WHITE RIVER FISH HATCHERY (1976 ACT)	AR	MP
SWT	FORT GIBSON POWER UNITS 5&6	OK	MP
Total: 16			
Projects Reauthorized on 11 Dec 2000 under Public Law 106–541, 114 Stat, 2572, Section 349			
SWG	CEDAR BAYOU	TX	N
NAE	NARRAGUAGUS RIVER, MILBRIDGE	ME	N

District	Project name	Primary State	Purpose
Total: 2			
Projects shall remain authorized to be carried out the Secretary (7-Yr. Continuation of Project Authorizations, Section 350(a) WRDA 2000)			
SPK	SACRAMENTO RIVER, CHICO LANDING TO RED BLUFF, CA	CA	FC
SPK	SACRAMENTO RIVER, MAJOR & MINOR TRIBUTARIES	CA	FC
Total: 2			
Project Deauthorization on 13 October 2001 Due to Statutory ''Sunset Provision'', Section 52 of the WRDA 1988, Public Law 100–676			
LRD	CROSS VILLAGE HARBOR	MI	N
Total: 1			

Key to Abbreviations

MVD *MISSISSIPPI VALLEY DIVISION.*
MVM MEMPHIS DISTRICT.
MVN NEW ORLEANS DISTRICT.
MVS ST. LOUIS DISTRICT.
MVK VICKSBURG DISTRICT.
MVR ROCK ISLAND DISTRICT.
MVP ST. PAUL DISTRICT.
NAD *NORTH ATLANTIC DIVISION.*
NAB BALTIMORE DISTRICT.
NAN NEW YORK DISTRICT.
NAO NORFOLK DISTRICT.
NAP PHILADELPHIA DISTRICT.
NAE NEW ENGLAND DISTRICT.
NWD *NORTHWESTERN DIVISION.*
NWP PORTLAND DISTRICT.
NWS SEATTLE DISTRICT.
NWW WALLA WALLA DISTRICT
NWK KANSAS CITY DISTRICT.
NWO OMAHA DISTRICT.
LRD *GREAT LAKES & OHIO RIVER DIVISION.*
LRH HUNTINGTON DISTRICT.
LRL LOUISVILLE DISTRICT.
LRN NASHVILLE DISTRICT.
LRP PITTSBURGH DISTRICT.
LRB BUFFALO DISTRICT.
LRC CHICAGO DISTRICT.
LRE DETROIT DISTRICT.
POD *PACIFIC OCEAN DIVISION.*
POA ALASKA DISTRICT.
POH HONOLULU DISTRICT.
SAD *SOUTH ATLANTIC DIVISION.*
SAC CHARLESTON DISTRICT.
SAJ JACKSONVILLE DISTRICT.
SAM MOBILE DISTRICT.
SAS SAVANNAH DISTRICT.
SAW WILMINGTON DISTRICT.
SPD *SOUTH PACIFIC DIVISION.*
SPL LOS ANGELES DISTRICT.
SPK SACRAMENTO DISTRICT.
SPN SAN FRANCISCO DISTRICT.
SPA ALBUQUERQUE DISTRICT.
SWD *SOUTHWESTERN DIVISION.*
SWF FORT WORTH DISTRICT.
SWG GALVESTON DISTRICT.
SWL LITTLE ROCK DISTRICT.
SWT TULSA DISTRICT.
BE Beach Erosion Control.
FC Flood Control.
MP Multiple Purpose Power.
N Navigation.
GIWW Gulf Intracoastal Waterway.
NJIWW New Jersey Intracoastal Waterway.

[FR Doc. 03–16103 Filed 6–25–03; 8:45 am]
BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to delete a records system.

SUMMARY: The Department of the Navy is deleting one system of records notice from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The deletion will be effective on July 28, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, N09B10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records system being amended is set forth below, as amended, published in its entirety.

Dated: June 18, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05120–1

SYSTEM NAME:

Bond Accounting (February 22, 1993, 58 FR 10747).

REASON:

These records are now under the cognizance of the Defense Finance and Accounting Service (DFAS). DFAS is maintaining these records under the Privacy Act systems of records notices T7335, Defense Civilian Pay System, T7340, Defense Joint Military Pay System-Active Component, T7346, Defense Joint Military Pay System-Reserve Component, and T7347b, Defense Military Retiree and Annuity Pay System.

[FR Doc. 03–16126 Filed 6–25–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 28, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 20, 2003.

Joseph Schubart,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of the Special Education and Rehabilitative Services

Type of Review: New.

Title: Field Test of Agency Capacity to Implement Reporting Requirements Associated with Draft Evaluation Standard 3.

Frequency: One-time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 80.

Burden Hours: 4,880.

Abstract: The field test will assess Designated State Unit (VR agency) capacity to obtain and use unemployment insurance wage record data maintained by State Employment Security Agencies (SESAs) needed to implement a proposed evaluation standard and associated performance indicators mandated by the 1992 amendments to the Rehabilitation Act, as amended by the Workforce Investment Act of 1998.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2252. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

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

[FR Doc. 03–16137 Filed 6–25–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA 84.215H]

Office of Safe and Drug-Free Schools—Foundations For Learning Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003.

Purpose of program: This program supports projects to help eligible children become ready for school.

Eligible applicants: (1) Local educational agencies (LEAs); (2) local councils; (3) community-based organizations (CBOs), including faith-based organizations, provided that they meet the applicable statutory and regulatory requirements; (4) other public and nonprofit private entities; or (5) a combination of such entities.

Applications available: June 26, 2003.

Deadline for transmittal of applications: July 30, 2003.

Deadline for intergovernmental review: August 30, 2003.

Estimated available funds: $993,500.

Estimated range of awards: $200,000–$300,000.

Estimated average size of awards: $248,000.

Estimated number of awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project period: Up to 18 months.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) the final priorities, selection criteria and definitions for this grant competition as published in this notice.

Absolute priority: Under 34 CFR 75.105(c)(3) and the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Title V '' Section 5542), we give absolute preference to applications that meet the following priority: grants to local educational agencies, local councils, community-based organizations, and other public and nonprofit private entities to assist eligible children to become ready for school.

To be eligible for funding, a project must propose to:

(1) Deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development;

(2) Coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services; and

(3) Develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families.

Competitive Preference Priority: Within the statutory priority for this competition for FY 2003, we will award five additional points to novice applicants. These points are in addition to any points the application earns under the selection criteria for this program.

Note: The total number of points an application may earn is 105.

Limitations

(1) Grant funds may be used only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

(2) A grantee may not use more than 3 percent of the amount of the grant to pay the expenses of administering the authorized activities, including assessment of children's eligibility for services.

Application Requirements

Applications submitted under this program must include the following:

(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant;

(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State; and

(3) An assurance that:

- Services under the grant shall be provided by or under the supervision of qualified professionals with expertise in early childhood development;
- services shall be culturally competent;
- services shall be provided in accordance with the absolute priority;
- funds shall be used to supplement, and not supplant, non-Federal funds; and
- parents of students participating in services will be involved in the design and implementation of the services.

SUPPLEMENTARY INFORMATION:

Participation of Faith-Based Organizations

Faith-based organizations are eligible to apply for grants under this competition provided they meet all statutory and regulatory requirements.

General Information

Contingent upon the availability of funds, we may make additional awards in FY 2004 from the rank-ordered list of unfunded applications from this competition.

Definitions

(1) The term ''eligible child'' means a child who has not attained the age of 7 years, and to whom two or more of the following characteristics apply:

- The child has been abused, maltreated, or neglected.
- The child has been exposed to violence.
- The child has been homeless.
- The child has been removed from child care, Head Start, or preschool for behavioral reasons or is at risk of being so removed.
- The child has been exposed to parental depression or other mental illness.
- The family income with respect to the child is below 200 percent of the poverty line.
- The child has been exposed to parental substance abuse.
- The child has had early behavioral and peer relationship problems.
- The child had a low birth weight.
- The child has a cognitive deficit or developmental disability.

(2) The term ''parent'' includes a legal guardian or other person standing in *loco parentis* (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(3) The term ''local council'' means a council that is established or designated by a local government entity, Indian tribe, regional corporation, or native Hawaiian entity, as appropriate, which is composed of representatives of local agencies directly affected by early learning programs, parents, key community leaders, and other individuals concerned with early learning issues in the locality, such as elementary education, child care resource and referral services, early learning opportunities, child care, and health services.

(4) The term ''local educational agency'' (LEA) means:

- A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary or secondary schools.
- The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.
- The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to such school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this act with the smallest student population, except that the school shall

not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

• The term includes educational service agencies and consortia of those agencies.

• The term includes the State educational agency in a State in which the State is the sole educational agency for all public schools.

(6) The term ''non-profit'' refers to an agency, organization, or institution, that is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

(7) The term ''community-based organization'' means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides educational or related services to individuals in the community.

(8) The term ''novice applicant'' means any applicant for a grant for the U.S. Department of Education that:

• Has never received a grant or sub-grant under the Foundations For Learning Program;

• Has never been a member of a group application, submitted in accordance with 34 CFR 75.127–75.129, that received a grant under the Foundations For Learning Program; and

• Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under this program (Foundations for Learning Grants). For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In case of a group application submitted in accordance with 34 CFR 75.127–75.129, to qualify as a novice applicant a group includes only parties that meet the requirements listed above.

Performance measures: The Secretary has established the following key performance measures for assessing the effectiveness of the Foundations for Learning Grants Program: (1) The percentage of eligible children served by the grant attaining measurable gains in emotional, behavioral, and social development will increase; and (2) The percentage of eligible children and their families served by the grant receiving individualized support from child-serving agencies or organizations will increase.

In applying the selection criteria that follow for ''Quality of project services'' and ''Quality of the project evaluation'', the Secretary will take into consideration the extent to which the applicant demonstrates a strong capacity to provide reliable data on these indicators.

Selection criteria: We will use the following selection criteria to evaluate applications under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(1) *Significance* (15 points)

In determining the significance of the proposed project, the following factor is considered:

(a) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (15 points)

Note: Under this criterion we will look at the quality and feasibility of the applicant's plan to develop or enhance early childhood community partnerships in order to build a community system of care.

(2) *Quality of the project design.* (35 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(a) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice; (10 points)

(b) The extent to which the proposed project encourages parental involvement; (10 points)

(c) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance; (15 points)

Note: Under this criterion we will look at the quality of the applicant's plan to comprehensively address the emotional, behavioral, and social development of eligible children.

(3) *Quality of the Project Services.* (30 points)

In determining the quality of project services, the following factors are considered:

(a) In determining the quality of the services to be provided by the proposed project, the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender age, or disability; (5 points)

(b) The likely impact of the services to be provided by the proposed project on the intended recipients of those services; (10 points)

(c) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (15 points)

Note: Under this criterion we will look for evidence that the applicant is likely to achieve success with respect to performance measures for this program.

(4) *Quality of the Management Plan.* (5 points)

In determining the quality of the management plan, the following factor is considered:

(a) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (5 points)

Note: Under this criterion we will look at the applicant's ability to coordinate existing similar services.

(5) *Quality of the project evaluation.* (15 points)

In determining the quality of the evaluation, the following factors are considered:

(a) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project; (5 points)

(b) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.(10 points)

Note: Under this criterion we will look at the quality of the applicant's plan to provide (a) reliable data that accurately measures changes in emotional, behavioral, and social development, and (b) individualized services.

Waiver of proposed rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Secretary generally offers interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. This is the first competition under the Foundations for Learning Grants Program. These rules will apply to this FY 2003 competition only.

For applications and other information contact: Copies of the application package for this competition are available from EDPubs at 1–877–4EDPubs, and on the Internet at—*http://www.ed.gov/offices/OSDFS.* For all

other questions, please contact LaRaba Sligh, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E240, Washington, DC 20202–6123. Email address: *laraba.sligh@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document, or an application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed at the beginning of this section. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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 the 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 (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** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Pilot project for electronic submission of applications:

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

In FY 2003, the U.S. Department of Education is continuing to expand its pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Foundations for Learning Grants—CFDA #215H—is one of the programs included in the pilot project. If you are an applicant under Foundations for Learning Grants, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application) portion of the Grant Administration and Payment System (GAPS). Users of e-Application will be entering data on-line while completing their applications. You may not e-mail a soft copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter on-line will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format. When you enter the e-Application system, you will find information about its hours of operation.
- You may submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

(1) Print ED 424 from the e-Application system.

(2) The institution's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.
- *Closing Date Extension in Case of System Unavailability:*

If you elect to participate in the e-Application pilot for the Foundations for Learning Grants Program and you are prevented from submitting your application on the closing date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. For us to grant this extension—

(1) You must be a registered user of e-Application, and have initiated an e-Application for this competition; and

(2)(a) The e-Application system must be unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the deadline date; or

(b) The e-Application system must be unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 and 4:30 p.m., Washington, DC time) on the deadline date. The Department must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension you must contact either (1) LaRaba Sligh under **FOR FURTHER INFORMATION CONTACT** or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for the Foundations for Learning Grants at: *http://e-grants.ed.gov.*

We have included additional information about the e-Application pilot project (*see* Parity Guidelines between Paper and Electronic Applications) in the application package.

Program Authority: 20 U.S.C. 7269a.

Dated: June 20, 2003.

Judge Eric Andell,

Deputy Under Secretary for Safe and Drug-Free Schools.

[FR Doc. 03–16141 Filed 6–25–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Basic and Applied Research for Hydrogen Storage

AGENCY: Golden Field Office, U.S. Department of Energy (DOE).

ACTION: Notice of Pre-Solicitation Financial Assistance Solicitation Number DE–PS36–03GO93013.

SUMMARY: The Office of Hydrogen, Fuel Cell, and Infrastructure Technologies of the Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy will be soliciting financial assistance Applications with the objective of supporting hydrogen industry efforts and the President's Hydrogen Fuel Initiative in developing a path to a hydrogen economy. DOE intends to provide financial support under provisions of the Hydrogen Future Act of 1996.

DATES: The Solicitation issuance is planned for mid-July, 2003.

ADDRESSES: In preparation for issuance of the Solicitation, DOE is issuing a draft Statement of Objectives for public comments and to provide the opportunity for the public to submit questions. To obtain a copy of the draft Statement of Objectives, interested parties should access the DOE Hydrogen, Fuel Cells, and Infrastructure Technologies Program Web site at *http://www.eere.energy.gov/hydrogenandfuelcells*. Also, the draft Statement of Objectives is available at *http://e-center.doe.gov* by browsing financial assistance opportunities for Solicitation Number DE–PS36–03GO93013. Questions and comments may be submitted to DOE at *H2storage@go.doe.gov* up to the issuance date of the Solicitation. Once issued, the Solicitation will contain instructions for question submission.

FOR FURTHER INFORMATION CONTACT: James Damm, Contracting Officer via email at *h2storage@go.doe.gov*. Further information on DOE's Hydrogen, Fuel Cells, and Infrastructure Technologies Program can be viewed at *http://www.eere.energy.gov/hydrogenandfuelcells*.

SUPPLEMENTARY INFORMATION: Under this Solicitation, DOE will be requesting Applications for two categories of projects. Category 1 is for Research and Development of metal hydrides, chemical hydrides, and carbon-based hydrogen storage materials to be conducted at virtual Centers of Excellence led by DOE national laboratories and including universities, small businesses, industry and/or other federal/national laboratories as partners. Only DOE national laboratories may submit joint application packages in response to Category 1. Category 2 is for Research and Development through cooperative agreements in the following areas: new materials or technologies for hydrogen storage; compressed and liquid hydrogen tank technologies; and off-board hydrogen storage systems. Category 2 Applicants may be universities, small businesses, and industry; Federal or national laboratories may be team members. Award funding, duration and cost sharing requirements are listed in Table 2 of the Statement of Objectives.

Issued in Golden, Colorado, on June 17, 2003.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 03–16193 Filed 6–25–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–771–000]

Accent Energy New Jersey, LLC; Notice of Issuance of Order

June 19, 2003.

Accent Energy New Jersey, LLC (Accent) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for Accent to engage in wholesale electric power and energy transactions at market-based rates. Accent also requested waiver of various Commission regulations. In particular, Accent requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Accent.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Accent should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, Accent is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Accent, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Accent's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16202 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–078]

ANR Pipeline Company; Notice of Negotiated Rate Filing

June 20, 2003.

Take notice that on June 16, 2003, ANR Pipeline Company (ANR), tendered for filing and approval six (6) new service agreements and amendments to two (2) existing service agreements between ANR and Wisconsin Gas Company. Also tendered for filing and approval were six (6) new service agreements and amendments to two (2) existing service agreements between ANR and Wisconsin Electric Power Company.

ANR requests that the Commission accept and approve the subject negotiated rate agreements and amendments to be effective June 16, 2003, and November 1, 2003, as applicable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the

last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: June 30, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–16156 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–465–001]

ANR Pipeline Company; Notice of Compliance Filing

June 19, 2003.

Take notice that on June 13, 2003, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Thirty-Sixth Revised Sheet No. 17, to be effective June 1, 2003.

ANR states that the filing is being filed in compliance with the Commission's order issued on May 30, 2003, in the above-captioned docket. ANR Pipeline Company, 103 FERC § 61,252 (2003).

ANR states that the tariff sheet includes a cashout price negative surcharge equal to $0.0004 per dth, to be effective on June 1, 2003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16210 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–725–000 and ER03–725–001]

Aquila Piatt County Power L.L.C.; Notice of Issuance of Order

June 19, 2003.

Aquila Piatt County Power L.L.C. (Aquila Piatt) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for the sale of capacity and energy at market-based rates. Aquila Piatt also requested waiver of various Commission regulations. In particular, Aquila Piatt requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Aquila Piatt.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Aquila Piatt should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, Aquila Piatt is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Aquila Piatt, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Aquila Piatt's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16201 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–658–000 and ER03–658–001]

Black Rock Group, LLC; Notice of Issuance of Order

June 19, 2003.

Black Rock Group, LLC (Black Rock) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate schedule provides for the sale of capacity and energy at market-based rates. Black Rock also requested waiver of various Commission regulations. In particular, Black Rock requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Black Rock.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Black Rock should file a motion to intervene or protest with the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, Black Rock is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Black Rock, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Black Rock's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16199 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–105]

CenterPoint Energy Gas Transmission Company; Notice of Compliance Filing

June 19, 2003.

Take notice that on June 13, 2003, CenterPoint Energy Gas Transmission Company (CEGT) filed the additional information required by the Commission's May 30, 2003, order in this docket.

CEGT states that copies of its filing are being mailed to all parties on the service list in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16213 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–515–001]

Dominion Transmission, Inc.; Notice of Report of Overrun/Penalty Revenue Distribution

June 20, 2003.

Take notice that on June 6, 2003, Dominion Transmission, Inc. (DTI) tendered for filing its report of overrun/penalty revenue distribution. Section 41 of the General Terms and Conditions of DTI's FERC Gas Tariff, Crediting of Unauthorized Overrun Charge and Penalty Revenues, requires distribution of such charges and revenues to non-offending customers on June 30 of each year, and filing of the related report within 30 days of the distribution.

DTI states that it distributed the penalty revenue to customers one month early, on May 30, 2003, due to a physical move of the Regulatory & Pricing Department that will be occurring in mid- to late-June.

On June 16, 2003, DTI states that it supplemented its filing by submitting a corrected version of Workpaper 2 for its report. DTI explained that the workpaper submitted with its original filing was not the final version and, accordingly, it submitted the corrected workpaper.

DTI states that copies of the transmittal letter and summary workpapers (including the corrected workpaper and the explanation of the correction) have been mailed to DTI's customers and to all interested states commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Protest Date: June 27, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–16155 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–774–000]

Eagle Energy Partners, Inc.; Notice of Issuance of Order

June 19, 2003.

Eagle Energy Partners, Inc.(Eagle Energy) filed an application for market-based rate authority, with an

accompanying tariff. The proposed tariff provides for the sale of capacity, energy and ancillary services at market-based rates. Eagle Energy also requested waiver of various Commission regulations. In particular, Eagle Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Eagle Energy.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Eagle Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, Eagle Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Eagle Energy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Eagle Energy's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16203 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–473–001]

Enbridge Pipelines (KPC); Notice of Compliance Filing

June 19, 2003.

Take notice that on June 13, 2003, Enbridge Pipelines (KPC) (KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Original Sheet No. 182, to be made effective November 1, 2002.

KPC states that the purpose of this filing is to comply with the Commission's order issued June 6, 2003, which required KPC to modify the language in section 26.8 of the General Terms and Conditions (GT&C) of KPC's tariff.

KPC states that the instant filing complies with the Commission's June 6, 2003, order. No other changes in KPC's tariff are proposed.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16211 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–514–000]

Gas Research Institute; Notice of Annual Application

June 19, 2003.

Take notice that on June 2, 2003, the Gas Research Institute (GRI) filed an application requesting advance approval of its 2004–2008 Five-Year Research, Development and Demonstration (RD&D) Plan, and the 2004 RD&D Program and the funding of its RD&D activities for 2004, pursuant to section 154.401 of the Commission's regulations under the Natural Gas Act, the Commission's rules of practice and procedure, and the Commission's April 29, 1998, Order Approving Settlement (April 29 Order) (83 FERC ¶61,093 (1998)).

In its application, GRI states that all aspects of its proposed 2004 Program are consistent with the current Settlement. GRI states that proposed budgets are identical to those approved as part of the Settlement. GRI proposes to incur contract obligation of $60.0 million in 2004. Consistent with the April 29 Order, GRI states that all $60.0 million of the 2004 contract obligations will be for Core Projects. GRI states that its application seeks to collect funds to support its RD&D program through jurisdictional rates and charges during the 12 months ending December 31, 2004.

Consistent with the April 29 Order, GRI proposes to fund the 2004 RD&D program by using the following surcharges: (1) A demand/reservation surcharge of 5.0 cents per Dth per Month for ''high load factor customers''; (2) a demand/reservation surcharge of 3.1 cents per Dth per Month for ''low load factor customers'', (3) a volumetric commodity/usage surcharge of 0.4 cents; and (4) a special ''small customer'' surcharge of 0.6 cents per Dth. GRI states that all of the proposed 2004 surcharges are the same as corresponding current levels.

The Commission Staff will analyze GRI's application and prepare a Commission Staff Report. This Staff Report will be served on all parties and filed with the Commission as a public

document on August 4, 2003. Comments on the Staff Report and GRI's application by all parties, except GRI, must be filed with the Commission on or before August 18, 2003. GRI's reply comments must be filed on or before August 25, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before the intervention and protests date as indicated below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Intervention and Protest Date: June 30, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16212 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–411–010 and RP01–44–007]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

June 19, 2003.

Take notice that on June 13, 2003, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to become effective on November 1, 2002:

Substitute Original Sheet No. 65A
Second Substitute Original Sheet No. 65C
Substitute Original Sheet No. 65D
Substitute Original Sheet No. 65E

Iroquois states that the instant tariff filing is being filed in compliance with the Commission's May 29, 2003, Order to remove language that Iroquois had originally submitted regarding proposed cash-out provisions to deal with the imbalances left on its system.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: June 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16209 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–796–000 and ER03–796–001]

Katahdin Paper Company LLC; Notice of Issuance of Order

June 19, 2003.

Katahdin Paper Company LLC (Katahdin) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for the sale of capacity, energy and ancillary services at market-based rates. Katahdin also requested waiver of various Commission regulations. In particular, Katahdin requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Katahdin.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Katahdin should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, Katahdin authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Katahdin, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Katahdin's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The

Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16204 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–653–000 and ER03–736–000]

LMP Capital, LLC, CAM Energy Products, LP; Notice of Issuance of Order

June 19, 2003.

LMP Capital, LLC and CAM Energy Products LP (together, ''the Applicants'') filed application for market-based rate authority, with an accompanying tariffs. The proposed tariffs provide for the sale of capacity, energy and ancillary services at market-based rates. The Applicants also requested waiver of various Commission regulations. In particular, the Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the Applicants.

On June 12, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 14, 2003.

Absent a request to be heard in opposition by the deadline above, the Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of the Applicants' issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16198 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–715–000 and ER03–715–001]

Marina Energy, L.L.C.; Notice of Issuance of Order

June 19, 2003.

Marina Energy, L.L.C. (Marina Energy) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for the sale of capacity and energy at market-based rates. Marina Energy also requested waiver of various Commission regulations. In particular, Marina Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Marina Energy.

On June 17, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Marina Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 17, 2003.

Absent a request to be heard in opposition by the deadline above, Marina Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Marina Energy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Marina Energy's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16200 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–338–002]

Mojave Pipeline Company; Notice of Compliance Filing

June 19, 2003.

Take notice that on June 13, 2003, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on the Appendix to the filing, to become effective August 1, 2003.

Mojave states that the tendered tariff sheets are being filed to comply with the Commission's order issued May 29,

2003, in this proceeding and to implement those tariff provisions approved as being in compliance with the requirements of Order No. 637, *et seq.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: June 25, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16208 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–866–000]

NDR Energy Group, LLC; Notice of Issuance of Order

June 20, 2003.

NDR Energy Group, LLC (NDR) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate schedule provides for the sale of capacity and energy, at market-based rates. NDR also requested waiver of various Commission regulations. In particular, NDR requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by NDR.

On June 18, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by NDR should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 18, 2003.

Absent a request to be heard in opposition by the deadline above, NDR is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of NDR, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of NDR's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–16154 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–821–000]

One Nation Energy Solutions, LLC; Notice of Issuance of Order

June 19, 2003.

One Nation Energy Solutions, LLC (ONES) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate schedule provides for the sale of capacity and energy at market-based rates. ONES also requested waiver of various Commission regulations. In particular, ONES requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by ONES.

On June 11, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by ONES should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 2003.

Absent a request to be heard in opposition by the deadline above, ONES is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of ONES, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of ONES' issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket

number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16205 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–320–000]

ONEOK WesTex Transmission, L.P.; Notice of Petition of Oneok Westex Transmission, L.P. To Amend Blanket Certificate and for Rate Approval Under Section 284.123(b)(2) of the Commission's Regulations and Requests for Waiver and Expedited Consideration

June 19, 2003.

Take notice that on June 16, 2003, ONEOK WesTex Transmission, L.P. (WesTex), a Hinshaw pipeline, filed a petition under section 7(c) of the Natural Gas Act and section 284.224(b) of the Commission's regulations, to amend its blanket certificate to include service over the Palo Duro pipeline system in the State of Texas, and a determination that the existing rate applicable to service over the Palo Duro pipeline system is fair and equitable under section 284.123(b)(2) of the Commission's regulations.

WesTex states that it seeks expedited consideration of its Petition and any waivers of the Commission's regulations necessary to grant its Petition, in order to insure continuity of service to current shippers of Enogex Inc. and prevent the unnecessary shut-in of gas supplies. WestTex explains that expedited consideration of this Petition is necessary given that the existing operator of the Palo Duro system, Enogex, Inc. only recently gave notice that it is terminating the lease of the facilities effective July 1, 2003, and thus will no longer operate the facilities after that date.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before the intervention and protest date as indicated below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that an oral hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at hearing.

Comment Date: July 7, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16197 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–845–000]

Pinpoint Power, LLC; Notice of Issuance of Order

June 19, 2003.

Pinpoint Power, LLC (Pinpoint) filed an application for market-based rate authority, with an accompanying tariff. The proposed tariff provides for the sale of electric capacity, energy, and certain ancillary services at market-based rates. Pinpoint also requested waiver of various Commission regulations. In particular, Pinpoint requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Pinpoint.

On June 12, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Pinpoint should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 14, 2003.

Absent a request to be heard in opposition by the deadline above, Pinpoint is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Pinpoint, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Pinpoint's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using

the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16206 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR03–5–001]

Washington Gas Light Company; Notice of Revised Firm Interstate Transportation Service Operating Statement

June 19, 2003.

Take notice that on May 30, 2003, Washington Gas Light Company (WGLC) filed a Revised Firm Interstate Transportation Service Operating Statement. Washington Gas makes this filing in accordance with the Commission's May 1, 2003, Order approving the Company's December 9, 2002, Petition for Rate Approval. The Company's approved Petition for Rate Approval was conditioned on the Company filing this revised Firm Interstate Transportation Service Operating Statement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: July 7, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16207 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD03–11–000]

Southwestern Gas Storage Technical Conference; Notice of Public Conference

June 19, 2003.

Take notice that on August 26, 2003, at 9 a.m. m.s.t. in Phoenix, Arizona, the Staff of the Federal Energy Regulatory Commission (FERC or Commission) will convene a technical conference with interested parties to discuss issues related to natural gas storage development in the southwestern United States. By order issued on June 4, 2003, in Docket Nos. CP02–420–000 *et al.*, the Commission directed that a technical conference be held to begin analysis of relevant market needs and regulatory options available to the Commission to assure the appropriate development of southwestern natural gas storage facilities and markets [1]. Persons interested in speaking or making a presentation should indicate their interest no later than July 11, 2003, by a letter addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. AD03–11–000. Each request to participate must include the name of a contact person, their telephone number and e-mail address. There is no need to provide advance notice to the Commission simply to attend the conference.

In order to more clearly focus the discussion at the conference, potential presenters should consider the following questions and present their responses at the conference:

- What potential projects are currently under consideration by the industry for developing gas storage in the Southwest?
- Should the Commission initiate an open-season approach for storage development proposals, in which all potential projects are filed at the same time?
- What types of storage services are necessary or envisioned? Who will contract for these services?
- What type of storage facilities can physically be constructed (*i.e.* salt cavern, depleted oil/gas reservoirs, aquifer type, etc.)?
- What environmental and cultural resources issues would affect the development of gas storage facilities in the Southwest?
- What are the concerns of Native Americans in the development of natural gas storage facilities in the southwest?

Comments addressing or identifying Southwestern natural gas storage issues may also be filed by July 11, 2003. Every effort will be made to accommodate requests to make presentations, but depending on the number of requests received, a limit may have to be placed on the number of presenters and the time allowed for presentations. To provide for a more productive conference, where practicable interested persons/parties should coordinate their efforts and choose one spokesperson to make a statement on behalf of a group where interests coincide.

In a subsequent notice, we will provide further details on the conference, including the agenda and a list of participants, as plans evolve. For additional information, please contact Elizabeth Anklam in the Office of Energy Projects, phone: (202) 502–8635, email: *elizabeth.anklam@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16196 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

[1] For the purpose of this conference, the Southwest is generally defined as west Texas, New Mexico, Arizona, southern Nevada, and southern California.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

June 13, 2003.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record

communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Date filed	Presenter or requester
Prohibited		
1. EL03–131–000, ER01–313–003 and ER01–424–003	6–13–03	William Lansinger.[1]
Exempt		
1. CP02–374–000	6–10–03	Honorable John Breaux (U.S. Senator).

[1] Documents provided to Commission Staff by e-mail.

Magalie R. Salas,

Secretary.

[FR Doc. 03–16142 Filed 6–25–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7518–8]

Meetings of the Ozone Transport Commission and Mid-Atlantic/ Northeast Visibility Union

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2003 Annual Meetings of the Ozone Transport Commission (OTC), and the Mid/Atlantic/Northeast Visibility Union (MANE–VU). The OTC meeting is to deal with appropriate matters within the Ozone Transport Region in the Northeast and Mid-Atlantic States, as provided for under the Clean Air Act Amendments of 1990. The MANE–VU meeting is to discuss matters of Regional Haze planning and implementation. These meetings are not subject to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, as amended.

DATES: The meetings will be held on July 21, 2003, July 22, 2003 (OTC) and July 23, 2003 (MANE–VU) starting at 9 a.m. (EDT).

ADDRESSES: The Hilton Inn At Penn, 3600 Sansom Street, Philadelphia, Pennsylvania 19104; (215) 222–0200.

FOR FURTHER INFORMATION CONTACT: Judith M. Katz, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; (215) 814–2100.

For Documents and Press Inquiries Contact: Ozone Transport Commission, 444 North Capitol Street NW., Suite 638, Washington, DC 20001; (202) 508–3840; e-mail: *otcair.org;* Web site: *http://www.sso.org/otc*

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the ''Control of Interstate Ozone Air Pollution.'' Section 184(a) establishes an ''Ozone Transport Region'' (OTR) comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the Ozone Transport Commission is to deal with ground level ozone formation, transport, and control within the OTR. The MANE–VU is comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the District of Columbia, and the Tribes within those states. The purpose of MANE–VU is to address Regional Haze and visibility goals.

The purpose of this notice is to announce that the OTC and MANE–VU will meet on July 21 through July 23, 2003. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of the Ozone Transport Commission and MANE–VU are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508–3840 (by e-mail: *otcair.org* or via our Web site at *http://www.sso.org/otc*) by Friday, July 11, 2003. The purpose of these meetings is to discuss ways in which OTC and MANE–VU states and Tribes can meet their statutory and regulatory responsibilities under the Clean Air Act. Special emphasis will be given to stationary and mobile source control measures to reduce precursors of ground-level ozone and next steps to reduce ground-level ozone in the context of a multi-pollutant emission reduction program. The OTC and MANE–VU are also expected to address issues related to the transport of pollutants of concern into its region, and to discuss potential regional emission control options and measures.

Dated: June 17, 2003.

Richard J. Kampf,

Acting Regional Administrator, Region III.

[FR Doc. 03–16239 Filed 6–25–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Requirement Submitted to OMB for Emergency Review and Approval

June 13, 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, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 28, 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 contacts listed below as soon as possible.

ADDRESSES: Direct all comments to Kim A. Johnson, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3562 or via internet at *Kim_A._Johnson@omb.eop.gov,* and Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION: *The Commission has requested emergency OMB review of this collection with an approval by June 27, 2003.*

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices, CS Docket No. 97–80.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 215.

Estimated Time per Response: 10 mins. to 40 hrs.

Frequency of Response: Quarterly and semi-annual reporting requirements; Third Party Disclosure.

Total Annual Burden: 3,384 hours.

Total Annual Costs: $33,450.

Needs and Uses: On April 25, 2003 the FCC released an Order and Further Notice of Proposed Rulemaking (''Order and FNPRM''), *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices,* CS Docket No. 97–80, FCC 03–89. In this Order and FNPRM the Commission extends by eighteen months the existing 2005 deadline in Section 76.1204(a)(1) prohibiting the deployment of integrated navigation devices by multichannel video programming distributors in order to promote the retail sale of non-integrated host devices. This extension was granted in light of ongoing negotiations between the cable and consumer electronics industries that may affect the technical specifications relating to host devices and associated point-of-deployment modules. The Commission also committed to completing a reassessment of the upcoming ban on integrated devices, based in part upon the status of these negotiations, prior to January 1, 2005. In order to complete its assessment in a timely manner, the FCC has requested that the cable and consumer electronics industries file progress reports with the Commission on the status of their negotiations at 90, 180, and 270 day intervals following release of the Order and FNPRM. The proposed progress reports would be used as a partial basis to elicit public comment as a part of a rulemaking proceeding pursuant to the Order and FNPRM on the appropriateness of the new July 1, 2006 ban on integrated devices, based upon the status of these negotiations. This objective is commensurate with our statutory directive in Section 629 of the Communications Act of 1934, as amended, to act ''in consultation with appropriate industry standard-setting organizations'' to assure the commercial availability of navigation devices used in conjunction with services provided by multichannel video programming distributors (''MVPDs'').

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16113 Filed 6–25–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 16, 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, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit PRA comments August 25, 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 Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, 445 12th

Street, SW., Room 1–C804, Washington, DC 20554 or via the internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy B. Herman at 202–418–0214 or via the internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0940.

Title: Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 96–169.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 140.

Estimated Time Per Response: .50–4 hours.

Frequency of Response: On occasion and one-time reporting requirements.

Total Annual Burden: 2,380 hours.

Annual Reporting and Recordkeeping Cost Burden: N/A.

Needs and Uses: Sections 1.2105(a)(2)(xi) and 95.816(b) offer various financial restructuring options to the 218–219 MHz licensees regarding their existing installment payment obligations and permits eligible licensees to choose (1) reamortization and resumption of installment payments on their licenses; (2) an amnesty option wherein eligible licensees surrender any licenses they choose to the Commission for subsequent auction and, in return, have all of the outstanding debt on those licenses forgiven; or (3) a prepayment option whereupon licensees may retain or return as many licenses as they desire; however, licensees electing the prepayment option must prepay the outstanding principal of any license they wish to retain. The information requested provides the FCC with the data to implement the restructuring option(s) chosen by current and former 218–219 MHz licensees. The staff will use this information to maintain data on current licensees, new installment payment terms, refunds to licensees, and spectrum returned to the FCC for auction. The information is necessary in order to enable the licensees to meet their financial obligations to the Commission that will help ensure rapid provision of 218–219 MHz service to the public.

There are no changes to this information collection. The Commission is seeking the full three-year OMB approval under the Paperwork Reduction Act (PRA).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16114 Filed 6–25–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 17, 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 (PRA) of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act 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 August 25, 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 Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–XXXX.

Title: Section 90.1211, Regional Plan.

Form No.: N/A.

Type of Review: New collection.

Respondents: Not-for-profit institutions, state, local or tribal government.

Number of Respondents: 55.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 28 hours.

Total Annual Cost: N/A.

Needs and Uses: This collection is needed to facilitate the shared use of the 4.9 GHz band. This action promotes effective public safety communications and innovation in wireless broadband services in support of public safety. This will provide 4.9 GHz band licensees with the maximum operational flexibility practicable and to encourage effective and efficient utilization of the spectrum. The actions make significant strides towards ensuring that agencies involved in the protection of life and property possess the communications resources needed to successfully carry out their mission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16115 Filed 6–25–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 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 (PRA) of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act 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 PRA comments should be submitted on or before August 25, 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 PRA comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B.Herman at 202–418–0214 or via the Internet at *Judith-B. Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0775.

Title: Separate Affiliate Requirement for Independent Local Exchange Carrier (LEC) Provision of International, Interexchange Services (47 CFR 64.1901—64.1903).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 6,056 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 60,563 hours.

Total Annual Cost: $1,003,000.

Needs and Uses: The Commission imposes the recordkeeping requirement to ensure that independent Local Exchange Carriers (LECs) providing international, interexchange services through a separate affiliate are in compliance with the Communications Act of 1934, as amended and with Commission policies and regulations.

OMB Control No.: 3060–0819.

Title: Lifeline Assistance (Lifeline) Connection Assistance (Link-Up) Reporting Worksheet and Instructions (47 CFR 54.400–54.417).

Form No.: FCC Form 497.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,500 respondents; 18,000 responses.

Estimated Time Per Response: 3 hours.

Frequency of Response: On occasion, quarterly, and monthly reporting requirements.

Total Annual Burden: 54,000 hours.

Total Annual Cost: N/A.

Needs and Uses: Eligible telecommunications carriers are permitted to receive universal service support reimbursement for offering certain services to qualifying low-income customers. The telecommunications carriers must file FCC Form 497 to solicit reimbursement. Collection of this data is necessary for the administrator to accurately provide settlements for the low-income program according to Commission rules.

OMB Control No.: 3060–XXXX.

Title: Application for Authority to Construct or Make Changes in an International Broadcast Station.

Form No.: FCC Form 420–IB.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion, annual, semi-annual and one-time reporting requirements.

Total Annual Burden: 160 hours.

Total Annual Cost: $44,000.

Needs and Uses: The Commission is proposing creation of a new form, FCC Form 420–IB. This new International Bureau form would be completed by international broadcasters in lieu of the FCC Form 309. All questions previously contained in the FCC Form 309 that are applicable only to international broadcasters will be retained in the new form. The FCC Form 309 will continue to be used by the Media Bureau in connection with experimental broadcast stations. The Commission received approval for the use of the FCC Form 309 under OMB Control Number 3060–1035 which includes FCC Forms 310 and 311. The Commission requests that a new collection be established to put the new FCC Form 420–IB under a separate OMB control number to facilitate any changes to the form in the future. The form will be available on the Internet, by fax-on-demand, and in paper format. The implementation of electronic filing of the form in the International Bureau Filing System (IBFS) is contingent upon the availability of budget funds.

The information collected pursuant to the rules set forth in 47 CFR part 73, subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control No.: 3060–XXXX.

Title: Application for an International Broadcast Station License.

Form No.: FCC Form 421–IB.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion, annual, semi-annual and one-time reporting requirements.

Total Annual Burden: 120 hours.

Total Annual Cost: $36,000.

Needs and Uses: The Commission is proposing creation of a new form, FCC Form 421–IB. This new International Bureau form would be completed by international broadcasters in lieu of the FCC Form 310. All questions previously contained in the FCC Form 310 that are applicable only to international broadcasters will be retained in the new form. The FCC Form 310 will continue to be used by the Media Bureau in connection with experimental broadcast stations. The Commission received approval for the use of the FCC Form 310 under OMB Control Number 3060–1035 which includes FCC Forms 309 and 311. The Commission requests that a new collection be established to put the new FCC Form 421–IB under a separate OMB control number to facilitate any changes to the form in the future. The form will be available on the Internet, by fax-on-demand, and in paper format. The implementation of electronic filing of the form in the International Bureau Filing System (IBFS) is contingent upon the availability of budget funds.

The information collected pursuant to the rules set forth in 47 CFR part 73, subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a

position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control No.: 3060–XXXX.

Title: Application for Renewal of an International Broadcast Station License.

Form No.: FCC Form 422–IB.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 10.

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion, annual, semi-annual and one-time reporting requirements.

Total Annual Burden: 60 hours.

Total Annual Cost: $32,000.

Needs and Uses: The Commission is proposing creation of a new form, FCC Form 422–IB. This new International Bureau form would be completed by international broadcasters in lieu of the FCC Form 311. All questions previously contained in the FCC Form 311 that are applicable only to international broadcasters will be retained in the new form. The FCC Form 311 will continue to be used by the Media Bureau in connection with experimental broadcast stations.

The Commission received approval for the use of the FCC Form 311 under OMB Control Number 3060–1035 which includes FCC Forms 309 and 310. The Commission requests that a new collection be established to put the new FCC Form 422–IB under a separate OMB control number to facilitate any changes to the form in the future. The form will be available on the Internet, by fax-on-demand, and in paper format. The implementation of electronic filing of the form in the International Bureau Filing System (IBFS) is contingent upon the availability of budget funds.

The information collected pursuant to the rules set forth in 47 CFR part 73, subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control No.: 3060–XXXX.

Title: Application for Permit to Deliver Programs to Foreign Broadcast Stations.

Form No.: FCC Form 423–IB.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 30.

Estimated Time Per Response: 2–10 hours.

Frequency of Response: On occasion, annual, semi-annual and one-time reporting requirements.

Total Annual Burden: 80 hours.

Total Annual Cost: $26,000.

Needs and Uses: The Commission is proposing creation of a new form, FCC Form 423–IB. This new International Bureau form would be completed by international broadcasters in lieu of the FCC Form 308. All questions previously contained in the FCC Form 308 that are applicable only to international broadcasters will be retained in the new form. The Commission requests that a new collection be established to put the new FCC Form 423–IB under a separate OMB control number to facilitate any changes to the form in the future. The form will be available on the Internet, by fax-on-demand, and in paper format. The implementation of electronic filing of the form in the International Bureau Filing System (IBFS) is contingent upon the availability of budget funds.

The information collected pursuant to the rules set forth in 47 CFR part 73, subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16116 Filed 6–25–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 10, 2003.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Gregory Dale Lord, Leesville, Louisiana; to acquire voting shares of Vernon Bancshares, Inc., Leesville, Louisiana, and thereby indirectly acquire voting shares of The Vernon Bank, Leesville, Louisiana.

Board of Governors of the Federal Reserve System, June 20, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–16139 Filed 6–25–03; 8:45 am]

BILLING CODE 6210–01–S

OFFICE OF GOVERNMENT ETHICS

Submission for OMB Review; Comment Request: Unmodified SF 278 Executive Branch Personnel Public Financial Disclosure Report

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted the Standard Form (SF) 278 for extension of approval for three years by Office of Management and Budget (OMB) under the Paperwork Reduction Act. The SF 278 is henceforth to be accompanied by agency notification to filers of the adjustment of the gifts/travel reimbursements reporting thresholds and the revisions to the Privacy Act Statement. Both revisions will not be incorporated into the form itself at this time, since OGE

plans a more thorough revision of the form in the next year or two.

DATES: Comments by the agencies and the public on this proposal are invited and must be received by July 28, 2003.

ADDRESSES: Comments should be sent to Ms. Allison Eydt, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503; Telephone: 202–395–7316; FAX 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Mary T. Donovan at the Office of Government Ethics; Telephone: 202–208–8000, ext. 1185; TDD: 202–208–8025; FAX: 202–208–8037. A copy of a blank SF 278 and the rest of the OGE submission package to OMB may be obtained, without charge, by contacting Ms. Donovan. Also, a copy of a blank SF 278 is available through the Forms, Publications & Other Ethics Documents section of OGE's Web site at *www.usoge.gov*.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics has submitted to OMB the unmodified Standard Form 278 Executive Branch Personnel Public Financial Disclosure Report (OMB control number 3209–0001) for extension of OMB approval for three years under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The current paperwork approval for the SF 278 is scheduled to expire at the end of June 2003. Since, for now, no modification to this standard form is being proposed, OGE will not seek any General Services Administration (GSA) standard forms clearance for this extension.

The Office of Government Ethics, as the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act (the Ethics Act), is the sponsoring agency for the Standard Form 278. In accordance with section 102 of the Ethics Act, 5 U.S.C. app. § 102, and OGE's implementing financial disclosure regulations at 5 CFR part 2634, the SF 278 collects pertinent financial information from certain officers and high-level employees in the executive branch for conflicts of interest review and public disclosure. The financial information collected under the statute and regulations relate to: assets and income; transactions; gifts, reimbursements and travel expenses; liabilities; agreements or arrangements; outside positions; and compensation over $5,000 paid by a source—all subject to various reporting thresholds and exclusions.

The Office of Government Ethics notes two changes (discussed below) affecting the content of SF 278s. The first change concerns the recent adjustments in the gifts/reimbursements reporting thresholds. The second change involves the routine uses as paraphrased in the Privacy Act Statement of the form that have been revised in 2003. *See* 68 FR 2923–2929 (January 22, 2003) and 68 FR 3097–3109 (pt. II) (January 22, 2003), as corrected at 68 FR 24744 (May 8, 2003). For now, OGE is proposing no revisions to the SF 278, but rather asks that executive branch departments and agencies inform SF 278 filers, through cover memorandum or otherwise, of these two changes when the existing March 2000 edition of SF 278 report forms are provided for completion. In addition, information regarding these changes is being posted on OGE's Web site.

Effective January 1, 2002, GSA raised ''minimal value'' under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, to $285 or less for the three-year period 2002–2004. *See* 67 FR 56495–56496 (September 4, 2002). As a result, OGE has advised agencies and revised its financial disclosure regulations to reflect the increase in the thresholds for SF 278 reporting of gifts and travel reimbursements received from any one source to ''more than $285'' for the aggregation level for reporting and to ''$114 or less'' for the *de minimis* aggregation exception threshold. These Ethics Act reporting thresholds are tied to any adjustment in foreign gifts minimal value over $250 (*see* 5 U.S.C. app. § 102(a)(2)(A) & (B)). *See* OGE's September 27, 2002 memorandum to designated agency ethics officials (DO–02–021) and 67 FR 61761–61762 (October 2, 2002). Both the GSA and OGE rulemakings and OGE's memorandum are posted on the OGE Web site.

In addition, OGE updated the OGE/GOVT–1 system of records notice (covering SF 278 Public Financial Disclosure Reports and other name-retrieved ethics program records). As a result, the Privacy Act Statement, which includes paraphrases of the routine uses on page 11 of the instructions on the SF 278 is affected. A summary of the changes relevant to that SF 278 statement has been prepared for inclusion with the paperwork clearance submission to OMB. OGE will advise departments and agencies of the Privacy Act Statement changes without further paperwork clearance.

During the 107th Congress, a bill (S. 1811) was introduced to amend the Ethics in Government Act of 1978 (5 U.S.C. app.) to streamline the financial disclosure process for executive branch employees. Congress did not enact S. 1811. A new bill (S. 765), similar to S. 1811, has been introduced in the 108th Congress. If Congress enacts S. 765 or like legislation, the public financial disclosure requirements will change, and the SF 278 report form will have to be revised accordingly. At that time, OGE would seek paperwork renewal from OMB and standard form clearance from GSA for a revised SF 278.

For now, OGE will continue to make the unmodified SF 278 available to departments and agencies and their reporting employees through the Forms, Publications & Other Ethics Documents section of OGE's Web site. This allows employees two different fillable options for preparing their report on a computer (in addition to a downloadable blank form), although a printout and manual signature of the form are still required unless specifically approved otherwise by OGE. The SF 278 form is also available for purchase by agencies from GSA Customer Supply Centers (*see* OGE's November 15, 2000 memorandum to designated agency ethics officials (DO–00–042)) and fillable versions are now posted on the forms library of GSA's own Web site at *www.gsa.gov*.

The SF 278 is completed by candidates, nominees, new entrants, incumbents and terminees of certain high-level positions in the executive branch of the Federal Government. The Office of Government Ethics, along with the agencies concerned, conducts the review of the SF 278 reports of Presidential nominees subject to Senate confirmation. This group of nominee reports, together with those of terminees from such positions who may file after leaving the Government and private citizen candidates for President and Vice President, form the basis for OGE's paperwork estimates in this notice.

In light of OGE's experience over the past three years (1999–2001), the estimate of the total number, on average, of such filers' SF 278 forms expected to be filed annually at OGE by private citizens (as opposed to current Federal employees) is 449. (The 2002 figures are not yet available.) This estimated number is based on the forms processed at OGE by private citizen Presidential nominees to positions subject to Senate confirmation (and their private representatives—lawyers, accountants, brokers and bankers) and those who file termination reports from such positions after their Government service ends, as well as Presidential and Vice Presidential candidates who are private citizens. The OGE estimate covers the next three years, 2003–2005, including a significant increase in reports anticipated with the fall 2004

Presidential election and following transition. The prior paperwork burden estimate was 260 forms per year. The estimated average amount of time to complete the report form, including review of the instructions and gathering of needed information, remains the same at three hours. Thus, the overall estimated annual public burden for the SF 278 for the private citizen/representative nominee, candidate and terminee report forms processed at the Office of Government Ethics is being adjusted to 1,347 (from 780) hours.

The Office of Government Ethics estimates, based on the agency ethics program questionnaire responses for 1999–2001 (the 2002 figures are not yet available), that some 21,200 SF 278 report forms are filed annually at departments and agencies throughout the executive branch. Most of those executive branch filers are current Federal employees at the time they file, but certain candidates for President and Vice President, nominees, new entrants and terminees complete the form either before or after their Government service. The percentage of private citizen filers branchwide is estimated at no more than 5% to 10%, or some 1,060 to 2,120 per year at most.

On January 7, 2003 OGE published its first round notice of the forthcoming request for paperwork clearance for the proposed unmodified SF 278. See 68 FR 782–783. The Office of Government Ethics did not receive any comments in response to that notice, though one individual requested a copy of the form.

In this second notice, public comment is again invited on the proposed unmodified SF 278 as set forth in this notice, including specifically views on: the need for and practical utility of this proposed continued collection of information; the accuracy of OGE's burden estimate; the enhancement of quality, utility and clarity of the information collected; and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: June 20, 2003.

Amy L. Comstock,

Director, Office of Government Ethics.

[FR Doc. 03–16172 Filed 6–25–03; 8:45 am]

BILLING CODE 6345–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03098]

Cooperative Agreement for the Development and Support of Core Public Health Functions Related to Injury Prevention and Control; Notice of Availability of Funds

Application Deadline: July 28, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 391, 392, and 393 of the Public Health Service Act, (42 U.S.C. sections 241(a), 247b, 280b, 280b–1, and 280b–1a), as amended, including Public Law 104–166. 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 cooperative agreement program for the Development and Support of Core Public Health Functions Related to Injury Prevention and Control. This program addresses the ''Healthy People 2010'' focus areas of Injury and Violence Prevention.

The purpose of the program is to determine and respond to the training, information, education, research, surveillance, program implementation, and evaluation needs required to build or expand public health injury prevention and control capacity at the State and territorial level.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals 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.

—Monitor and detect fatal and non-fatal injuries.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit and for profit organizations and by governments and their agencies; that is, universities, colleges, technical schools, research institutions, hospitals, other public and private nonprofit and for profit organizations, community-based organizations, faith-based organizations, state and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations, and small, minority, and/or women-owned businesses.

Minimum applicant qualification:

—Experience conducting reviews of State/Territorial public health injury prevention and control programs against defined standards.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(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 $383,898 is available in FY 2003 to fund one award. It is expected that the award will begin on or about September 15, 2003 and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. *Recipient Activities:*

a. Assess current, and anticipate future, State injury program and staff training needs and assist in the development of regional and national training programs in areas such as injury evaluation capacity, surveillance and data needs, policy development, translation of proven interventions, and program implementation.

b. Develop, refine, and update models for State injury prevention and control programs, identifying both minimum capability and structure and definition of advanced State injury control components. Measure State and territorial injury prevention capacity against standards derived from these models.

c. Develop a peer-based technical assistance network and provide assistance to State and territorial health departments in the roles and function of injury prevention and control programs and units. This may include onsite visits in which assistance and recommendations will be provided to improve the structure of injury programs.

d. Develop and submit to each State, territorial public health agency, and CDC a report of the condition of injury control and prevention in the States and territories. Submit reports on particular injury topics as necessary to facilitate translation of the state-of-the-art for the injury field.

e. Develop and disseminate materials and conduct/sponsor training or conferences/meetings to address identified needs or topics. Implement plans for educating public health injury staff regarding topics of increasing interest, such as the National Violent Death Reporting System.

f. Conduct scientific and programmatic meetings, workshops, sessions, and briefings to disseminate information, gain input or support for injury plans or strategies, or educate injury staff and associated policy makers on current injury developments and topics. Content should be inclusive of the breadth of the injury field and include the state-of-the-art in topics of interest.

g. Strengthen existing collaboration with organizations such as the Association of State and Territorial Health Officials and its affiliates, the National Association of County and City Health Officials, the National Association of Local Boards of Health, the National Association of Injury Control Research Centers, injury prevention and control specialist in managed care, and other organizations related to injury prevention and control research, practice, and professional preparation and training.

2. *CDC Activities:*

a. Provide continuing updates on scientific, operational, policy, and funding developments related to injury prevention and control.

b. Provide assistance in determination of methods and processes for supplying peer-based technical assistance to States, networks, and injury practitioners.

c. Provide assistance in the selection and performance of topics, audiences, and locations for State, regional, or multi-state meetings, workshops, sessions, or briefings.

d. Provide information and assistance relative to defining the scope of injury-related training and information needs at the State and territorial level, and provide scientific and programmatic review of materials proposed to address such needs.

e. Provide assistance in planning, conducting, and evaluating injury prevention and control activities, in identifying regional networks, and in identifying relevant groups for development of collaborative arrangements.

F. Content

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 30 pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of, at a minimum, an Abstract, Table of Contents, the Background and Coordination, Scope, Goals, and Objectives, Operational Plan, Administration and Management, Evaluation, and Budget. The operational plan must cover activities to be conducted over the entire five year project period.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161 (OMB Number 0920–0428). 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 July 28, 2003. Submit the application to: Technical Information Management–PA03098, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard 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. Any applicant who sends their application 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.

Any application that does 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

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals 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.

An independent review group appointed by CDC will evaluate each application against the following criteria:

1. Operational Plan (30 Points). The extent to which the applicant provides an operational plan that addresses achievement of each of the objectives proposed. Does the applicant provide a description of each component or major activity, how it relates to objectives, and how it will be accomplished? Does the plan include a detailed time-line for completion of each component or major activity? Does the plan cover the entire five-year project period?

2. Background and Coordination (25 points). The extent to which the applicant demonstrates successful experience in related projects, and describes the context and needs related to the purpose of this program announcement. The extent to which the

applicant demonstrates a relationship with public health injury professionals at the State and territorial level and with regional and national injury and public health groups and organizations.

3. Administration and Management (20 Points). The extent to which the organizational structure is described and to which adequate management control systems are in place. Is proposed staffing and the relationship to public health injury staff in each State and territory adequate for completion of all activities under this program announcement?

4. Evaluation and Plan (15 Points). The extent to which the evaluation plan provides an adequate basis for monitoring, evaluating, and reporting results for proposed activities. Will the proposed evaluation system be specific and sensitive enough to rapidly identify areas of needed change?

5. Scope, Goals, and Objectives (10 Points). The extent to which the applicant provides relevant long-term goals and short-term objectives that are specific, measurable, time-phased, and achievable. Will achievement of these objectives lead to fulfillment of the stated purpose of this announcement?

6. Budget (not scored). The extent to which the budget is reasonable, clearly justified, and consistent with stated objectives and proposed activities.

7. Performance Goals (not scored). The extent to which measures of effectiveness are included and address those areas identified in the purpose section of this announcement.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, due April 15 of each year within the project period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities and Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activities and Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

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–8—Public Health System Reporting Requirements

AR–10—Smoke-Free Workplace

AR–11—Healthy People 2010

AR–12—Lobbying Restrictions

AR–13—Prohibition on Use of CDC Funds for Certain Gun Control Activities

AR–14—Accounting System Requirements

AR–15—Proof of Non-Profit Status

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 Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Angie Nation, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2719, E-mail address: *aen4@cdc.gov.*

For business management and budget assistance in the territories, contact: Charlotte L. Flitcraft, Contract Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Atlanta, GA 30341–4146, Telephone: 770–488–2632, E-mail address: *caf5@cdc.gov.*

For program technical assistance, contact: James A. Enders, MPH, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, Mailstop F–41, Atlanta, Georgia, 30341–3724, Phone Number: 770 488–1254, e-mail address: *jee3@cdc.gov.*

Dated: June 20, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16146 Filed 6–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03125]

Mental Health of Humanitarian Aid Workers Program; Notice of Availability of Funds

Application Deadline: July 28, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301, 307, and 317 of the Public Health Service Act, [42 U.S.C. 241, 2421, and 247b], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program to design a program to mitigate the impact of stress and trauma on humanitarian aid workers. Measurable outcomes from this program would include a functional framework for stress and trauma prevention measures in humanitarian aid organizations.

C. Eligible Applicants

Assistance will be provided to a public, private, for-profit, or non-profit organization (including faith-based organizations) that has an international capacity to plan programs to mitigate the impact of traumatic stress on humanitarian aid workers.

Competition is being limited to organizations with specific capacity and experience working with humanitarian aid workers due to the unusual nature of traumatic exposures that humanitarian aid workers receive in the course of their work. This experience is paramount to understanding the unique needs of this population.

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 $100,000 is available in FY 2003 to fund one award. It is expected that the award 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 three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

1. Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives; however, prior approval by CDC officials must be requested in writing.

2. All requests for funds contained in the budget, shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

3. The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: With the exception of the American University, Beirut, and the World Health Organization, Indirect Costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

4. The applicant may contract with other organizations under this program; however the applicant must perform a substantial portion of the activities (including program management and operations, and delivery of prevention services for which funds are required.)

5. You must obtain annual audit of these CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standard(s) approved in writing by CDC.

6. A fiscal Recipient Capability Assessment may be required, prior to or post award, in order to review the applicant's business management and fiscal capabilities regarding the handling of U.S. Federal funds.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

a. Identify and incorporate public health principles into the planning of a program to mitigate the impact of traumatic stress on humanitarian aid workers.

b. Design materials and strategies to facilitate the implementation of programs to mitigate the impact of traumatic stress on humanitarian aid workers.

c. Plan, implement and support programs and/or strategies which will highlight the impact of traumatic stress on humanitarian aid workers and raise the awareness in humanitarian organizations of the need for prevention and mitigation programs.

d. Develop any required research protocols for Institutional Review Board (IRB) review.

2. CDC Activities

a. Provide consultation, technical assistance and collaboration in planning program activities.

b. Provide consultation, technical assistance and collaboration in implementing program activities.

c. Prepare and present reports and materials related to activities conducted under this program for wide distribution to the international community.

d. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

F. Content

Letter of Intent (LOI)

A 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 twenty pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font.

The narrative should consist of, at minimum, a plan, objectives, methods, evaluation, and budget. The program plan should address activities to be conducted over the entire three-year project period. Provide a detailed budget and justification based on the funds available.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161–1 (OMB Number 1920–0428). 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 July 28, 2003. Submit the application to: Technical Information Management–PA#03125, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard 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. Any applicant who sends their application 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.

Any application that does 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 cooperative agreement. Measures of effectiveness must relate to the performance goals 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.

An independent review group appointed by CDC will evaluate each application against the following criteria:

1. Scientific or Technical Approach (30 points). Provide evidence of demonstrated scientific expertise involving the mitigation of traumatic stress in humanitarian aid workers.

2. Methodology and Approach (30 points)

a. Provide evidence of demonstrated expertise in methodology for the evaluation and development of programs that prevent and/or mitigate the impact of traumatic stress on humanitarian aid workers.

b. Demonstrate experience in providing staff training, strategic planning, and logistical support to programs that prevent and/or mitigate the impact of traumatic stress on humanitarian aid workers.

3. Staff Experience and Capability (30 points). Provide evidence of demonstrated technical expertise and professional capability of staff in the field of psycho-social services and public health related to humanitarian aid workers.

4. Understanding of the Project (10 points).

a. Demonstrated clarity, feasibility, and practicality of the proposed plan to accomplish this project.

b. Demonstrated recognition of the potential difficulties in performance and appropriateness and soundness of proposed solutions.

5. Budget Justification (not scored). The extent to which the budget is clearly explained, adequately justified, and is reasonable and consistent with the stated objectives and planned activities.

6. Human Subjects (not scored). The extent to which the applicant complies with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. 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. Other Requirements

Technical Reporting Requirements

1. Provide CDC with an interim progress report, due no less than 90 days before the end of the budget period. This progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Progress on Current Budget Period Objectives and Activities.

b. Current Budget Period Financial Progress.

c. New Budget Period Proposed Program Objectives and Activities.

d. Detailed Line-Item Budget and Justification.

2. Financial Status Reports are due within 90 days of the end of the budget period.

3. Final financial reports and performance reports are due within 90 days after the end of the project period. 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 Review
AR–12—Lobbying Restrictions
AR–14—Accounting System Requirements
AR–15—Proof of Non-Profit Status

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 Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Diane Flournoy, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2072, E-mail address: *dmf6@cdc.gov.*

For program technical assistance, contact: Barbara Lopes Cardozo, International Emergency and Refugee Health Branch, National Center for Environmental Health Centers for Disease Control and Prevention, Mail Stop F–48, 4770 Buford Highway, Atlanta, GA 30341, Telephone: 770–488–4138, *E-mail address: BLopesCardozo@cdc.gov.*

Dated: June 20, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16150 Filed 6–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03107]

Linkages of Acute Care and Emergency Medical Services to State and Local Injury Prevention Programs for Terrorism Preparedness and Response; Notice of Availability of Funds

Application Deadline: July 28, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program announcement is authorized under sections 317(k)(2) of the Public Health Service Act, 42 U.S.C. Sections 247b(k)(2). 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 cooperative agreement program for Linkages of Acute Care and Emergency Medical Services to State and Local Public Health programs. This program addresses the ''Healthy People 2010'' focus area of Injury and Violence Prevention.

The purpose of this program is to support collaboration between national organizations of professionals in acute medical care, trauma, emergency medical services (EMS) with state and local public health programs and CDC in efficiently and effectively responding to mass trauma events resulting from terrorism (Part 1). The recipient of Part 2 of this cooperative agreement assumes

a coordination role among award recipients, to assure successful collaborative activities.

This cooperative agreement will facilitate the development of relationships that are critical to acute care, trauma, EMS services, and public health in responding effectively to mass trauma events resulting from terrorism.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals 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.
- Monitor and detect fatal and non-fatal injuries.
- Conduct a targeted program of research to reduce injury-related death and disability.

C. Eligible Applicants

Assistance will be provided to national non-profit and for profit professional organizations, with at least 25 members, that address either acute care, trauma, or EMS.

Since the ultimate purpose of this program is to develop the capacity of local public health programs to respond effectively to terrorism and mass trauma events, assistance is being provided to those organizations (acute care, trauma or EMS) best equipped to develop that capacity.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(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 $650,000 is available in FY 2003 to fund approximately three to six awards. It is expected that the average award will be $75,000, ranging from $60,000 to $125,000 under Part 1. Applications with budgets exceeding the maximum range of $125,000 will not be considered. Applicants under Part 2 of this announcement are eligible for an additional award, approximately $50–$75,000, to conduct coordination activities as described in ''Recipient Activities—Part 2'' below. **Note:** Applicants for Part 2 funding must apply for and be approved for funding under Part 1 of this announcement.

It is expected that the awards will begin on or about September 15, 2003, and will be available for continuation after a 12-month budget period, for a maximum three-year project period. Funding estimates may change.

Use of Funds

Grant funds will not be made available to support the provision of direct care. Eligible applicants may enter into contracts, including consortia agreements, as necessary to meet the requirements of the program and strengthen the overall application.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities:

Part 1

a. Develop and implement a plan that will build relationships with state and local public health programs. Possible activities include:

(1) Organizing meetings of stakeholders to define and promote ways acute care providers can improve collaboration and/or communication with state and local public health programs in preparing for or responding to terrorism. This could be done at a national, state or local level and should result in information, in the form of white papers, publications, conference or meeting proceedings or summaries, and other communication products that can be disseminated and used by others in the acute care and public health communities to improve collaboration and communication for terrorism preparedness and response.

(2) Constructing a mechanism to assess the needs, barriers or gaps to linking with other member organizations as well as with state and local public health, and disseminating this information to members and potential public health partners.

(3) Developing linkages that result in increased information sharing by identifying (a) existing database, information; and communication systems that should be linked; (b) partners to create those linkages; (c) current barriers to implementing those linkages; and (d) possible solutions to overcome those barriers. Document and disseminate the outcome of this effort.

(4) Compiling and disseminating examples of successful collaborations between acute care organizations and public health for terrorism preparedness and response, particularly at the state and community levels. Examples should provide detailed information on the collaboration and on the methods used to achieve them and should illustrate approaches that might have broad applicability.

(5) Organizing national, state, or regional forums that bring together leadership of the acute care community and public health to bring visibility to the need for collaboration and to encourage discussion of possible collaborative approaches. Disseminate the outcomes of these meetings.

(6) Organize sessions at national meetings to highlight the importance of linkages between acute care providers and state and local public health practitioners. Disseminate the outcome of these sessions to members.

(7) Describe and disseminate descriptions of ''best practices'' or other successes that involve linkages between acute care and other organizations to address gaps in preparedness. These gaps must be significant impediments to a successful public health response to terrorism. An example of such a gap is the need for surge capacity in acute care facilities.

b. Identify organizational representatives to collaborate with CDC to gather and disseminate policies, guidelines and general information about terrorism and emergency response to local health officials and other partners, such as the National Association of City and County Health Officials (NACCHO)and the Association of State and Territorial Health Officials (ASTHO) in a timely manner.

c. Collaborate with CDC to (1) provide perspectives on policy formulation; and (2) communicate rapidly with, and obtain and share feedback from, members of the grantee's national professional organization.

d. Work with the coordinating center funded under Part 2 below, including participating in conference calls, meetings, and other joint activities.

Part 2

In addition to the activities above, Part 2 recipients will also be responsible for the following activities:

e. Develop a plan of outreach and coordination to facilitate linkages between acute care, trauma, and EMS organizations and state and local public health programs. This may include meetings at the national, state, or local levels.

f. Conduct periodic formal or informal information gathering activities with these organizations and state and local public health programs regarding the status of their linkages with state and local public health programs, obstacles to building of relationships, and opportunities for collaboration.

g. Conduct an assessment to determine what needs exist following implementation of efforts, and how to best fill those needs.

2. CDC Activities (Applicable to Both Parts 1 and 2)

a. Provide technical advice in the development of systems to identify potential issues of interest. This includes assisting recipient to ascertain the extent to which EMS systems are involved in initiatives to improve preparedness and response capacities. CDC will also assist recipient with identifying and sharing any innovations that may have potential application to this project.

b. Provide consultation and scientific and technical assistance in the planning of the project.

c. Work with the organization funded under Part 2 to identify opportunities for collaboration as well as assisting the recipient to identify the level of integration between state and territorial EMS offices and prevention and preparedness initiatives at the federal, state and local levels.

d. Provide program and policy information for dissemination to award recipients.

F. Content

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 ten double-spaced pages, printed on one side, with one-inch margins, and unreduced font. Applicants interested in conducting optional (Part 2) coordination activities may submit a narrative not to exceed fifteen pages.

The narrative should consist of, at a minimum, a Plan, Objectives, Methods, Evaluation and Budget addressing Recipient Activities above. The program Plan should briefly address activities to be conducted over the entire three-year project period.

G. Submission and Deadline

Application Forms

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and 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.

Application forms must be submitted in the following order:

Cover Letter
Table of Contents
Application
Budget Information Page
Checklist
Assurances
Certifications
Disclosure Form
Indirect Cost Rate Agreement (if applicable)
Narrative

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time July 28, 2003. Submit the application to: Technical Information Management—PA 03107, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt

A postcard 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. Any applicant who sends their application 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.

Any application that does 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—Part 1

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goal as stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Staffing, Facilities, and Management (35 points). The degree to which the applicant provides evidence of an ability to carry out the proposed project, the extent to which the applicant institution documents the capability to achieve objectives of this project, and the extent to which professional personnel involved in this project are qualified, including evidence of past achievements appropriate to this project.

2. Program Plan (25 points). The adequacy of the applicant's plan for administering the proposed project.

3. Objectives (20 points). The degree to which proposed objectives are clearly stated, realistic, measurable, time-phased, related to the purpose of this project, and regularly monitored and evaluated.

4. Background (15 points). The extent to which the applicant understands the requirements, problems, objectives, complexities, and interactions required of this cooperative agreement.

5. Measures of Effectiveness (5 points). The extent to which the applicant's measures of effectiveness are clearly designed to measure the intended outcome.

6. Budget (not scored). Extent to which the estimated cost to the Government of the project is reasonable and clearly justified.

Application—Part 2

In addition to addressing the criteria for Part 1 above, applicants for Part 2 funding must separately address the following criteria in their narrative:

1. Outreach Plan (40 points). The adequacy of the plan of outreach and coordination to facilitate linkages between acute care, trauma, and EMS organizations and state and local injury programs.

2. Information gathering (30 points). The adequacy of the applicant's plan to conduct a periodic survey of these organizations regarding the status of linkages with state and local injury control programs.

3. Needs Assessment (30 points). The adequacy of the applicant's plan to conduct an assessment to determine what needs exist following implementation of efforts, and make recommendations as to how best to fill those needs.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

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–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

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 Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management assistance, contact: Van A. King, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2751, E-mail address: *vbk5@cdc.gov.*

For program technical assistance, contact: Phyllis C. McGuire, Project Officer, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE Mailstop F–41, Atlanta, GA 30341, Telephone number: 770–488–1275, E-mail address: *pcm1@cdc.gov.*

Dated: June 20, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–16147 Filed 6–25–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–10077, CMS–301]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* ''Medicare Decisions and Your Rights''; *Form No.:* CMS–10077 (OMB# 0938–NEW). *Use:* Purusant to 42 CFR 422.568 (c), M+C practitioners must deliver notices to enrollees informing them of their right to obtain a detailed notice regarding services from their M+C organizations. This notice fulfills the regulatory requirement. *Frequency:* Other (distribution); *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit institutions, Federal Government. *Number of Respondents:* 155. *Total Annual Responses:* 5,000,000. *Total Annual Hours:* 83,333.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Certification of Medicaid Eligibility Quality Control (MEQC) Payment Error Rates and Supporting Regulations in 42 CFR 431.816; *Form No.:* CMS–301 (OMB# 0938–0246); *Use:* MEQC is operated by the State title XIX agency to monitor and improve the administration of its Medicaid system. The MEQC system is based on State reviews of Medicaid beneficiaries from the eligibility files. The reviews are used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases; *Frequency:* Semi-annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 51. *Total Annual Responses:* 102. *Total Annual Hours:* 22,515.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: June 19, 2003.

Dawn Willinghan,

CMS Reports Clearance Officer, Division of Regulations Development and Issuances, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 03–16104 Filed 6–25–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–R–64, CMS–R–26, CMS–10005, CMS–3427]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (CMS)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection.

Title of Information Collection: Indirect Medical Education (IME) and Supporting Regulations in 42 CFR 412.105.

Form No.: CMS–R–64 (OMB# 0938–0456).

Use: This collection of information on interns and residents (IR) is needed to properly calculate Medicare program payments to hospitals that incur indirect costs for medical education. The agency's Intern and Resident Information System uses the information for producing automated reports of duplicate full-time equivalent IRs for IME. The reports provide contractors with information to ensure that hospitals are properly reimbursed for IME, and help eliminate duplicate reporting of IR counts, which inflate payments. The collection of this information affects 1,350 hospitals which participate in approved medical education programs.

Frequency: Annually.

Affected Public: Not-for-profit institutions, and Business or other for-profit.

Number of Respondents: 1,225.

Total Annual Responses: 1,225.

Total Annual Hours: 2,450.

2. *Type of Information Request:* Revision of a currently approved collection.

Title of Information Collection: Clinical Laboratory Improvement Amendments (CLIA) and the ICRs contained in the supporting regulations in 42 CFR 493.1–493.2001.

Form Number: CMS–R–26 (OMB approval #: 0938–0612).

Use: The ICRs referenced in 42 CFR part 493 outline the requirements necessary to determine an entity's compliance with CLIA. CLIA requires laboratories that perform testing on human beings to meet performance requirements (quality standards) in order to be certified by HHS.

Frequency: Other: As needed.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal government, State, local or tribal gov't.

Number of Respondents: 168,688.

Total Annual Responses: 756,241.

Total Annual Hours Requested: 9,379,917.

3. *Type of Information Request:* Extension of a currently approved collection.

Title of Information Collection: Ticket to Work and Work Incentives: Medicaid Infrastructure Grants.

Form Number: CMS–10005 (OMB approval #: 0938–0811).

Use: Section 203 of the Ticket to Work and Work Incentives Act of 1999 provides for the establishment of a grants program for states that build infrastructures designed to support people with disabilities. State agencies will be applying for these grants.

Frequency: Annually.

Affected Public: State, local or tribal govt.

Number of Respondents: 56.

Total Annual Responses: 56.

Total Annual Burden Hours: 5,600.

4. *Type of Information Collection Request:* Extension of a currently approved collection.

Title of Information Collection: End Stage Renal Disease Application and Survey and Certification Report and Supporting Regulations in 42 CFR 405.2100–405.2184.

Form No.: CMS–3427 (OMB# 0938–0360).

Use: Part I of this form is a facility identification and screening measurement used to initiate the certification and recertification of ESRD facilities. Part II is completed by the Medicare/Medicaid State survey agency to determine facility compliance with ESRD conditions for coverage.

Frequency: Annually.

Affected Public: State, local or tribal government.

Number of Respondents: 4000.

Total Annual Responses: 1,320.

Total Annual Hours: 330.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room: C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 19, 2003.

Dawn Willinghan,

CMS Reports Clearance Officer, Division of Regulations Development and Issuances, Office of Strategic Operations and Strategic Affairs.

[FR Doc. 03–16105 Filed 6–25–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

Compassion Capital Fund Demonstration Program

AGENCY: The Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Announcement of the request for competitive applications and the availability of Federal funding to intermediary organizations to provide

technical assistance to faith-based and community organizations.

CFDA Number: The Catalog of Federal Domestic Assistance Number is 93.647.

SUMMARY: This program announcement announces the availability of funds for Compassion Capital Fund (CCF) awards. These awards provide experienced intermediary organizations with funds to deliver technical assistance to small faith-based and community organizations. Intermediaries will assist these small groups, for example, in their efforts to improve program effectiveness and organizational management, access funds from diverse sources and manage those funds, develop and train staff, expand the types and reach of social services programs in their communities and develop promising collaborations among organizations dedicated to social service delivery. In addition, recipients of awards under this announcement must issue sub-awards to a number of qualified faith-based and community organizations for a variety of capacity-building purposes.

To be eligible for CCF awards, intermediaries should have established relationships with grassroots faith-based and community organizations, as well as a proven track record in providing technical assistance to such groups.

The Administration for Children and Families (ACF) is the agency designated to issue awards under the Fund. However, the work supported through such awards is expected to address a broad array of services and programs and to complement related activities in other parts of HHS and other Federal departments. CCF will help further the President's goals and objectives regarding faith-based and community organizations and will enhance work being supported by multiple Federal agencies. ACF estimates that the funds available under this announcement will support an estimated 4–8 cooperative agreements [1] with intermediary organizations.

The Federal government wishes to partner with applicant organizations that share the same vision, have similar goals, and are able to share in the cost of this important set of activities. Therefore, ACF is seeking applicants who can provide funding for the proposed project equal to 25 percent of the amount of Federal funds requested (*i.e.,* one-fourth of the total budget. For example, an applicant requesting $500,000 in Federal funds would need to provide $125,000 to the total project. The total budget therefore would be $625,000. An applicant requesting $250,000 in Federal funds would need to provide $62,500. The total budget in this circumstance would therefore be $312,500).

[1] A cooperative agreement allows substantial Federal involvement in the activities undertaken with Federal financial support.

DATES: The closing date for submission of applications is July 28, 2003. Applications received after the closing date will be classified as late. See Part IV of this announcement for more information on submitting applications.

In order to determine the number of expert reviewers that will be necessary, if you plan to submit an application, you are requested, but not required, to mail, fax, or e-mail written notification of your intentions at least 15 calendar days prior to the submission deadline date. Send the notification, with the following information: The name, address, telephone and fax numbers, and e-mail address of the project director and the name of the applicant to: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22202 or fax to (703) 248–8765 or e-mail to *OCS@lcgnet.com.* Label all submissions as follows: Intent to Apply for Compassion Capital Fund Demonstration Program.

FOR FURTHER INFORMATION CONTACT: All questions should be forwarded to Joseph Grogan, Project Officer for the Compassion Capital Fund at 202–401–4830 (ph) or *jgrogan@acf.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts: Part I: Background and Program Purpose—legislative authority, background, and program purpose and objectives; Part II: Project and Applicant Eligibility—eligible applicants, funding availability and instruments, cost sharing, and roles and responsibilities under the cooperative agreement; Part III: The Review Process—intergovernmental review, initial ACF screening, general instructions for the Uniform Project Description, competitive review and evaluation criteria, and review process; and Part IV: The Application Process—required forms, application limits, checklist for complete application, application submission, and Paperwork Reduction Act.

Part I. Background and Program Purpose

A. Legislative Authority

Funding under this announcement is authorized by section 1110 of the Social Security Act governing Social Services Research and Demonstration activities and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003, Pub. L. 108–7.

B. Background

Faith-based and community organizations have a long history of providing an array of important services to people and communities in need of charitable services in the United States. These groups are part of their communities and possess unique strengths that the government cannot duplicate. They hold the trust of their neighbors and leaders and have a keen understanding of the particular needs of the community and its systems. As a result, they are well positioned to assist individuals and families with the most pressing needs, such as the homeless, prisoners reentering the community, children of prisoners, at-risk youth, addicts, elders in need, and families moving from welfare to work. Faith-based and community organizations are also equipped to help couples who choose marriage for themselves, develop the skills and knowledge to form and sustain healthy marriages.

In recognition of this history and ability, President Bush believes it is in the public's interest to broaden Federal efforts to work with faith-based and community organizations and has made improving funding opportunities for such organizations a priority. A key part of the effort to enhance and expand the participation of faith-based and community groups serving those in need is CCF. Intermediary organizations awarded funds under this announcement will serve as partners to both the Federal government and to the faith-based and community organizations that they assist. The intermediaries will represent a diverse set of affiliations, and will assist community-level organizations with a range of service goals, target populations, affiliations, and beliefs.

C. Program Purpose and Objectives

The goal of CCF is to assist faith-based and community organizations in increasing their effectiveness, enhancing their ability to provide social services, expanding their organizations, diversifying their funding sources, and creating collaborations to better serve those most in need. This will be accomplished through the funding of established intermediary organizations in well-defined geographic locations with a proven track record of providing technical assistance to smaller organizations in their communities. These intermediary organizations will serve as a bridge between the Federal government and the faith-based and

community organizations that this program is designed to assist. Intermediary organizations will provide two services within their communities: (1) Technical assistance to a diverse range of faith-based and community organizations; and (2) technical assistance and financial support—through sub-awards—to some subset of the faith-based and community organizations in their communities. ACF's expectations for these two activities are described more fully below.

ACF expects to work closely with organizations that receive funding to ensure that CCF monies are used appropriately and in the most effective manner possible. It has also entered into a contract with an organization that serves as the National Resource Center (herein also referred to as the National Center) for these intermediaries. Under this contract, the National Center provides CCF intermediaries with support and assistance. Funded organizations must expect to interact with both ACF and the National Center on an on-going basis and modify their technical assistance and sub-award plans in coordination with ACF.

Technical Assistance. ACF seeks intermediary organizations with demonstrated expertise and a proven track record in working with and providing technical assistance to faith-based and community organizations in a variety of areas. Technical assistance activities funded under the CCF are to be conducted at no cost to interested faith-based and community organizations. Applicants must have demonstrated experience in the delivery of capacity-building assistance to smaller organizations in the following areas:

- Strategic planning;
- Financial management;
- Board development;
- Fund-raising;
- Outcome measurement.

Additionally, there is a range of other needs that may appropriately be provided by the intermediary organizations awarded funds under this announcement. The following list is meant to be illustrative, and not exhaustive.

- Legal assistance in various areas such as the process of incorporation, and obtaining tax-exempt status;
- Needs assessments to identify internal areas needing improvement or areas in which to develop or expand community services to address service gaps;
- Development of internal operating controls and procedures related to all aspects of business management;
- Facilitation of networks, service coordination, and resource sharing among organizations;
- Incorporation of ''best practices'';
- Expanding outreach and client screening, intake or tracking methods;
- Volunteer management;
- Human resources.

Intermediaries must be established organizations with well-developed connections to and working relationships with faith-based and community organizations in well-defined communities. Typically, these organizations will be located in the same communities as the faith-based and community organizations that they serve. Organizations that provide technical assistance through single or short-term contacts (such as a nationwide series of conferences) are not encouraged to apply.

Sub-Awards. The program goals will be further accomplished through the issuance of sub-awards by the funded intermediary organizations to a diverse set of small faith-based and community organizations that seek to increase program and organizational effectiveness. The total amount of sub-awards proposed in an intermediary's application must represent at least one-quarter or 25 percent of the total Federal share, though applicants are encouraged to exceed this threshold, if possible. Applicants must develop sub-award plans that are consistent with the following principles:

- Participation in the CCF sub-award program must be open to faith-based and community-based organizations;
- Recipients of sub-awards must receive sub-awards through a competitive process and may not be pre-selected;
- The approach must include outreach to both faith-based and community organizations in a fair and open competition;
- Intermediary organizations must provide on-going technical assistance and capacity-building support to the organizations to which they issue sub-awards;
- The criteria for selection of sub-awardees shall not include consideration of the religious nature of a group or the religious nature of the program it offers;
- Intermediaries shall not require sub-award applicants to provide matching funds or give them a preference in the selection process if they offer matching funds in their applications;
- Intermediaries shall not require sub-award applicants to have 501(c)(3) status or to identify a sponsoring organization with 501(c)(3) status;
- As a general rule, organizations that partner with an intermediary to deliver technical assistance or provide cost-sharing funds for the proposed project shall not be eligible for sub-awards;
- Sub-awards should be in amounts that are manageable for a small organization;
- Priority for sub-awards should be given to organizations implementing programs that address priority social service needs, such as the homeless, elders in need, at-risk youth, families and individuals in transition from welfare to work, those in need of intensive rehabilitation such as addicts or prisoners, and organizations that help couples who choose marriage for themselves, to develop the skills and knowledge to form and sustain healthy marriages;
- The sub-award plan should focus on organizations that historically have not received grants from the Federal government;
- Capacity-building activities that further the sustainability of sub-awardees' social service efforts should form the central focus of an intermediary's proposed sub-award concept. Sub-awards should be used to assist organizations in differing stages of development. For example, funds may be provided to fledgling organizations to improve their basic functions, such as attaining 501(c)(3) status or developing sound financial systems. Sub-awards may also be provided to promising organizations to expand the reach of existing programs. Such funding would allow a promising organization to move to a higher level of service, where it is able assist more people on a sustainable basis. Uses for such funding might include employing a key additional staff person; moving to a larger or better-equipped facility; upgrading case management or informational technology capabilities; or supporting a new social service; and
- Sub-awards should not be used for ''direct'' services. Rather, they should be used to improve the sub-awardees efficiency and capacity. For example, an organization that distributes food to the poor should not receive a sub-award simply to purchase additional food. Nor, for example, should an organization that provides substance abuse treatment services receive additional funds simply to enable it to provide exactly the same services to more people. Although these sub-awards might well enable these organizations to assist additional individuals, they would not serve to improve the organizations' sustainability, efficiency, or capacity. Rather, the organizations would simply use additional funds in the same way

that it used existing funds, without fundamentally changing or improving its services.

Plan for Providing Technical Assistance and Sub-Awards. As part of its application to ACF, each applicant must submit a basic outline of its sub-award approach, describing the kinds of organizations in its community that would benefit and examples of activities that it expects these groups will undertake with sub-award funding. Intermediary organizations that receive CCF awards will be required to develop, with guidance from and in consultation with ACF, a detailed plan for this process within 60 days of receipt of award under this announcement. ACF must review and approve this plan prior to the issuance of any sub-awards using Federal funds awarded under this announcement. Intermediary organizations must report on the use of funds for sub-awards as they do for other types of expenditures of Federal funds received as a result of an award under this announcement and as specified in the Cooperative Agreement. Intermediary organizations will also be required to develop, with guidance from and in consultation with ACF, a plan within six months of receipt of award for working with sub-awardees to develop outcome measures and to evaluate the activities supported by the sub-awards made with Federal funds under this announcement.

Applicants must coherently describe their plan both for providing technical assistance and sub-awards. In providing technical assistance and in making sub-awards, these plans must provide for the establishment of ongoing supportive relationships with those faith-based and community organizations served, rather than single or short-term interactions. Technical assistance conferences and workshops may be parts of an applicant's plan, but they must not be its sole focus of the plan. The plan must also describe how applicants will develop and build upon existing long-term supportive relationships with the faith-based and community organizations within their communities.

Further, approved applicants must be willing to work closely with ACF and any entities funded by ACF to coordinate, assist, or evaluate the activities of the intermediary organizations providing technical assistance and issuing sub-awards. Proposed budgets should include the cost of travel-related expenses for key personnel with responsibility for the CCF award to attend two two-day meetings with Federal officials and others in Washington, DC, shortly after awards are made under this announcement. This meeting will focus on orientation to Federal objectives for the project, information about related activities supported by HHS and other Federal agencies,[2] Federal grants management requirements, and coordination between and among the approved intermediary organizations and other entities funded by ACF to be involved in the CCF initiative.

Legal rules that apply to faith-based organizations that receive government funds. CCF monies shall not be used to support inherently religious practices such as religious instruction, worship, or proselytization. Grant or sub-award recipients, therefore, may not and will not be defined by reference to religion. Neutral, non-religious criteria that neither favor nor disfavor religion must be employed in their selection.

Part II. Project and Applicant Eligibility

The Administration for Children and Families (ACF), Department of Health and Human Services (HHS) invites eligible entities to submit applications for the Compassion Capital Fund Demonstration Program.

A. Eligible Applicants

ACF invites applications from a wide variety of organizations or entities with demonstrated knowledge and experience in the provision of the types of technical assistance described herein to a diverse group of faith-based and community organizations. Further, ACF encourages applications from applicants that propose to work with and have experience working with faith-based and community organizations that have not been well served or supported by governmental funds historically. If organizations propose to collaborate to provide Compassion Capital Fund intermediary services, they should have well-developed working relationships and a history of working together prior to announcement of this funding opportunity.

Fiscal Year (FY) 2002 ACF Compassion Capital Fund grantees who received FY 2003 continuation funds are ineligible to apply.

Non-governmental organizations, Tribal governmental organizations, non-profit agencies (including faith-based organizations) public agencies, State and local governments, colleges and universities, and for-profit entities may submit applications under this announcement. It should be noted, however, that no Federal funds received as a result of this announcement can be paid as profit to grantees or sub-grantees, *i.e.*, any amount in excess of allowable direct and indirect costs of the recipient (45 CFR 74.81).

Private, nonprofit organizations are encouraged to submit with their applications the optional survey located under ''Grant Manuals & Forms'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm*

B. Project and Budget Periods

This announcement is inviting applications for project periods up to three years (36 months). Awards, on a competitive basis, will be for a 12-month budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one year budget period but within the 36-month project period will be entertained in subsequent years on a noncompetitive basis, subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the Federal Government.

C. Type of Awards

This is a full and open competition for cooperative agreements to implement and operate CCF projects. A cooperative agreement is Federal assistance in which substantial Federal Involvement is anticipated. Responsibilities of Federal Staff and the successful applicants are negotiated prior to an award. The grantees funded under this announcement will work collaboratively with the CCF program office on the development of products and prior to finalization and dissemination will submit products such as sub-award plans and sub-award assessment plans to the CCF program office for review and approval.

D. Funding Availability

ACF will issue Financial Assistance Awards under this announcement as cooperative agreements. ACF expects to award approximately $4,200,000 in Fiscal Year 2003 for the CCF program and estimates that 4–8 intermediary organizations will receive awards to provide technical assistance and make sub-awards to smaller faith-based and community organizations. Applicants shall specify in their budget documents estimates of the amount of funds to be used for each purpose (technical assistance and sub-awards). The program goals will be further

[2] Under the President's Faith-based and Community Initiative program, Federal agencies have begun to provide technical assistance and training services to faith-based and community organizations and address barriers to their participation in Federally sponsored programs. Successful applicants under this announcement must coordinate and not duplicate services.

accomplished through the issuance of sub-awards by the funded intermediary organizations to a diverse set of small faith-based and community organizations that seek to increase program and organizational effectiveness. The total amount of sub-awards proposed in an intermediary's application must represent at least 25 percent of the total Federal share requested.

ACF reserves the right to award less then the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government.

E. Cost Sharing

Applicants must provide a minimum cost share of twenty-five (25) percent of the total Federal funds requested for each 12-month budget period. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet the cost share through cash contributions. For example, an applicant requesting $500,000 in Federal funds would include a cost share of at least $125,000. The total budget for the applicant's project would therefore be $625,000. An applicant requesting $250,000 in Federal funds would include a cost share of $62,500. The total budget for the applicant's project in this circumstance would therefore be $312,500.

F. Roles and Responsibilities Under the Cooperative Agreement

Federal Officials' Minimum Responsibilities

1. Promote collaborative relationships and facilitate the exchange of information (*e.g.*, identified technical assistance and training needs, emerging issues, research findings, available resources and model programs) among intermediary organizations funded under this announcement and between the funded intermediaries and other entities or organizations engaged by ACF for purposes related to the Compassion Capital Fund.

2. Provide consultation to each approved intermediary organization with regard to the development of work plans, special issues and concerns and approaches to address problems that arise, and identification of any special focus areas for technical assistance.

3. Sponsor meetings of all technical assistance providers funded under the Compassion Capital Fund demonstration program to promote coordination, information sharing, and access to resources, training, and learning opportunities.

4. Work together to address issues or problems identified by the intermediary organization, ACF, or others with regard to the applicant's ability to carry out the full range of activities included in the approved application in the most efficient and effective manner.

Applicant's Minimum Responsibilities

1. Develop and implement work plans that will ensure that the services and activities included in the approved application address the needs of faith-based and community organizations in an efficient, effective, and timely manner.

2. Submit regular reports as requested by ACF, but no less frequently than every six months, on sub-awards made with Federal funds that include, at a minimum, the name and description of the organization receiving the sub-award, summary of the purpose of the award (how the funds are to be used), the amount of the award, and the proposed plan for outcomes measurement and program evaluation of the activities that will be supported with sub-award funds made with Federal funds awarded under this announcement.

3. Work collaboratively with ACF officials, other Federal agency officials conducting similar activities, the other intermediary organizations approved under this announcement, and other entities or organizations engaged by ACF to assist in carrying out the purposes of the Compassion Capital Fund program.

4. Ensure that key staff participate in ACF sponsored workshops and meetings.

5. Develop a reporting system and submit required semi-annual progress and financial reports timely and completely. In addition to information about sub-awards as specified in item 2, above, the regular semi-annual reports shall include, at a minimum, information about the technical assistance provided and unduplicated listings of the organizations receiving assistance during the period. Such listings shall include the organization name, type (*e.g.*, faith-based, community), location, a brief description of the organization, and brief summary of the technical assistance provided.

6. Submit timely sub-award plans for approval by Federal staff.

7. Develop, with guidance from and in consultation with ACF, a plan within six months of receipt of award for working with sub-awardees to develop outcome measures and to evaluate the activities supported by the sub-awards made with Federal funds under this announcement.

Part III. The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, states may design their own processes for reviewing and commenting on proposed applications for Federal assistance under covered programs.

As of April 8, 2002, the jurisdictions listed below have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by Federally recognized Indian Tribes need take no action in regard to Executive Order 12372. Although the jurisdictions listed below no longer participate in the process, grant applicants are still eligible to apply for a grant even if a state, territory, commonwealth, etc. does not have a Single Point of Contact (SPOC).

Alabama; Alaska; Arizona; Colorado; Connecticut; Kansas; Hawaii; Idaho; Indiana; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; New York; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; Washington and Wyoming.

All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. The applicant must submit all required materials, if any, to the SPOC and indicate the date of the submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. Applicants must submit any required material to the SPOCs as soon as possible so that the Federal program office can obtain and review SPOC comments as part of the award process. A listing of the SPOC for each participating state and territory with contact and address information is available at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

C. General Instructions for the Uniform Project Description

The Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13 the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations including program announcements. All information collections within this program announcement are approved under the following current valid OMB control numbers 0348–0043, 0348–0044, 034800040, 0348–0046, 0925–0418 and 0970–0139.

Public reporting burden for this collection is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

The project description is approved under OMB control # 0970–0139 which expires 12/31/03.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Consistent with the Uniform Program Description format, the specific evaluation criteria applicable to this program follows in section D.

1. *Objectives and Need for Assistance:* Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

2. *Results or Benefits Expected:* Identify the results and benefits to be derived. For example, when applying for an award to provide technical assistance to community and faith-based charitable organizations, describe specific goals of the proposed technical assistance strategy; *e.g.*, expansion of program capacity; increase in types of services offered; increased access to funding from different sources and sectors; improvement in staff capabilities; or replication of successful program models (''best practices'').

3. *Approach:* Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Describe how the faith-based and community organizations with which they would work have been underserved by Federal and other resources in the past and the reasons why the applicant believes its services would benefit the types of faith- and community-based organizations intended to be served through the Compassion Capital Fund. Describe past experience working with faith-based and community organizations to address social needs.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in, for example, such terms as the average number of days of technical assistance to be provided, the number of faith and/or community-based organizations to be provided services, or number of sub-awards to be issued to faith- or community-based organizations. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by HHS.'' List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. *Geographic Location:* Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

5. *Staff and Position Data:* Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

6. *Budget and Budget Justification:* The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget, next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' should refer only to the HHS grant for which you are applying. For these purposes, ''Non-federal resources'' are all other resources. If other Federal resources will be used, they should be included under Non-Federal for budget display purposes but other Federal resources may NOT be used to meet the cost sharing provision, as discussed in Part II, section D. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the

project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend HHS sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to HHS pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Construction

N/A.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency. Applicants without an approved indirect cost rate may charge related costs as direct costs.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Note: In the SF424A, Section B, Budget Categories, list in column 2 non-federal resources separately from federal resources, which must be listed in column 1.

D. Competitive Review and Evaluation Criteria

Applications that have been determined to be eligible for funding through the initial ACF pre-review screening will be evaluated and rated by independent review panels on the basis

of specific evaluation criteria. The evaluation criteria are designed to assess the quality of the proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement.

There is a 25-page limit for the application narrative. Pages submitted beyond the first 25 in the application narrative section will be removed prior to panel review. Applicants should strive to be concise and provide only the information requested and needed. The budget portion of the application is not subject to this limitation. There is no formal page limit for the budget portion of the application, including the letters detailing the cost-share commitment, though applicants should take care to ensure that budgets are clear and easy to understand. Applicants should limit any supporting documentation to 5 pages. Supporting documentation, including letters of support, in excess of five pages will be removed prior to review.

Supplemental information (*e.g.*, brochures, reports) not required in this announcement will not be reviewed. More information about application submission is provided under Part IV, below.

Proposed projects will be reviewed using the following evaluation criteria:

1. Approach: (45 Points)

Technical Assistance Strategy (15 points). The application should describe how the intermediary's assistance to faith-based and community groups will achieve the broad CCF goals of helping these organizations improve efficiency and broaden their funding base. Applications should describe a plan for delivering capacity-building assistance to smaller organizations in the following areas:

- Strategic planning;
- Financial management;
- Board development;
- Fund-raising;
- Outcome measurement.

Applications should also describe any additional activities that will serve to meet other needs of smaller organizations. Additional activities may include (but are not limited to) the following:

- Legal assistance in various areas such as the process of incorporation, and obtaining tax-exempt status;
- Needs assessments to identify internal areas needing improvement or areas in which to develop or expand community services to address service gaps;
- Development of internal operating controls and procedures related to all aspects of business management;
- Facilitation of networks, service coordination, and resource sharing among organizations;
- Incorporation of ''best practices'';
- Expanding outreach and client screening, intake, or tracking methods;
- Volunteer management;
- Human resources development.

Applications should reflect the following additional considerations:

- An applicant's strategy should not focus on any single technical-assistance activity, such as grants writing. The applicant should instead describe how it will offer a range of technical assistance services. Ideal approaches will be multi-tiered and focus on as many areas of need as is logical and achievable.
- Technical assistance should be provided on a long-term, on-going basis to smaller organizations, rather than through single or short-term contacts (such as a nationwide series of seminars or conferences).
- The application should describe the approach the intermediary will employ to reach out to a diverse range of faith-based and community organizations needing assistance.
- Particular attention should be given to including groups that address priority social service needs, such as the homeless, prisoners reentering the community, children of prisoners, at-risk youth, addicts, elders in need, families moving from welfare to work, and groups that help couples who choose marriage for themselves, to develop the skills and knowledge to form and sustain healthy marriages.
- The application should provide a proposed schedule for accomplishing the activities planned.
- The application should discuss factors that may negatively affect the project and how those factors will be addressed.
- Technical assistance activities funded under the CCF are to be conducted at no cost to interested faith-based and community organizations.

Sub-award Strategy (15 points). The application should describe a plan for making sub-awards to smaller faith-based and community organizations. This plan should estimate the types and number of organizations expected to receive funding and the purposes to which sub-awards may be put. It should also describe the procedures the applicant will employ to identify and select organizations to receive sub-awards.

- Intermediary organizations that receive CCF awards will develop, with guidance from and in consultation with ACF, a final plan for making sub-awards within 30 days of receipt of award under this announcement. This final plan will be based upon the proposal in the grantee's application, although it may not contain all proposed elements. ACF must approve the plan prior to the issuance of any sub-awards using Federal funds awarded under this announcement. *Sub-Award Plans.* The following principles underlying the CCF sub-award component must be evident in the applicant's approach. The total amount of sub-award funds proposed must represent at least one-quarter the amount of the total Federal funds requested, though applicants are encouraged to exceed this 25 percent threshold, if possible. For example, an applicant seeking $500,000 in Federal funds must propose to distribute at least $125,000 in sub-awards and an applicant seeking $250,000 in Federal funds must propose to distribute at least $62,500 in sub-awards.
- Participation in the CCF sub-award program must be open to faith-based and community-based organizations;
- Recipients of sub-awards must receive sub-awards through a competitive process and may not be pre-selected;
- The approach must include outreach to both faith-based and community organizations in a fair and open competition.
- Intermediary organizations must provide on-going technical assistance and capacity-building support to the organizations to which they issue sub-awards;
- The criteria for selection of sub-awardees shall not include consideration of the religious nature of a group or the religious nature of the program it offers;
- Intermediaries shall not require sub-award applicants to provide matching funds or give them a preference in the selection process if they offer matching funds in their applications;
- Intermediaries shall not require sub-award applicants to have 501(c)(3) status or to identify a sponsoring organization with 501(c)(3) status;
- As a general rule, organizations that partner with an intermediary to deliver technical assistance or provide cost-sharing funds for the proposed project shall not be eligible for sub-awards;
- Sub-awards should be in amounts that are manageable for a small organization;
- Priority for sub-awards should be given to organizations implementing

programs that address homelessness, elders in need, at-risk youth, families and individuals in transition from welfare to work, those in need of intensive rehabilitation such as addicts or prisoners, and organizations that help couples, who choose marriage for themselves, develop the skills and knowledge to form and sustain healthy marriages.

• The sub-award plan should focus on organizations that historically have not received grants from the federal government;

• Capacity-building activities that further the sustainability of sub-awardees' social service efforts should form the central focus of an intermediary's proposed sub-award concept. Sub-awards should be used to assist organizations in differing stages of development. For example, funds may be provided to *fledgling* organizations to improve their basic functions, such as attaining 501(c)(3) status or developing sound financial systems. Sub-awards may also be provided to *promising* organizations to expand the reach of existing programs. Such funding would allow a promising organization to move to a higher level of service, where it is able assist more people on a sustainable basis. Uses for such funding might include employing a key additional staff person; moving to a larger or better-equipped facility; upgrading case management or informational technology capabilities; or supporting a new social service; and

• Sub-awards should not be used for ''direct'' services. Rather, they should be used to improve the sub-awardee's efficiency and capacity. For example, an organization that distributes food to the poor should not receive a sub-award simply to purchase additional food. Nor, for example, should an organization that provides substance abuse treatment services receive additional funds simply to enable it to provide exactly the same services to more people. Although these sub-awards might well enable these organizations to assist additional individuals, they would not serve to improve the organizations' sustainability, efficiency, or capacity. Rather, the organizations would simply use additional funds in the same way they used existing funds, without fundamentally changing or improving their services.

Past Experience Working with Faith-Based and Community Organizations to Address Social Needs (15 Points). CCF intermediary organizations are expected to be established organizations with well-developed connections to and working relationships with faith-based and community organizations in well-defined communities. They should also have demonstrated experience and a proven track record in providing technical assistance to smaller organizations in their communities. The applicant should list recent examples of technical assistance it has provided to faith-based and community organizations, citing dates, names of groups assisted, and the kind of technical assistance provided. Closely related experience as a partner in a successful collaborative effort should be similarly detailed.

2. Budget and Budget Justification: (20 Points)

CCF Project Budget (10 points). The application should include a budget that is clear, easy to understand, and that provides a detailed justification for the amount requested. (Applicants should refer to the budget information presented in the Standard Forms 424 and 424A and to the budget justification instructions in section C. General Instructions for the Uniform Project Description. Since non-Federal reviewers will be used in the review of applications, applicants may omit from the copies of the application submitted (not from the original), the specific salary rates or amounts for individuals in the application budget and instead provide only summary information.)

Cost share (5 points). The basis for an applicant's meeting its cost sharing commitments must be firm, and cannot be speculative. Cash commitments to meet the cost sharing requirement are preferable to in-kind commitments. If the applicant is submitting letters documenting costs-share commitments from collaborating partners, state, or local governments or philanthropic organizations, the cost-share letters must clearly state that these organizations are committed to providing the funds to the organizations should the applicant be awarded a grant. Commitments in excess of the 25 percent threshold will not receive extra points, though applicants should note that applicants will be held accountable for all cost-share included. Failure to provide the full amount committed in the grant award may result in disallowance of Federal match.

Recent Operating Budgets (5 points). The application should describe, in general, the recent operating budgets of the applicant. A detailed listing is not required, but the recent size of the applicant's operating budget should be proportional to the amount requested under the funding announcement. For example, it would be inappropriate for an organization that operated with $100,000 in 2001 and $110,000 in 2002 to request $1 million in Federal funds. Additionally, the applicant should briefly describe why the amount requested is logical, given the organization's recent operating budgets.

3. Objectives and Need for Assistance: (10 Points)

Need of faith-based and community organizations to be served (5 points). The application should describe how the project addresses vital needs of the faith-based and community organizations that will be provided sub-awards and technical assistance.

Need of communities served (5 points). The application should describe how the faith-based and community organizations that will receive technical assistance and sub-awards serve vital needs in their communities.

4. Geographic Location: (10 Points)

ACF envisions that most CCF-funded intermediary organizations will be located in the same communities as the faith-based and community organizations that they serve. Organizations that provide technical assistance through single or short-term contacts (such as a nationwide series of conferences) are not encouraged to apply, and proposals for nationwide projects are not recommended. The application should include:

• A description of the precise region to be served, including the boundaries of the area, and the rationale for proposing the geographic area. Maps or other graphic aids may be included.

• Information about the experience and capability of the applicant to address the needs of faith-based and community organizations in the proposed region.

• A detailed description of the population served by faith-based and community organizations in the proposed area. The narrative should display an intimate knowledge of the population in the target area, including statistics and facts that convey an understanding of the unique needs of the population in the area.

5. Staff and Position Data: (10 Points)

The application should include a listing of key positions required to carry out the project, the individuals proposed to fill the positions, and a detailed description of the kind of work they will perform. The staff should have not only good technical skills, but also a record of working with faith-based and community organizations. The application should provide evidence of the staff's skill, knowledge and experience in carrying out the sort of activities to be assigned to them and

include their relevant experience. Similar information should be provided with regard to consultants or staff from other organizations proposed to work on the project.

6. Results or Benefits Expected (5 Points)

The application will be judged on the extent to which the benefits proposed by the applicant are reasonable and likely, will support the stated goals under this announcement, and can be expected to have a positive impact on faith-based and community organizations, particularly very small organizations or those which have not traditionally been served by Federal and other resources. The application will also be judged on the extent to which the results are likely to be beneficial to a wide range of clearly identifiable parties.

E. The Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal Government, will use the evaluation criteria listed in Part III of this announcement to review and score the applications. The results of this review will be a primary factor in making funding decisions. ACF may also solicit comments from Regional Office staff and other Federal agencies. In order to ensure that the interests of the Federal Government are met in making the final selections, in addition to the review criteria identified above, ACF may consider a variety of factors including geographic diversity/coverage and types of applicant organizations. Further, ACF may limit the number of awards made to the same or affiliated organizations although they would serve different geographic areas. In this way, ACF may increase opportunities for learning about different ways to provide technical assistance and support to faith-based and community organizations.

Please note that applicants that do not comply with the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

Part IV. The Application Process

A. Required Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms listed under the ''Checklist for complete application'' in Part IV of this announcement. All necessary forms are available at: *http://www.acf.dhhs.gov/programs/ofs/forms.htm.*

In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 approved by the Office of Management and Budget under Control Number 0348–0043. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs'' (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B with their application.

Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000 (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

B. Application Limits

Each application should include one signed original and two additional copies of the following:

The application should be double-spaced and single-sided on 8½ x 11 plain white paper, with 1″ margins on all sides. Use only a standard size font no smaller than 12 pitch throughout the application. All pages of the application (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the principal investigator contact information and the Table of Contents. There is a 25-page limit for the application narrative. Pages submitted beyond the first 25 in the application narrative section will be removed prior to panel review. The budget and the cost-share letters are not included in this limitation, yet applicants are urged to be concise. There is a 5-page limit to any additional supporting documentation, including letters of support. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required. Applicants are encouraged to submit curriculum vitae in a biographical format.

C. Checklist for a Complete Application

Due to the overwhelming volume of applications received, applications that are not prepared properly may not be reviewed. Please ensure that your application is prepared properly.

The checklist below is for your use to ensure that the application package has been properly prepared.

A. One original, signed and dated application plus two copies.

• Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.

(1) Application for Federal Assistance (SF–424, Rev. 7–97)

(2) Budget information-non-construction programs (SF424A&B)

(3) Budget Justification, including subcontract agency budgets

(4) Application Narrative and Appendices

(5) Assurances Non-Construction Program

(6) Certification Regarding Lobbying

(7) If appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF–424, Rev. 7–97

D. Application Submission

Deadline

The closing (deadline) time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) July 28, 2003. Applications received after 4:30 p.m. will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22202 and labeled:

Application for Compassion Capital Fund Demonstration Program.

Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that

the applications are received on or before the deadline time and date.

Applications hand-carried by applicants, applicant couriers, or other representatives of the applicant or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m. at: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22202 and labeled: Application for Compassion Capital Fund Demonstration Program. Applicants are cautioned that express/overnight mail services may not always deliver as agreed.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications. Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, when there is widespread disruption of the mail service, or for other disruptions of services, such as a prolonged blackout, that affect the public at large. An unfortunate occurrence that affects an applicant is not considered adequate justification for an extension. A determination to waive or extend deadline requirements rest with ACF's Chief Grants Management Officer.

Dated: June 20, 2003.

Curtis L. Coy,

Deputy Assistant Sectretary for Administration.

[FR Doc. 03–16076 Filed 6–25–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0085]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Environmental Impact Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 28, 2003.

ADDRESSES: The Office of Management and Budget (OMB) is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Environmental Impact Considerations—Part 25 (21 CFR Part 25) (OMB Control Number 0910–0322)—Extension

FDA is requesting OMB approval for the reporting requirements contained in the FDA regulation entitled ''Environmental Impact Considerations.''

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4347, states national environmental objectives and imposes upon each Federal agency the duty to consider the environmental effects of its actions. Section 102(2)(C) of NEPA requires the preparation of an environmental impact statement (EIS) for every major Federal action that will significantly affect the quality of the human environment.

The FDA NEPA regulations are at part 25. All applications or petitions requesting agency action require the submission of a claim for a categorical exclusion or an environmental assessment (EA). A categorical exclusion applies to certain classes of FDA-regulated actions that usually have little or no potential to cause significant environmental effects and are excluded from the requirements to prepare an EA or EIS. Section 25.15(a) and (d) specifies the procedures for submitting to FDA a claim for a categorical exclusion. Extraordinary circumstances (§ 25.21), which may result in significant environmental impacts, may exist for some actions that are usually categorically excluded. An EA provides information that is used to determine whether an FDA action could result in a significant environmental impact. Section 25.40(a) and (c) specifies the content requirements for EAs for nonexcluded actions.

This collection of information is used by FDA to assess the environmental impact of agency actions and to ensure that the public is informed of environmental analyses. Firms wishing to manufacture and market substances regulated under statutes for which FDA is responsible must, in most instances, submit applications requesting approval. Environmental information must be included in such applications for the purpose of determining whether the proposed action may have a significant impact on the environment. Where significant adverse effects cannot be avoided, the agency uses the submitted information as the basis for preparing and circulating to the public an EIS, made available through a **Federal Register** document also filed for comment at the Environmental Protection Agency (EPA). The final EIS, including the comments received, is reviewed by the agency to weigh environmental costs and benefits in determining whether to pursue the proposed action or some alternative that would reduce expected environmental impact. Any final EIS would contain additional information gathered by the agency after the publication of the draft EIS, a copy of or a summary of the comments received on the draft EIS, and the agency's responses to the comments, including any revisions resulting from the comments or other information. When the agency finds that no significant environmental effects are expected, the agency prepares a finding of no significant impact.

Estimated Annual Reporting Burden for Human Drugs

Under 21 CFR 312.23(a)(7)(iv)(e), 314.50(d)(1)(iii), and 314.94(a)(9)(i), each investigational new drug application (IND), new drug application (NDA), and abbreviated new drug application (ANDA) must contain a claim for categorical exclusion under § 25.30 or § 25.31 or an EA under § 25.40. In 2002, FDA received 2,374 INDs from 1,809 sponsors, 109 NDAs from 79 applicants, 2,575 supplements to NDAs from 276 applicants, 392 ANDAs from 107 applicants, and 3,343 supplements to ANDAs from 222

applicants. FDA estimates that it receives approximately 8,771 claims for categorical exclusions as required under § 25.15(a) and (d), and 22 EAs as required under § 25.40(a) and (c). Based on information provided by the pharmaceutical industry, FDA estimates that it takes sponsors or applicants approximately 8 hours to prepare a claim for a categorical exclusion and approximately 3,400 hours to prepare an EA.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	2,031	4.32	8,773	8	70,184
25.40(a) and (c)	22	1	22	3,400	74,800
Total					144,984

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Human Foods

Under 21 CFR 71.1, 171.1, 170.39, and 170.100, food additive petitions, color additive petitions, requests for exemption from regulation as a food additive, and submission of a premarket notification for a food contact substance must contain a claim of categorical exclusion under § 25.30 or § 25.32 or an EA under § 25.40. In 2002, FDA received 12 food additive petitions and 106 food contact substance notifications. FDA estimates that it received approximately 87 claims of categorical exclusions as required under § 25.15(a) and (d), and 31 EAs as required under § 25.40(a) and (c). FDA estimates that it takes petitioners or requestors approximately 8 hours to prepare a claim of categorical exclusion and approximately 210 hours to prepare an EA.

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN FOODS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	56	1.6	89	4	356
25.40(a) and (c)	18	1.7	31	210	6,510
Total					6,866

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Medical Devices

Under 21 CFR 814.20(b)(11), premarket approvals (PMAs) (original PMAs and supplements) must contain a claim for categorical exclusion under § 25.30 or § 25.34 or an EA under § 25.40. In 1998, FDA received 568 claims (original PMAs and supplements) for categorical exclusions as required under § 25.15(a) and (d), and 0 EAs as required under § 25.40(a) and (c). Based on information provided by less than 10 sponsors, FDA estimates that it takes approximately less than 1 hour to prepare a claim for a categorical exclusion and an unknown number of hours to prepare an EA.

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN FOR MEDICAL DEVICES[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	94	6	564	1	564
25.40(a) and (c)	0	0	0	0	0
Total					564

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Biological Products

Under 21 CFR 312.23(a)(7)(iv)(e) and 601.2(a), IND and biologics license applications (BLAs) must contain a claim for categorical exclusion under § 25.30 or § 25.31 or an EA under § 25.40. In 2001, FDA received 535 INDs from 376 sponsors, 80 BLAs from 22 applicants, and 837 BLA supplements to license applications from 168 applicants. FDA estimates that approximately 10 percent of these supplements would be submitted with a claim for categorical exclusion or an EA.

FDA estimates that it received approximately 699 claims for categorical exclusion as required under § 25.15(a) and (d) and 2 EAs as required under § 25.40(a) and (c). Based on information provided by industry, FDA estimates that it takes sponsors and applicants approximately 8 hours to prepare a claim for categorical exclusion and approximately 3,400 hours to prepare an EA for a biological product.

TABLE 4.—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICAL PRODUCTS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	415	1.68	699	8	5,592
25.40(a) and (c)	2	1	2	3,400	6,800
Total					12,392

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Animal Drugs

Under § 514.1(b)(14) (21 CFR 514.1(b)(14)), new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs), § 514.8(a)(1) supplemental NADAs and ANADAs, 21 CFR 511.1(b)(10) investigational new animal drug applications (INADs), 570.35(c)(1)(viii) generally recognized as safe (GRAS) affirmation petitions, and 571.1(c) food additive petitions must contain a claim for categorical exclusion under § 25.30 or § 25.33 or an EA under § 25.40. Since the last OMB approval of these collections of information, FDA's Center of Veterinary Medicine has received approximately 547 claims for categorical exclusion as required under § 25.15(a) and (d), and 19 EAs as required under § 25.40(a) and (c). Based on information provided by industry, FDA estimates that it takes sponsors/applicants approximately 8 hours to prepare a claim for a categorical exclusion and an average of 2,160 hours to prepare an EA.

TABLE 5.—ESTIMATED ANNUAL REPORTING BURDEN FOR ANIMAL DRUGS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	139	3.9	542	8	4,336
25.40(a) and (c)	14	1.4	19	2,160	41,040
Total					45,376

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on information provided by industry, FDA estimates that the combined burden for the environmental impact considerations—part 25 is as follows:

TABLE 6.—ESTIMATED ANNUAL REPORTING BURDEN FOR ALL CENTERS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Burden Hours
25.15(a) and (d)	2,735	17.5	10,768	29	81,032
25.40(a) and (c)	56	5.1	74	9,199	129,150
Total					210,182

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of March 17, 2003 (68 FR 12702), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

Dated: June 19, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16107 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0066]

Agency Information Collection Activities; Announcement of OMB Approval; Inspection by Accredited Persons Program Under the Medical Device User Fee and Modernization Act of 2002

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Inspection by Accredited Persons Program Under the Medical Device User Fee and Modernization Act of 2002'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 28, 2003 (68 FR 22388), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to,

a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0510. The approval expires on September 30, 2003. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: June 19, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16110 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0267]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Studies for Licensed Biological Products; Status Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to FDA regulations for the postmarketing studies for licensed biological products.

DATES: Submit written or electronic comments on the collection of information by August 25, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed extension of an existing collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Postmarketing Studies for Licensed Biological Products; Status Reports (OMB Control Number 0910–0433)—Extension

Section 130(a) of the Food and Drug Administration Modernization Act (Public Law 105–115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision (section 506B of the act (21 U.S.C. 356b)) requiring reports of postmarketing studies for approved human drugs and licensed biological products. Section 506B of the act provides FDA with additional authority to monitor the progress of postmarketing studies that applicants have made a commitment to conduct and requires the agency to make publicly available information that pertains to the status of these studies.

Under section 506B(a) of the act, applicants that have committed to conduct a postmarketing study for an approved human drug or licensed biological product must submit to FDA a status report of the progress of the study or the reasons for the failure of the applicant to conduct the study. This report must be submitted within 1 year after the U.S. approval of the application and then annually until the study is completed or terminated. The reporting requirements for applicants of approved new drug applications and abbreviated new drug applications are under § 314.81(b)(2)(vii) (21 CFR 314.81(b)(2)(vii)). The collection of information requirements for § 314.81(b)(2)(vii) are approved under OMB control number 0910–0001. The reporting requirements for applicants of approved biologics license applications (BLAs) or supplements to an application are under § 601.70 (21 CFR 601.70).

Section 601.70 requires applicants of approved biologics license applications or supplements to an application to submit to FDA postmarketing status reports for studies of clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA or that an applicant of a BLA commits to conduct, in writing, at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement. Information submitted in a status report for § 601.70(b) is limited to that which is needed to sufficiently identify each applicant that has committed to conduct a postmarketing study, the status of the study that is being reported, and the reasons, if any, for the applicant's failure to conduct, complete, and report the study. Previously, status reports were only for postmarketing studies in pediatric populations. Section 601.28(c) (21 CFR 601.28(c)) requires that the status of postmarketing pediatric studies be reported under § 601.70 rather than under § 601.28 and therefore, the information collection burden for postmarketing studies in pediatric populations is included under § 601.70.

Respondents to this collection of information are the applicants holding approved applications for licensed biological products that have committed to conduct postmarketing studies. Based on information obtained from FDA's Center for Biologics Evaluation and Research computerized application and license tracking database, the agency estimates that approximately 44 applicants with 65 approved BLAs have committed to conduct approximately

223 postmarketing studies and would be required to submit an annual progress report on those postmarketing studies under § 601.70. Based on past experience with similar reporting requirements, the agency estimates that it takes an applicant approximately 24 hours (8 hours per study x 3) annually to gather, complete, and submit the appropriate information for each report (approximately two to four studies per report). Included in these 24 hours is the time necessary to prepare and submit two copies of the annual progress report of postmarketing studies to FDA under § 601.70(d).

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
601.70(b) and (d)	44	1.5	65	24	1,560

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 16, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16160 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 24, 2003, from 8 a.m. to 5 p.m.

Location: Hilton Washington, DC North/Gaithersburg, Ballroom Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: David Krause, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090, ext. 141, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12519. Please call the Information Line or access the ''CDRH Advisory Committees'' Web page at *http://www.fda.gov/cdrh/panelmtg.html* for up-to-date information on this meeting.

Agenda: The committee will discuss and make recommendations on the reclassification of a transitional class III device, the absorbable hemostatic agent and dressing device intended for hemostasis during surgical procedures. There will also be a discussion of clinical trial issues for devices designed for percutaneous removal of breast tumors. Background information for each topic, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*.

Procedure: On July 24, 2003, from 8:30 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 10, 2003. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 8:45 a.m., 11 a.m. and 11:15 a.m., and 1:15 p.m. and 1:45 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 10, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 24, 2003, from 8 a.m. to 8:30 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) relating to pending issues and applications.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 301–594–1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 19, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–16112 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug and Biological Product Consolidation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is transferring certain product oversight responsibilities from the Center for Biologics Evaluation and Research (CBER) to the Center for Drug Evaluation and Research (CDER). This consolidation initiative provides the opportunity to further develop and coordinate scientific and regulatory activities between CBER and CDER. FDA believes that as more drug and biological products are developed for a broader range of illnesses, such interaction is necessary for both efficient and consistent agency action.

FOR FURTHER INFORMATION CONTACT:

Deborah J. Henderson, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5406,

or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–25), 1401 Rockville Pike, suite 200 N., Rockville, MD 20852, 301–827–0372.

SUPPLEMENTARY INFORMATION:

I. The Consolidation Initiative

A. Therapeutic Biological Products Transferred to CDER

As of June 30, 2003, responsibility for regulating most therapeutic biologics, with certain exceptions (e.g., cell and gene therapy products and therapeutic vaccines) will be transferred from the Office of Therapeutics Research and Review (OTRR), CBER, to the Office of New Drugs (OND), and the Office of Pharmaceutical Science (OPS), CDER. Initially, this transfer of products will take place as the divisions of OTRR within CBER are detailed to offices within CDER. As of June 30, 2003:

- The Division of Therapeutic Proteins and the Division of Monoclonal Antibodies of OTRR, CBER, will be detailed to OPS, CDER.
- The Division of Clinical Trial Design and Analysis, the Division of Application Review and Policy, and the immediate office of the Director, OTRR, CBER, will be detailed to OND, CDER.

FDA anticipates that as of the start of fiscal year 2004 on October 1, 2003, the offices detailed to CDER will be incorporated into CDER's organizational structure, including the creation of a new Office of Drug Evaluation (ODE) in OND, CDER.

B. Therapeutic Biological Products Remaining in CBER

Under a previous reorganization, cell and gene therapy products from the Division of Cellular and Gene Therapies, OTRR, CBER were transferred to a new office, the Office of Cellular, Tissue and Gene Therapies (OCTGT).

Overall responsibility for therapeutic vaccines will remain in CBER. The clinical review of therapeutic vaccine-associated investigational new drug applications (INDs) and biologics license applications (BLAs) will be conducted by CBER and coordinated with the consolidated clinical expertise area in CDER.

II. Web Site Listing CBER Applications Transferred to CDER and Contact Information

FDA has created a Web site listing the identification numbers of the INDs, BLAs, investigational device exemptions, and new drug applications in CBER that are being transferred to CDER. Holders of all CBER applications are encouraged to check this Web site to determine which, if any, of their applications are being transferred and to find new contact information. The Web site address is: *http://www.fda.gov/cber/transfer/transfer.htm*. Until notified by CDER, submitters should continue to send submissions to the CBER Document Control Center.

III. Delegations of Authority

As a result of this product consolidation and the resulting changes to the organizational structure of CDER and CBER, the agency has conducted a comprehensive update of the delegations of authority to reflect organizational changes. Current program delegations of authority for CDER and CBER have been revised to reflect these changes. Delegations of authority give particular officials in the Centers the legal authority needed to take substantive actions and perform certain functions of the Commissioner of Food and Drugs. These changes will be made to the agency's Staff Manual Guide (SMG) system available on the Internet at *http://www.fda.gov/smg*. While comprehensive changes have been made to the delegations, the agency believes the current delegation at SMG 1410.702 provides CDER with all necessary authority for the premarket approval of any biological product for which CDER has oversight. Furthermore, revised SMG 1410.202 provides CDER with the necessary authority to perform all functions of the Director of CBER with respect to biological products transferred to CDER.

IV. Regulations Affected by the Product Consolidation

The agency is in the process of making technical amendments to its regulations affected by this reorganization and anticipates these revisions will be completed by the beginning of fiscal year 2004 on October 1, 2003, or shortly thereafter. Any revisions to FDA's regulations will be published in the **Federal Register** upon completion.

Dated: June 20, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16242 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0281]

Medical Devices: A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures; Final Guidance for Industry and FDA Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of final guidance entitled ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures; Guidance for Industry and FDA Staff.'' This guidance is intended to assist the medical device industry and FDA staff in implementing a voluntary pilot premarket review program that may reduce the burden on manufacturers who face conflicting premarket submission format and content requirements in different countries. The proposed pilot program will evaluate the utility of an alternative submission procedure as described in the document entitled ''Summary Technical Documentation for Demonstrating Conformity to the Essential Principles of Safety and Performance of Medical Devices,'' otherwise known as the ''draft STED document.'' The draft STED document was developed by Study Group 1 (SG1) of the Global Harmonization Task Force (GHTF), and issued as a working draft in December 2000. The GHTF is a voluntary group comprised of medical device regulatory officials and industry representatives from the United States, Canada, Australia, the European Union, and Japan. Each of these member countries will participate in the pilot program and will provide specific directions for implementing the program within their respective jurisdictions. This guidance takes effect upon the date of its publication.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures; Guidance for Industry and FDA Staff'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-

addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/opacom/backgrounder/voice.html*. Comments are to be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Timothy A. Ulatowski, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4692, e-mail: *tau@cdrh.fda.gov*; or Harry R. Sauberman, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879, e-mail: *hrs@cdrh.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is conducting a pilot premarket review program and is soliciting participation from the medical device industry. The pilot program is intended to evaluate the utility of an alternative submission procedure as described in the draft STED document prepared by SG1 of the GHTF. The document seeks to harmonize the different requirements for premarket submissions in various countries.

The GHTF is a voluntary group comprised of medical device regulatory officials and industry representatives from the United States, Canada, Australia, the European Union, and Japan. The goals of the GHTF are to: (1) Encourage convergence in regulatory practices with respect to ensuring the safety, effectiveness, performance, and quality of medical devices; (2) promote technological innovation; and (3) facilitate international trade. The GHTF's Web site can be accessed at *http://www.ghtf.org.* It provides further information concerning the organization's structure, goals, and procedures.

The pilot premarket review program (STED pilot program) as implemented in the United States by FDA, will rely on the FDA final guidance that is the subject of this notice, and four related documents that are appended to the guidance. These documents are: (1) A letter to the global medical device industry announcing the pilot program (Appendix 1); (2) the draft STED document created by SG1 of GHTF (Appendix 2); (3) the GHTF SG1 final document entitled ''Essential Principles of Safety and Performance of Medical Devices,'' known as ''Essential Principles'' (Appendix 3); and (4) the document entitled ''The Least Burdensome Provisions of the FDA Modernization Act of 1997: Concept and Principles; Final Guidance for FDA and Industry,'' issued in October 2002 (Appendix 4).

The FDA guidance document is intended to assist the medical device industry in making submissions to FDA that use the draft STED document format and are consistent with U.S. requirements. The announcement letter provides useful background and summary information regarding the proposed pilot premarket review program. The draft STED document describes a proposed internationally harmonized format and content for premarket submissions, e.g., PMA applications and 510(k) submissions in the United States, based on conformity to the Essential Principles. The Essential Principles are general and specific safety and performance recommendations for medical devices. They were developed by GHTF and are listed in the third document appended to the guidance. A discussion of the least burdensome provisions is provided in the fourth document.

All five of the founding members of the GHTF are participating in the pilot program. They include the United States, Canada, Australia, the European Union, and Japan. Each of the participants will provide specific directions for implementing the pilot program within its own jurisdiction.

The GHTF seeks to assess the international utility of the draft STED document. Therefore, SG1 of GHTF is encouraging manufacturers to prepare submissions using the draft STED document for a particular device to as many of the participating GHTF member countries as possible. SG1 also encourages manufacturers to use the draft STED document for submissions that cover a range of devices having different regulatory classes. Candidate devices that have already been identified to be of mutual interest to the GHTF members are set forth in the guidance.

FDA intends to process premarket submissions prepared using the draft STED document within statutory time limits and with review times comparable to other submissions for similar products. There will be no expedited review of submissions unless the device merits such review under current policies.

FDA plans to conduct the STED pilot program for a period of 1 year. The pilot will begin on the date of publication of the final FDA guidance document. FDA will assess the pilot during its course and may choose to decline receipt of additional submissions using the format described in the draft STED document (draft STED format) to assess the initial experiences. At the end of the pilot, FDA and other GHTF participants will analyze the outcome to determine whether the draft STED document is a viable alternative to current premarket submission procedures and whether the program should be continued or expanded. FDA will post on its Web site a report of the outcome of the pilot program.

FDA published a draft of the FDA guidance document in the **Federal Register** of July 25, 2001 (66 FR 38714). The comment period ended on September 24, 2001. FDA received comments from five parties; in some instances the parties submitted multiple comments. FDA's responses are provided in section II of this document. In addition, FDA is planning to have SG1 review the comments and provide recommendations at the time it revises the draft STED document. This would occur at the end of the pilot program.

II. Comments and Responses

(Comment 1) One comment states that harmonization is a barrier to entry in the marketplace for smaller companies. The comment expresses concern that the Essential Principles referenced in the draft STED document will add more premarket notification (510(k)) requirements for those seeking to obtain FDA clearance for their medical devices.

FDA believes the draft STED document, and the associated FDA guidance document describing how FDA intends to implement the pilot premarket program, do not present significant new impediments for persons intending to market their devices using the 510(k) process. There are no new requirements expected under the pilot program for registration or quality systems implementation before a person submits a 510(k) using the draft STED format. The example, manufacturing information, is not ordinarily required in a 510(k) submission. The same would be true for a submission using the draft STED format. A manufacturer, however, must be registered and a quality system must be in effect when a device is marketed.

(Comment 2) One comment supports the harmonization process and requests that table 1 in the FDA guidance

document be revised to include computed tomography scanners and magnetic resonance imaging devices.

FDA agrees to expand the candidates list as requested and has amended table 1 of the FDA guidance document accordingly.

(Comment 3) Two comments requested that members of the GHTF coordinate the execution of the pilot program in their respective jurisdictions by including the same device categories and conducting the pilot program simultaneously. The comments suggested posting information about the pilot program on the GHTF Web site. Concern was expressed that the draft STED document will lead to an increase in the type and amount of information submitted in premarket applications.

FDA agrees that the pilot premarket program should be coordinated with other members of GHTF to the extent possible, and has made efforts to do so. FDA will work with the GHTF secretariat and the Chair of SG1 to post appropriate information regarding the pilot program on the GHTF Web site. FDA is sensitive to the concern that a harmonized format may recommend different or additional information from that customarily submitted in premarket submissions. The draft STED format is one means of normalizing the information submitted to many different regulatory authorities. The short-term effect may indicate some imbalances in the regulatory burden from one country to another, but the long-term expectation is that the benefits will outweigh any short-term effects and will be significant. FDA believes that harmonization of administrative and technical requirements is desirable; the GHTF's role in the STED pilot program is supplemented by the strength of its efforts in standards development activities, bilateral partnerships, and mutual recognition activities.

(Comment 4) Another comment requests clarification of the information needed to be included in the premarket submission for each Essential Principle and asks if every Essential Principle must be addressed. The comment also requests clarifications on terminology with respect to labeling.

The premarket submission should identify the Essential Principles that are applicable to the device and provide conformity information as explained in sections 7.1.1 and 7.1.2 of the draft STED document. It will not necessarily be the case that all Essential Principles will be applicable to a particular device. In addition, there may be more than one way to conform to an Essential Principle, e.g., by meeting a standard or demonstrating laboratory results from an appropriate bench test.

FDA agrees that the draft STED document should have clarifications with respect to labeling terminology and instructions for use. FDA will ask SG1 to consider this comment when it assesses the results of the pilot program.

(Comment 5) Two comments ask FDA to clarify which of the Essential Principles would be relevant in a premarket submission prepared using the draft STED format. They ask whether FDA intends for premarket submissions, based on the draft STED format, to be submitted in a tabular format as shown in Appendix B of the draft STED document and, if so, whether the table needs to be supplemented with supporting information.

FDA expects premarket submissions prepared using the draft STED format to identify and reference all applicable Essential Principles, as explained in sections 7.1.1 and 7.1.2 of the draft STED document. Also, 510(k) submissions and premarket approval applictions (PMAs) relying on the draft STED format must still address all applicable FDA requirements for 510(k)s or PMAs. With regard to format, the basic format for preparing a harmonized premarket submission is described in sections 6.1 and 6.3 of the draft STED document (see also section VII of the final FDA guidance). Each part of the submission can be subgrouped as described in section 7.0 of the draft STED document. Section 7.1.2 suggests that one method to format evidence of conformity information may be in tabular form as shown in the sample table in Appendix B of the draft STED document. Supporting information should be provided as needed regardless of format, particularly if recommended in a product-specific guidance. FDA accepts declarations or statements of conformity to FDA-recognized standards. Use of such declarations or statements may provide a benefit to a manufacturer by decreasing the amount of supporting documentation that needs to be submitted.

(Comment 6) Another comment notes a possible incorrect cross-reference in table 3 of the draft FDA guidance with regard to standards.

FDA has eliminated table 3 and has clarified the section.

(Comment 7) Three comments state that a risk analysis is not included in 510(k) and PMA submissions and therefore should not be included in harmonized premarket submissions using the draft STED document.

FDA has announced new guidance that includes a risk analysis in some 510(k) submissions. (*See http://www.fda.gov/cdrh/modact/special-controls.html*). A goal of the premarket harmonization process is to achieve a common submission in terms of format and content for all five participating members of the GHTF. Although FDA may not require a risk analysis for a new 510(k), it is a common request in other countries. Therefore, it is prudent for a device manufacturer intending to market a device globally, and who intends to use the draft STED format, to include a risk analysis in the submission.

(Comment 8) One comment asks for clarification of the note under table 2 of the draft FDA guidance concerning manufacturing information.

FDA has eliminated table 2 and clarified the information elsewhere in the document. The FDA final guidance document notes that manufacturing information will not be needed for 510(k)s using the draft STED format during the pilot program, unless that information would otherwise be submitted under current procedures for a particular device.

(Comment 9) One comment requests the draft STED document include links between the class of a device and the parameters applicable to the Essential Principles of safety and performance. The comment suggests changing the title of section 7.3 from ''Summary of Design Verification and Validation Documents'' to ''Summary of Design and Verification Data.'' The comment notes the title could imply the need for more documentation than what is intended.

FDA will ask SG1 to consider this comment when it assesses the results of the pilot program.

(Comment 10) One comment recommends the use of promissory statements when a regulatory authority requires country-specific information beyond that described in the draft STED document.

FDA accepts statements of conformity to recognized standards. These statements indicate a device meets a particular standard. FDA has no other provisions for promissory statements.

(Comment 11) Another comment notes that the draft STED document and appendices refer to data and information not usually submitted in 510(k)s and PMAs. It suggests there be an indication of the information not applicable for these types of submissions to minimize the submission burden.

FDA agrees with the comment and has noted that manufacturing information is not ordinarily required in a 510(k) application. Hence this information would not be needed in a

510(k) when using the draft STED format as described in the final guidance document.

(Comment 12) One comment inquires about incentives for manufacturers to participate in the pilot program. Related comments ask that FDA reconsider the devices eligible for the pilot program.

FDA is committed to ensuring that the FDA review process will not be unduly hindered if persons choose to follow the draft STED format. However, FDA cannot assure shorter review timeframes if the draft STED format is used. FDA believes that medical device companies with vision, leadership, a desire to influence the accelerating global harmonization effort, and the goal of ultimately reducing their regulatory burden, will participate in the pilot program. FDA has increased the list of eligible devices to provide more flexibility and believes the pilot program will help achieve an international uniformity of submissions.

(Comment 13) One comment asks that the pilot program focus only on 510(k)s, PMAs, and PMA supplements that are for high risk devices.

FDA has exempted from premarket evaluation virtually all the low risk devices that were subject to premarket requirements. Therefore, the candidates for the pilot program are of a moderate to high degree of risk. PMA supplements are not candidates for the pilot program.

(Comment 14) One comment asks that the same measures of success or failure of the pilot program be identified for all countries conducting the pilot and that FDA clearly define the criteria and analysis methods that will be used.

FDA agrees that measures of success and analytical methods should be clearly defined prior to initiation of the pilot. It is important to determine whether the core of a premarket submission can be based on the draft STED format. Both FDA and SG1 will track and assess whether: (1) There are significant impediments to filing and review of documents, (2) the STED harmonized format has utility for evaluating different regulatory classes of devices having different complexities, and (3) use of the STED harmonized format results in improved regulatory review times. FDA will post a report summarizing the results of its analysis of the pilot on its Web site.

(Comment 15) One comment notes that statutory and/or regulatory changes may be needed to fully implement the draft STED document concept of harmonized premarket submissions in the member countries.

Each of the five GHTF member countries has determined that the pilot program can proceed without the need for statutory or regulatory changes if current country-specific requirements are met. It remains to be determined how a STED document would be implemented if it becomes an alternative means of submission.

(Comment 16) One comment asks that FDA remove endosseous dental implants from the list of candidate devices for the pilot program. The comment notes that applying the harmonized process to these implants will not provide the agency with the necessary information on their safety and effectiveness.

FDA does not concur with the comment. The FDA draft guidance for the pilot premarket review program and the draft STED document both describe the need for applicants to consider country-specific information, including guidance documents, when preparing their premarket submissions for review. A premarket submission for an endosseous dental implant based on the draft STED format should consider all relevant available guidance documents.

III. Significance of Guidance

This guidance is being issued consistent with FDA's GGPs regulation (21 CFR 10.115). The guidance represents the agency's current thinking on a way to apply GHTF recommendations as related to premarket submission to FDA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

IV. Electronic Access

You may obtain a copy of ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures; Guidance for Industry and FDA Staff,'' via fax machine by calling the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1347) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

You may also obtain a copy of the guidance through the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. The CDRH home page is updated on a regular basis and includes: Civil money penalty guidance documents, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), assistance for small manufacturers, information on video conferencing, electronic submissions, mammography devices, and other device-related information. The CDRH home page may be accessed at *http://www.fda.gov/cdrh*.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 19, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16108 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0161]

Medical Devices; Reprocessed Single-Use Devices; Termination of Exemptions From Premarket Notification; Requirement for Submission of Validation Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is adding nonelectric biopsy forceps (classified in 21 CFR 876.1075, *Gastroenterology-urology biopsy instrument*) to the list of critical reprocessed single-use devices (SUDs) whose exemption from premarket notification requirements is being terminated and for which validation data, as specified under the Medical Device User Fee and Modernization Act of 2002 (MDUFMA), is necessary in a premarket notification (510(k)). FDA is requiring submission of these data to ensure that reprocessed single-use nonelectric biopsy forceps are substantially equivalent to predicate devices, in accordance with MDUFMA.

DATES: These actions are effective June 26, 2003. Manufacturers of reprocessed

single-use biopsy forceps must submit 510(k)s for these devices by September 27, 2004, or their devices may no longer be marketed.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Barbara A. Zimmerman, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2002, MDUFMA (Public Law 107–250) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding section 510(o) (21 U.S.C. 360(o)), which provided new regulatory requirements for reprocessed SUDs. According to this new provision, in order to ensure that reprocessed SUDs are substantially equivalent to predicate devices, 510(k)s for certain reprocessed SUDs identified by FDA must include validation data. These required validation data include cleaning and sterilization data, and functional performance data demonstrating that each SUD will remain substantially equivalent to its predicate device after the maximum number of times the device is reprocessed as intended by the person submitting the premarket notification.

Before enactment of the new law, a manufacturer of a reprocessed SUD was required to obtain premarket approval or premarket clearance for the device, unless the device was exempt from premarket submission requirements. Under MDUFMA, some previously exempt reprocessed SUDs will no longer be exempt from premarket notification requirements. Manufacturers of these identified devices will need to submit 510(k)s that include validation data to be specified by FDA. Reprocessors of certain SUDs that currently have cleared 510(k)s also will need to submit the validation data specified by the agency.

A. Definitions

Under section 302(d) of MDUFMA, a reprocessed SUD is defined as an

''* * * original device that has previously been used on a patient and has been subjected to additional processing and manufacturing for the purpose of an additional single use on a patient. The subsequent processing and manufacture of a reprocessed single-use device shall result in a device that is reprocessed within the meaning of this definition.''

B. Reprocessed SUDs Exempt From Premarket Notification

Reprocessed SUDs are divided into three groups: (1) Critical, (2) semicritical, and (3) noncritical. The first two categories reflect definitions set forth in MDUFMA, and all three reflect a classification scheme recognized by the industry.[1] These categories of devices are defined as follows:

1. A critical reprocessed SUD is intended to contact normally sterile tissue or body spaces during use.
2. A semicritical reprocessed SUD is intended to contact intact mucous membranes and not penetrate normally sterile areas of the body.
3. A noncritical reprocessed SUD is intended to make topical contact and not penetrate intact skin.

C. Requirements for Critical Reprocessed SUDs

MDUFMA requires FDA to review the critical reprocessed SUDs that are currently exempt from premarket notification requirements and determine which of these devices require premarket notification to ensure their substantial equivalence to predicate devices. By April 26, 2003, FDA was required to identify in a **Federal Register** notice those critical reprocessed SUDs whose exemption from premarket notification requirements will be terminated and for which FDA has determined that validation data, as specified under MDUFMA, is necessary in a 510(k). According to the new law, manufacturers of the devices whose exemption from premarket notification requirements is terminated must submit 510(k)s that include validation data regarding cleaning, sterilization, and functional performance, in addition to all the other required elements of a 510(k) identified in 21 CFR 807.87, within 15 months of publication of the list or no longer market their devices.

II. FDA's Implementation of New Section 510(o) of the Act

In the **Federal Register** of April 30, 2003 (68 FR 23139), FDA described the methodology and criteria it used to determine which previously exempt critical reprocessed SUDs are now subject to 510(k) submission requirements, including the submission of validation data. First, FDA described how it identified the types of SUDs being reprocessed and how the Spaulding definitions (see footnote 1) were used to categorize these devices as critical, semicritical, or noncritical. (This list, which was Attachment 1 to that **Federal Register** notice, is being reprinted as Attachment 1 to this notice.) Next, the agency described its use of the Risk Prioritization Scheme (RPS)[2] that it used to evaluate the risk (high, moderate, or low) associated with an SUD based on: (1) Risk of infection and (2) risk of inadequate performance following reprocessing. FDA identified its final risk criterion as those reprocessed SUDs intended to come in contact with tissue at high risk of being infected with the causative agents of Creutzfeldt-Jakob Disease (CJD). (These are generally devices intended for use in neurosurgery and ophthalmology.)

Using this methodology and criteria, the devices included in List I (''Critical Reprocessed Single-Use Devices Previously Exempt From Premarket Notification Requirements That Will Now Require 510(k)s With Validation Data'') of the April 30, 2003, **Federal Register** notice are those critical reprocessed SUDs that were either high risk according to the RPS or intended to come in contact with tissue at high risk of being infected with the causative agents of CJD.

III. Revisions to Attachment I, List I, and List II

A. Revisions to Attachment I (List of SUDs Known To Be Reprocessed or Considered for Reprocessing)

FDA has re-evaluated the list of reprocessed SUDs with regard to the critical and semicritical device designations. In doing so, the agency has determined that all gastroenterology-urology biopsy instruments should be considered critical devices rather than semicritical devices because these devices are intended to break the mucous membrane and come in contact with sterile tissue when taking a biopsy. This includes biopsy forceps covers, biopsy instruments, biopsy needle sets, biopsy punches, mechanical biopsy instruments, and nonelectric biopsy

[1] These are known in the industry as the Spaulding definitions, and are described in Spaulding, E. H., ''The Role of Chemical Disinfection in the Prevention of Nonsocomial Infections,'' P. S. Brachman and T. C. Eickof (ed), Proceedings of International Conference on Nonsocomial Infections, 1970, American Hospital Association, Chicago, IL 1971:254–274.

[2] This scheme is described in the agency's February 2000 draft guidance document entitled ''Reprocessing and Reuse of Single-Use Devices: Review Prioritization Scheme.'' The document is available on the Internet at *http://www.fda.gov/cdrh/reuse/1156.pdf*.

forceps (devices 42–47 in Attachment I). In addition, it was determined that rigid and nonrigid bronchoscope biopsy forceps and biliary sphincterotomes (devices 40, 41, and 55 in Attachment I) should also be considered critical devices rather than semicritical devices for the same reason as stated previously. These changes are reflected in a revised version of Attachment I included in this **Federal Register** notice.

B. Revisions to List I (Critical Reprocessed Single-Use Devices Previously Exempt From Premarket Notification Requirements That Will Now Require 510(k)s With Validation Data)

FDA recategorized nine device types from semicritical to critical. One of these nine device types, nonelectric gastroenterology-urology biopsy forceps, was also considered high risk under the RPS. Therefore, nonelectric gastroenterology-urology biopsy forceps have been added to List I. Under MDUFMA, manufacturers of these biopsy forceps will be required to submit 510(k)s with validation data by (see **DATES**), which is 15 months following the publication of this revised list.

In addition, FDA is taking this opportunity to clarify the date by which manufacturers of the other devices in List I are required to submit 510(k)s with validation data. The correct date is July 30, 2004, which is 15 months following the initial publication of the list (the April 30, 2003, **Federal Register** notice inadvertently identified two dates).

C. Revisions to List II (Reprocessed Single-Use Devices Subject to Premarket Notification Requirements That Will Now Require the Submission of Validation Data)

The only change to List II is to clarify the date by which 510(k) submissions are required by MDUFMA to be supplemented with validation data. The correct date is January 30, 2004, which is 9 months following the initial publication of the list (as noted previously, the April 30, 2003, **Federal Register** notice inadvertently identified two dates).

LIST I.—CRITICAL REPROCESSED SINGLE-USE DEVICES PREVIOUSLY EXEMPT FROM PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE 510(K)S WITH VALIDATION DATA (TO BE SUBMITTED BY JULY 30, 2004, UNLESS OTHERWISE NOTED).

21 CFR section	Classification name	Product code for non-reprocessed device	Product code for reprocessed device	Product code name for reprocessed device
872.3240	Dental bur	Diamond coated	NME	Dental diamond coated bur
872.4535	Dental diamond instrument	DZP	NLD	Dental diamond instrument
872.4730	Dental injection needle	DZM	NMW	Dental needle
874.4140	Ear, nose, and throat (ENT) bur	Microdebrider	NLY	ENT high speed microdebrider
874.4140	Ear, nose, and throat bur	Diamond coated	NLZ	ENT diamond coated bur
874.4420	Ear, nose, throat manual surgical instrument	KAB, KBG, KCI	NLB	Laryngeal, sinus, tracheal trocar
876.1075[1]	Gastroenterology-urology biopsy instrument	FCL	NON	Nonelectric biopsy forceps
878.4200	Introduction/drainage catheter and accessories	GCB	NMT	Catheter needle
878.4800	Manual surgical instrument	MJG	NNA	Percutaneous biopsy device
878.4800	Manual surgical instrument	FHR	NMU	Gastro-urology needle
878.4800	Manual surgical instrument for general use	DWO	NLK	Cardiovascular biopsy needle
878.4800	Manual surgical instrument for general use	GAA	NNC	Aspiration and injection needle
882.4190	Forming/cutting clip instrument	HBS	NMN	Forming/cutting clip instrument
884.1730	Laparoscopic insufflator	HIF	NMI	Laparoscopic insufflator and accessories
884.4530	OB/GYN specialized manual instrument	HFB	NMG	Gynecological biopsy forceps
886.4350	Manual ophthalmic surgical instrument	HNN	NLA	Ophthalmic knife

[1] 510(k)s with validation data to be submitted by September 27, 2004.

LIST II.—REPROCESSED SINGLE-USE DEVICES SUBJECT TO PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE THE SUBMISSION OF VALIDATION DATA[1] (MANUFACTURERS WHO ALREADY HAVE 510(K) CLEARANCE FOR THESE DEVICES MUST SUBMIT VALIDATION DATA BY JANUARY 30, 2004. ANY NEW 510(K) SUBMITTED AFTER PUBLICATION OF THE APRIL 30 LIST WILL REQUIRE VALIDATION DATA.)

21 CFR section	Classification name	Product code for non-reprocessed device	Product code for reprocessed device	Product code name for reprocessed device
Unclassified	Oocyte aspiration needles	MHK	NMO	Oocyte aspiration needles
Unclassified	Percutaneous transluminal angioplasty catheter	LIT	NMM	Transluminal peripheral angioplasty catheter
Unclassified	Ultrasonic surgical instrument	LFL	NLQ	Ultrasonic scalpel
868.5150	Anesthesia conduction needle	BSP	NNH	Anesthetic conduction needle (with or without introducer)
868.5150	Anesthesia conduction needle	MIA	NMR	Short term spinal needle
868.5730	Tracheal tube	BTR	NMA	Tracheal tube (with or without connector)
868.5905	Noncontinuous ventilator (IPPB)	BZD	NMC	Noncontinuous ventilator (respirator) mask
870.1200	Diagnostic intravascular catheter	DQO	NLI	Angiography catheter
870.1220	Electrode recording catheter	DRF	NLH	Electrode recording catheter
870.1220	Electrode recording catheter	MTD	NLG	Intracardiac mapping catheter
870.1230	Fiberoptic oximeter catheter	DQE	NMB	Fiberoptic oximeter catheter
870.1280	Steerable catheter	DRA	NKS	Steerable catheter
870.1290	Steerable catheter control system	DXX	NKR	Steerable catheter control system
870.1330	Catheter guide wire	DQX	NKQ	Catheter guide wire
870.1390	Trocar	DRC	NMK	Cardiovascular trocar
870.1650	Angiographic injector and syringe	DXT	NKT	Angiographic injector and syringe
870.1670	Syringe actuator for injector	DQF	NKW	Injector for actuator syringe
870.2700	Oximeter	MUD	NMD	Tissue saturation oximeter
870.2700	Oximeter	DQA	NLF	Oximeter
870.3535	Intra-aortic balloon and control system	DSP	NKO	Intra-aortic balloon and control system
870.4450	Vascular clamp	DXC	NMF	Vascular clamp
870.4885	External vein stripper	DWQ	NLJ	External vein stripper
872.5470	Orthodontic plastic bracket	DYW	NLC	Orthodontic plastic bracket
874.4680	Bronchoscope (flexible or rigid) and accessories	BWH	NLE	Bronchoscope (nonrigid) biopsy forceps
876.1075	Gastro-urology biopsy instrument	FCG	NMX	G-U biopsy needle and needle set
876.1075	Gastroenterology-urology biopsy instrument	KNW	NLS	Biopsy instrument
876.1500	Endoscope and accessories	FBK, FHP	NMY	Endoscopic needle
876.1500	Endoscope and accessories	MPA	NKZ	Endoilluminator
876.1500	Endoscope and accessories	GCJ	NLM	General and plastic surgery laparoscope
876.1500	Endoscope and accessories	FHO	NLX	Spring-loaded Pneumoperitoneum Needle

LIST II.—REPROCESSED SINGLE-USE DEVICES SUBJECT TO PREMARKET NOTIFICATION REQUIREMENTS THAT WILL NOW REQUIRE THE SUBMISSION OF VALIDATION DATA[1] (MANUFACTURERS WHO ALREADY HAVE 510(K) CLEARANCE FOR THESE DEVICES MUST SUBMIT VALIDATION DATA BY JANUARY 30, 2004. ANY NEW 510(K) SUBMITTED AFTER PUBLICATION OF THE APRIL 30 LIST WILL REQUIRE VALIDATION DATA.)—Continued

21 CFR section	Classification name	Product code for non-reprocessed device	Product code for re-processed device	Product code name for reprocessed device
876.4300	Endoscopic electrosurgical unit and accessories	FAS	NLW	Active urological electrosurgical electrode
876.4300	Endoscopic electrosurgical unit and accessories	FEH	NLV	Flexible suction coagulator electrode
876.4300	Endoscopic electrosurgical unit and accessories	KGE	NLU	Electric biopsy forceps
876.4300	Endoscopic electrosurgical unit and accessories	FDI	NLT	Flexible snare
876.4300	Endoscopic electrosurgical unit and accessories	KNS	NLR	Endoscopic (with or without accessories) Electrosurgical unit
876.5010	Biliary catheter and accessories	FGE	NML	Biliary catheter
876.5540	Blood access device and accessories	LBW	NNF	Single needle dialysis set (co-axial flow)
876.5540	Blood access device and accessories	FIE	NNE	Fistula needle
876.5820	Hemodialysis systems and accessories	FIF	NNG	Single needle dialysis set with unidirectional pump
878.4300	Implantable clip	FZP	NMJ	Implantable clip
878.4750	Implantable staple	GDW	NLL	Implantable staple
880.5570	Hypodermic single lumen needle	FMI	NKK	Hypodermic single lumen needle
880.5860	Piston syringe	FMF	NKN	Piston syringe
882.4300	Manual cranial drills, burrs, trephines, and accessories	HBG	NLO	(Manual) drills, burrs, trephines, and accessories
882.4305	Powered compound cranial drills, burrs, trephines, and accessories	HBF	NLP	(Powered, compound) drills, burrs, trephines, and accessories
882.4310	Powered simple cranial drills, burrs, trephines, and accessories	HBE	NLN	(Simple, powered) drills, burrs, trephines, and accessories
884.1720	Gynecologic laparoscope and accessories	HET	NMH	Gynecologic laparoscope (and accessories)
884.6100	Assisted reproduction needles	MQE	NNB	Assisted reproduction needles
886.4370	Keratome	HMY, HNO	NKY	Keratome blade
886.4670	Phacofragmentation system	HQC	NKX	Phacoemulsification needle
892.5730	Radionuclide brachytherapy source	IWF	NMP	Isotope needle

[1] Hemodialyzers have been excluded from this list because the reuse of hemodialyzers is addressed in FDA's ''Guidance for Hemodialyzer Reuse Labeling'' (final draft issued on October 6, 1995).

IV. Comments

You may submit written or electronic comments on this notice to the Division of Dockets Management (see **ADDRESSES**). You may submit a single copy of an electronic comment to *http://www.fda.gov/dockets/ecomments*. You should submit two paper copies of any mailed comments but individuals may submit one paper copy. You should identify your comment with the docket number found in brackets in the heading of this document. You may see any comments FDA receives in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
1	Cardio	Cardiopulmonary Bypass Marker	unclassified		MAB	1	C	N[1]
2	Cardio	Percutaneous & Operative Transluminal Coronary Angioplasty Catheter (PTCA)	post-amendment	III	LOX	3	C	N
3	Cardio	Percutaneous Ablation Electrode	post-amendment	III	LPB	3	C	N
4	Cardio	Peripheral Transluminal Angioplasty (PTA) Catheter	unclassified		LIT	3	C	N
5	Cardio	Blood-Pressure Cuff	870.1120	II	DXQ	1	N	N
6	Cardio	Angiography Catheter	870.1200	II	DQO	3	C	N
7	Cardio	Electrode Recording Catheter	870.1220	II	DRF	3	C	N
8	Cardio	High-Density Array Catheter	870.1220	II	MTD	3	C	N
9	Cardio	Fiberoptic Oximeter Catheter	870.1230	II	DQE	3	C	N
10	Cardio	Steerable Catheter	870.1280	II	DRA	3	C	N
11	Cardio	Steerable Catheter Control System	870.1290	II	DXX	3	C	N
12	Cardio	Guide Wire	870.1330	II	DQX	3	C	N
13	Cardio	Angiographic Needle	870.1390	II	DRC	3	C	N
14	Cardio	Trocar	870.1390	II	DRC	3	C	N
15	Cardio	Syringes	870.1650	II	DXT	3	C	N
16	Cardio	Injector Type Syringe Actuator	870.1670	II	DQF	3	C	N
17	Cardio	Oximeter	870.2700	II	DQA	3	N	N
18	Cardio	Tissue Saturation Oximeter	870.2700	II	MUD	3	C	N
19	Cardio	Intra-Aortic Balloon System	870.3535	III	DSP	3	C	N
20	Cardio	Vascular Clamp	870.4450	II	DXC	3	C	N
21	Cardio	Device, Stabilizer, Heart	870.4500	I	MWS	2	C	Y[2]
22	Cardio	External Vein Stripper	870.4885	II	DWQ	3	C	N
23	Cardio	Compressible Limb Sleeve	870.5800	II	JOW	1	N	N
24	Dental	Bur	872.3240	I	EJL	1	C	Y
25	Dental	Diamond Coated Bur	872.3240	I	EJL	3	C	Y
26	Dental	Diamond Instrument	872.4535	I	DZP	3	C	Y
27	Dental	AC-Powered Bone Saw	872.4120	II	DZH	2	C	N
28	Dental	Manual Bone Drill and Wire Driver	872.4120	II	DZJ	2	C	N
29	Dental	Powered Bone Drill	872.4120	II	DZI	2	C	N
30	Dental	Intraoral Drill	872.4130	I	DZA	1	C	Y
31	Dental	Injection needle	872.4730	I	DZM	3	C	Y
32	Dental	Metal Orthodontic Bracket	872.5410	I	EJF	3	S	Y

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
33	Dental	Plastic Orthodontic Bracket	872.5470	II	DYW	3	S	N
34	ENT	Bur	874.4140	I	EQJ	1	C	Y
35	ENT	Diamond Coated Bur	874.4140	I	EQJ	3	C	Y
36	ENT	Microdebrider	874.4140	I	EQJ	3	C	Y
37	ENT	Microsurgical Argon Fiber Optic Laser Cable, for Uses Other Than Otology, Including Laryngology and General Use in Otolaryngology	874.4490	II	LMS	1	S	N
38	ENT	Microsurgical Argon Fiber Optic Laser Cable for Use in Otology	874.4490	II	LXR	1	S	N
39	ENT	Microsurgical Carbon-Dioxide Fiber Optic Laser Cable	874.4500	II	EWG	1	S	N
40 †	ENT	Bronchoscope Biopsy Forceps (Nonrigid)	874.4680	II	BWH	3	C	N
41 †	ENT	Bronchoscope Biopsy Forceps (Rigid)	874.4680	II	JEK	1	C	N
42 †	Gastro/Urology	Biopsy Forceps Cover	876.1075	I	FFF	1	C	Y
43 †	Gastro/Urology	Biopsy Instrument	876.1075	II	KNW	3	C	N
44 †	Gastro/Urology	Biopsy Needle Set	876.1075	II	FCG	3	C	N
45 †	Gastro/Urology	Biopsy Punch	876.1075	II	FCI	2	C	N
46 †	Gastro/Urology	Mechanical Biopsy Instrument	876.1075	II	FCF	2	C	N
47 †	Gastro/Urology	Nonelectric Biopsy Forceps	876.1075	I	FCL	3	C	Y
48	Gastro/Urology	Cytology Brush for Endoscope	876.1500	II	FDX	2	S	N
49	Gastro/Urology	Endoscope accessories	876.1500	II	KOG	2	S	N
50	Gastro/Urology	Extraction Balloons/Baskets	876.1500	II	KOG	2	S	N
51	Gastro/Urology	Endoscopic needle	876.1500	II	FBK	3	C	N
52	Gastro/Urology	Simple Pneumoperitoneum Needle	876.1500	II	FHP	3	C	N
53	Gastro/Urology	Spring Loaded Pneumoperitoneum Needle	876.1500	II	FHO	3	C	N
54	Gastro/Urology	Active Electrosurgical Electrode	876.4300	II	FAS	3	S	N
55 †	Gastro/Urology	Biliary Sphincterotomes	876.5010, 876.1500	II	FGE	3	C	N
56	Gastro/Urology	Electric Biopsy Forceps	876.4300	II	KGE	3	C	N
57	Gastro/Urology	Electrosurgical Endoscopic Unit (With or Without Accessories)	876.4300	II	KNS	3	S	N
58	Gastro/Urology	Flexible Snare	876.4300	II	FDI	3	S	N
59	Gastro/Urology	Flexible Suction Coagulator Electrode	876.4300	II	FEH	3	S	N

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
60	Gastro/Urology	Flexible Stone Dislodger	876.4680	II	FGO	3	S	Y
61	Gastro/Urology	Metal Stone Dislodger	876.4680	II	FFL	3	S	Y
62	Gastro/Urology	Needle Holder	876.4730	I	FHQ	1	C	Y
63	Gastro/Urology	Nonelectrical Snare	876.4730	I	FGX	1	S	Y
64	Gastro/Urology	Urological Catheter	876.5130	II	KOD	2	S	N
65	Gastro/Urology	Single Needle Dialysis Set	876.5540	II	LBW, FIE	3	C	N
66	Gastro/Urology	Hemodialysis Blood Circuit Accessories	876.5820	II	KOC	2	S	N
67	Gastro/Urology	Single Needle Dialysis Set	876.5820	II	FIF	3	C	N
68	GE/U	Hemorrhoidal Ligator	876.4400	II	FHN	2	C	N
69	General Hospital	Implanted, Programmable Infusion Pump	post-amendment	III	LKK	3	C	N
70	General Hospital	Needle Destruction Device	post-amendment	III	MTV	1	N	N
71	General Hospital	Nonpowered Flotation Therapy Mattress	880.5150	I	IKY	2	N	Y
72	General Hospital	Non-AC-Powered Patient Lift	880.5510	I	FSA	2	N	Y
73	General Hospital	Alternating Pressure Air Flotation Mattress	880.5550	II	FNM	1	N	Y
74	General Hospital	Temperature Regulated Water Mattress	880.5560	I	FOH	2	N	Y
75	General Hospital	Hypodermic Single Lumen Needle	880.5570	II	FMI	3	C	N
76	General Hospital	Piston Syringe	880.5860	II	FMF	3	C	N
77	General Hospital	Mattress Cover (Medical Purposes)	880.6190	I	FMW	2	N	Y
78	General Hospital	Disposable Medical Scissors	880.6820	I	JOK	1	N	Y
79	General Hospital	Irrigating Syringe	880.6960	I	KYZ, KYY	1	C	Y
80	Infection Control	Surgical Gowns	878.4040	II	FYA	1	C	N
81	Lab	Blood Lancet	878.4800	I	FMK	1	C	Y
82	Neuro	Clip Forming/Cutting Instrument,	882.4190	I	HBS	3*	C	Y
83	Neuro	Drills, Burrs, Trephines, and Accessories (Manual)	882.4300	II	HBG	3*	C	N
84	Neuro	Drills, Burrs, Trephines, and Accessories (Compound, Powered)	882.4305	II	HBF	3*	C	N
85	Neuro	Drills, Burrs, Trephines, and Accessories (Simple, Powered)	882.4310	II	HBE	3*	C	N
86	OB/GYN	Oocyte Aspiration Needle	Unclassified	II	MHK	3	C	N
87	OB/GYN	Laparoscope Accessories	884.1720	I	HET	2	C	Y

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
88	OB/GYN	Laparoscope Accessories	884.1720	II	HET	3	C	N
89	OB/GYN	Laparoscopic Dissectors	884.1720	I	HET	2	C	Y
90	OB/GYN	Laparoscopic Graspers	884.1720	I	HET	2	C	Y
91	OB/GYN	Laparoscopic Scissors	884.1720	I	HET	2	C	Y
92	OB/GYN	Insufflator Accessories (Tubing, Verres Needle, Kits)	884.1730	II	HIF	3	C	Y
93	OB/GYN	Laparoscopic Insufflator	884.1730	II	HIF	2	N	N
94	OB/GYN	Endoscopic Electrocautery and Accessories	884.4100	II	HIM	2	N	N
95	OB/GYN	Gynecologic Electrocautery (and Accessories)	884.4120	II	HGI	2	N	N
96	OB/GYN	Endoscopic Bipolar Coagulator-Cutter (and Accessories)	884.4150	II	HIN	2	N	N
97	OB/GYN	Culdoscopic Coagulator (and Accessories)	884.4160	II	HFI	2	N	N
98	OB/GYN	Endoscopic Unipolar Coagulator-Cutter (and Accessories)	884.4160	II	KNF	2	N	N
99	OB/GYN	Hysteroscopic Coagulator (and Accessories)	884.4160	II	HFH	2	N	N
100	OB/GYN	Unipolar Laparoscopic Coagulator (and Accessories)	884.4160	II	HFG	2	N	N
101	OB/GYN	Episiotomy Scissors	884.4520	I	HDK	1	C	Y
102	OB/GYN	Umbilical Scissors	884.4520	I	HDJ	1	C	Y
103	OB/GYN	Biopsy Forceps	884.4530	I	HFB	3	C	Y
104	OB/GYN	Assisted Reproduction Needles	884.6100	II	MQE	3	C	N
105	Ophthalmic	Endoilluminator	876.1500	II	MPA	3*	C	N
106	Ophthalmic	Surgical Drapes	878.4370	II	KKX	2	C	N
107	Ophthalmic	Ophthalmic Knife	886.4350	I	HNN	3	C	Y
108	Ophthalmic	Keratome Blade	886.4370	I not exempt	HMY, HNO	3	C	N
109	Ophthalmic	Phacoemulsification Needle	886.4670	II	HQC	3	C	N
110	Ophthalmic	Phacoemulsification/ Phacofragmentation Fluidic	886.4670	II	MUS	2	C	N
111	Ophthalmic	Phacofragmentation Unit	886.4670	II	HQC	1	N	N
112	Ortho	Saw Blades	878.4820	I	GFA, DWH, GEY, GET	1	C	Y
113	Ortho	Surgical Drills	878.4820	I	GEY, GET	1	C	Y
114	Ortho	Arthroscope accessories	888.1100	II	HRX	2	C	Y

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
115	Ortho	Bone Tap	888.4540	I	HWX	1	C	Y
116	Ortho	Burr	888.4540	I	HTT	1	C	Y
117	Ortho	Carpal Tunnel Blade	888.4540	I	LXH	2	C	Y
118	Ortho	Countersink	888.4540	I	HWW	1	C	Y
119	Ortho	Drill Bit	888.4540	I	HTW	1	C	Y
120	Ortho	Knife	888.4540	I	HTS	1	C	Y
121	Ortho	Manual Surgical Instrument	888.4540	I	LXH	1	C	Y
122	Ortho	Needle Holder	888.4540	I	HXK	1	C	Y
123	Ortho	Reamer	888.4540	I	HTO	1	C	Y
124	Ortho	Rongeur	888.4540	I	HTX	1	C	Y
125	Ortho	Scissors	888.4540	I	HRR	1	C	Y
126	Ortho	Staple Driver	888.4540	I	HXJ	1	C	Y
127	Ortho	Trephine	888.4540	I	HWK	1	C	Y
128	Ortho	Flexible Reamers/Drills	886.4070 878.4820	I	GEY, HRG	1	C	Y
129	Ortho	External Fixation Frame	888.3040 888.3030	II	JEC, KTW, KTT	2	N	N
130	Physical Medicine	Non-Heating Lamp for Adjunctive Use Inpatient Therapy	unclassified		NHN	1	N	N
131	Physical Medicine	Electrode Cable	890.1175	II	IKD	1	N	Y
132	Physical Medicine	External Limb Component, Hip Joint	890.3420	I	ISL	2	N	Y
133	Physical Medicine	External Limb Component, Knee Joint	890.3420	I	ISY	2	N	Y
134	Physical Medicine	External Limb Component, Mechanical Wrist	890.3420	I	ISZ	2	N	Y
135	Physical Medicine	External Limb Component, Shoulder Joint	890.3420	I	IQQ	2	N	Y
136	Plastic Surgery	Stapler	878.4800	I	GAG, GEF, FHM, HBT	2	C	Y
137	Radiology	Isotope Needle	892.5730	II	IWF	3	C	N
138	Resp	Endotracheal Tube Changer	unclassified	III	LNZ	3	C	N
139	Resp	Anesthesia conduction needle	868.5150	II	BSP	3	C	N
140	Resp	Short term spinal needle	868.5150	II	MIA	3	C	N
141	Resp	Respiratory Therapy and Anesthesia Breathing Circuits	868.5240	I	CAI	2	S	Y
142	Resp	Oral and Nasal Catheters	868.5350	I	BZB	1	C	Y
143	Resp	Gas Masks	868.5550	I	BSJ	1	S	Y
144	Resp	Breathing Mouthpiece	868.5620	I	BYP	1	N	Y

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
145	Resp	Tracheal Tube	868.5730	II	BTR	3	C	N
146	Resp	Airway Connector	868.5810	I	BZA	2	S	Y
147	Resp	CPAP Mask	868.5905	II	BZD	3	S	N
148	Resp	Emergency Manual Resuscitator	868.5915	II	BTM	2	S	N
149	Resp	Tracheobronchial Suction Catheter	868.6810	I	BSY	3	S	Y
150	Surgery	AC-Powered Orthopedic Instrument and Accessories	unclassified		HWE	2	C	N
151	Surgery	Breast Implant Mammary Sizer	unclassified		MRD	1	C	N
152	Surgery	Ultrasonic Surgical Instrument	unclassified		LFL	3	C	N
153	Surgery	Trocar	874.4420	I	KAB, KBG, KCI	3	C	Y
154	Surgery	Endoscopic Blades	876.1500	II	GCP, GCR	2	C	N
155	Surgery	Endoscopic Guidewires	876.1500	II	GCP, GCR	1	C	N
156	Surgery	Inflatable External Extremity Splint	878.3900	I	FZF	1	N	Y
157	Surgery	Noninflatable External Extremity Splint	878.3910	I	FYH	1	N	Y
158	Surgery	Catheter Needle	878.4200	I	GCB	3	C	Y
159	Surgery	Implantable Clip	878.4300	II	FZP	3	C	N
160	Surgery	Electrosurgical and Coagulation Unit With Accessories	878.4400	II	BWA	2	C	N
161	Surgery	Electrosurgical Apparatus	878.4400	II	HAM	2	C	N
162	Surgery	Electrosurgical Cutting and Coagulation Device and Accessories	878.4400	II	GEI	2	C	N
163	Surgery	Electrosurgical Device	878.4400	II	DWG	2	C	N
164	Surgery	Electrosurgical Electrode	878.4400	II	JOS	2	C	N
165	Surgery	Implantable Staple, Clamp, Clip for Suturing Apparatus	878.4750	II	GDW	3	C	N
166	Surgery	Percutaneous Biopsy Device	878.4800	I	MJG	3	C	Y
167	Surgery	Gastro-Urology Needle	878.4800	I	FHR	3	C	Y
168	Surgery	Aspiration and Injection Needle	878.4800	I	GAA	3	C	Y
169	Surgery	Biopsy Brush	878.4800	I	GEE	1	C	Y
170	Surgery	Blood Lancet	878.4800	I	FMK	1	C	Y
171	Surgery	Bone Hook	878.4800	I	KIK	1	C	Y
172	Surgery	Cardiovascular Biopsy Needle	878.4800	I	DWO	3	C	Y
173	Surgery	Clamp	878.4800	I	GDJ	1	C	Y
174	Surgery	Clamp	878.4800	I	HXD	1	C	Y

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
175	Surgery	Curette	878.4800	I	HTF	1	C	Y
176	Surgery	Disposable Surgical Instrument	878.4800	I	KDC	1	C	Y
177	Surgery	Disposable Vein Stripper	878.4800	I	GAJ	1	C	Y
178	Surgery	Dissector	878.4800	I	GDI	1	C	Y
179	Surgery	Forceps	878.4800	I	GEN	2	C	Y
180	Surgery	Forceps	878.4800	I	HTD	2	C	Y
181	Surgery	Gouge	878.4800	I	GDH	1	C	Y
182	Surgery	Hemostatic Clip Applier	878.4800	I	HBT	2	C	Y
183	Surgery	Hook	878.4800	I	GDG	1	C	Y
184	Surgery	Manual Instrument	878.4800	I	MDM, MDW	1	C	Y
185	Surgery	Manual Retractor	878.4800	I	GZW	1	C	Y
186	Surgery	Manual Saw and Accessories	878.4800	I	GDR, HAC	1	C	Y
187	Surgery	Manual Saw and Accessories	878.4800	I	HAC	1	C	Y
188	Surgery	Manual Surgical Chisel	878.4800	I	FZO	1	C	Y
189	Surgery	Mastoid Chisel	878.4800	I	JYD	1	C	Y
190	Surgery	Orthopedic Cutting Instrument	878.4800	I	HTZ	1	C	Y
191	Surgery	Orthopedic Spatula	878.4800	I	HXR	1	C	Y
192	Surgery	Osteotome	878.4800	I	HWM	1	C	Y
193	Surgery	Rasp	878.4800	I	GAC	1	C	Y
194	Surgery	Rasp	878.4800	I	HTR	1	C	Y
195	Surgery	Retractor	878.4800	I	GAD	1	C	Y
196	Surgery	Retractor	878.4800	I	HXM	1	C	Y
197	Surgery	Saw	878.4800	I	HSO	1	C	Y
198	Surgery	Scalpel Blade	878.4800	I	GES	1	C	Y
199	Surgery	Scalpel Handle	878.4800	I	GDZ	1	C	Y
200	Surgery	Scissors	878.4800	I	LRW	1	C	Y
201	Surgery	Snare	878.4800	I	GAE	1	C	Y
202	Surgery	Spatula	878.4800	I	GAF	1	C	Y
203	Surgery	Staple Applier	878.4800	I	GEF	2	C	Y
204	Surgery	Stapler	878.4800	I	GAG	2	C	Y
205	Surgery	Stomach and Intestinal Suturing Apparatus	878.4800	I	FHM	2	C	Y
206	Surgery	Surgical Curette	878.4800	I	FZS	1	C	Y
207	Surgery	Surgical Cutter	878.4800	I	FZT	1	C	Y
208	Surgery	Surgical Knife	878.4800	I	EMF	1	S	Y
209	Surgery	Laser Powered Instrument	878.4810	II	GEX	2	C	N

ATTACHMENT 1—LIST OF SUDS KNOWN TO BE REPROCESSED OR CONSIDERED FOR REPROCESSING JUNE 26, 2003—Continued

	Medical specialty	Device type	21 CFR section	Class	Product code	Risk*	Critical/semi-critical/noncritical	Premarket exempt
210	Surgery	Ac-Powered Motor	878.4820	I	GEY	2	C	Y
211	Surgery	Bit	878.4820	I	GFG	1	C	Y
212	Surgery	Bur	878.4820	I	GFF, GEY	1	C	Y
213	Surgery	Cardiovascular Surgical Saw Blade	878.4820	I	DWH	1	C	Y
214	Surgery	Chisel (Osteotome)	878.4820	I	KDG	1	C	Y
215	Surgery	Dermatome	878.4820	I	GFD	1	C	Y
216	Surgery	Electrically Powered Saw	878.4820	I	DWI	2	C	Y
217	Surgery	Pneumatic Powered Motor	878.4820	I	GET	2	C	Y
218	Surgery	Pneumatically Powered Saw	878.4820	I	KFK	2	C	Y
219	Surgery	Powered Saw and Accessories	878.4820	I	HAB	2	C	Y
220	Surgery	Saw Blade	878.4820	I	GFA	1	C	Y
221	Surgery	Nonpneumatic Tourniquet	878.5900	I	GAX	1	N	Y
222	Surgery	Pneumatic Tourniquet	878.5910	I	KCY	1	N	Y
223	Surgery	Endoscopic Staplers	888.4540	I	HXJ	2	C	Y
224	Surgery	Trocar	876.1500 870.1390	II	GCJ, DRC	3	C	N
225	Surgery	Surgical Cutting Accessories	878.4800 874.4420	I	GDZ, GDX, GES, KBQ, KAS	2	C	Y
226	Surgery	Electrosurgical Electrodes/Handles/Pencils	876.4300 878.4400	II	HAM, GEI, FAS	2	C	N
227	Surgery	Scissor Tips	878.4800 884.4520 874.4420	I	LRW, HDK, HDJ, JZB, KBD	2	C	Y
228	Surgery	Laser Fiber Delivery Systems	878.4810 874.4500 886.4390 884.4550 886.4690	II	GEX, EWG, LLW, HQF, HHR, HQB	1	C	N

[1] N means no.
[2] Y means yes.
† Indicates a change since last publication.

Dated: June 20, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16109 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0236]

Draft ''Guidance for Industry: Revised Recommendations for Donor and Product Management Based on Screening Tests for Syphilis;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Revised Recommendations for Donor and Product Management Based on Screening Tests for Syphilis'' dated June 2003. The draft guidance document provides recommendations for testing donors of blood and blood components for syphilis, and for recommended actions based on those test results. The

recommendations described in the document are for blood establishments that use either nontreponemal-based or treponemal-based screening assays to test donors for serological evidence of syphilis infection. These recommendations, when finalized, will replace previous recommendations contained in a Memorandum to Registered Blood Establishments dated December 12, 1991.

DATES: Submit written or electronic comments on the draft guidance by September 24, 2003, to ensure their adequate consideration in preparation of the final guidance. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Joseph L. Okrasinski, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Revised Recommendations for Donor and Product Management Based on Screening Tests for Syphilis'' dated June 2003. The draft guidance document provides specific recommendations for donor testing and management, and product disposition when using screening tests for syphilis. The recommendations are for blood establishments that use either nontreponemal-based or treponemal-based screening assays for serological evidence of syphilis infection. These recommendations, when finalized, will replace the previous recommendations contained in a Memorandum to Registered Blood Establishments dated December 12, 1991.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance document represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: June 18, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–16241 Filed 6–25–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Comment Request

Action: 60-day notice of information collection under review; Report of Compliant; Form I–847.

The Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 25, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Complaint.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–847. Border Patrol Division, Bureau of Customs and Border Protection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to establish a record of complaint and to initiate an investigation of misconduct by an officer of the DHS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 63 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or

additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, 425 I Street, NW., Room 4304, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Lewis Oleinick, Department Clearance Officer, U.S. Department of Homeland Security, 1800 G Street, NW., 10th Floor, Washington, DC 20530.

Dated: June 12, 2003.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–16134 Filed 6–25–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day notice of information collection under review; Visa Waiver Program Carrier Agreement; Form I–775.

The Department of Homeland Security (DHS), and the Bureau of Immigration and Customs Services (ICE) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 25, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 clarify 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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Visa Waiver Program Carrier Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–775, Bureau of Customs and Border Protection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The agreement between a transportation company and the United States is needed to ensure that the transportation company will remain responsible for the aliens it transports to the United States under the Visa Waiver Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4034, 415 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Homeland Security, 1800 G Street, NW., 10th Floor, NW., Washington, DC 20530.

Dated: June 12, 2003

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Bureau of Immigration and Customs Enforcement.

[FR Doc. 03–16135 Filed 6–25–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–35]

Notice of Submission of Proposed Information Collection to OMB: Opinion of Counsel to the Mortgagor

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 28, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2510–0010) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5)

the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also Lists the Following Information

Title of Proposal: Opinion of Counsel to the Mortgagor.

OMB Approval Number: 2510–0010.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The opinion is required to provide comfort to HUD and the mortgagee in multifamily rental and health care facility mortgage insurance transactions and similarly to HUD and owners in the capital advance transactions.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	700	1		1		700

Total Estimated Burden Hours: 700.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 19, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–16157 Filed 6–25–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–34]

Notice of Submission of Proposed Information Collection to OMB: Annual Progress Report (APR) for Competitive Homeless Assistance Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 28, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0145) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also Lists the Following Information

Title of Proposal: Annual Progress Report (APR) for Competitive Homeless Assistance Programs.

OMB Approval Number: 2506–0145.

Form Numbers: HUD–40118.

Description of the Need for the Information and its Proposed Use: The Annual Progress Report (APR) tracks competitive homeless assistance program progress and is used to provide grant recipients and HUD with information necessary to assess program and grantee performance. The request for renewed approval to collect the information outlines a number of changes to the progress report.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	6,000	1		33		198,000

Total Estimated Burden Hours: 198,000.

Status: Revision of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 20, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–16158 Filed 6–25–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4815–N–36]

Notice of Submission of Proposed Information Collection to OMB: Budget-Based Rent Increase

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 28, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0324) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also Lists the Following Information

Title of Proposal: Budget-Based Rent Increase.

OMB Approval Number: 2502–0324.

Form Numbers: HUD–92547–A.

Description of the Need for the Information and its Proposed Use: Owners of certain cooperative and subsidized rental projects are required to submit a Budget Worksheet when requesting rent increases. HUD Field Office's review and evaluate the amount and reasonableness of the requested increase.

Respondents: Not-for-profit-institutions.

Frequency of Submission: Other. Upon a request to increase rents in the project.

	Number of respondents	Annual responses	×	Hours per response	Burden = hours
Reporting Burden	12,500	1		2.5	31,250

Total Estimated Burden Hours: 31,250.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 20, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–16159 Filed 6–25–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act of 1990; Amendments to the John H. Chafee Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, have replaced one John H. Chafee Coastal Barrier Resources System map in Virginia, as directed by Congress. We are using this notice to inform the public about the distribution and availability of the replacement map.

DATES: The replacement map became effective on February 20, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin N. Tuggle, Department of the Interior, U.S. Fish and Wildlife Service, Division of Federal Program Activities, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

In 1982, Congress passed the Coastal Barrier Resources Act (Pub. L. 97–348) to restrict Federal spending on undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts. In the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591), Congress amended the 1982 Act to broaden the definition of a coastal barrier, and approved a series of maps entitled ''John H. Chafee Coastal Barrier Resources System'' dated October 24, 1990. These maps identify and depict those coastal barriers located on the coasts of the Atlantic Ocean, Gulf of Mexico, Great

Lakes, Virgin Islands, and Puerto Rico that are subject to the Federal funding limitations outlined in the Act.

The Act also defines our responsibilities regarding the System maps. We have official custody of these maps and prepare and distribute copies. In the **Federal Register** on June 6, 1991 (56 FR 26304), we published a notice of the filing, distribution, and availability of the maps entitled ''John H. Chafee Coastal Barrier Resources System'' dated October 24, 1990. We have announced all subsequent map revisions in the **Federal Register**.

Revisions to the John H. Chafee Coastal Barrier Resources System in Virginia

Division F, Title I, Section 155 of Public Law 108–7, enacted on February 20, 2003, replaced the map relating to Plum Island Unit VA–59P and Long Creek Unit VA–60/VA–60P in Poquoson and Hampton, Virginia, with a revised map titled ''John H. Chafee Coastal Barrier Resources System, Plum Tree Island Unit VA–59P, Long Creek Unit VA–60/VA–60P.'' The changes to the map ensure that the boundary of VA–60P follows lands protected by the City of Hampton.

How To Get Copies of the Maps

The Service has given a copy of the replacement map to the House of Representatives (House) Committee on Resources, the House Committee on Banking and Financial Services, the Senate Committee on Environment and Public Works, and each appropriate Federal, State, or local agency with jurisdiction over the areas.

You can purchase copies of System maps from the U.S. Geological Survey, Earth Science Information Center, PO Box 25286, Mail Stop 517, Denver, Colorado 80225. The cost is $10.00 per map, plus a $5.00 shipping and handling fee for the entire order. Maps can also be viewed at the following Service offices:

Washington Office—all System maps

U.S. Fish and Wildlife Service, Division of Federal Program Activities, 4401 N. Fairfax Drive, Room 400, Arlington, Virginia 22203, (703) 358–2183.

Northeast Regional Office—all System maps for ME, CT, MA, RI, NY, NJ, DE, MD, VA

Region 5, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589, (413) 253–8200.

Field Office—System maps for Virginia

Field Supervisor, U.S. Fish and Wildlife Service, 6669 Short Lane, Gloucester, Virginia 23061, (804) 693–6694.

Dated: June 2, 2003.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

(Notice: Coastal Barrier Improvement Act of 1990; Amendments to the John H. Chafee Coastal Barrier Resources System)

[FR Doc. 03–16153 Filed 6–25–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–PH; GP3–0206]

Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Washington Resource Advisory Council (RAC), will meet as indicated below.

DATES: The Eastern Washington Resource Advisory Council (EWRAC) will meet on July 25, 2003, at the Spokane District Office, Bureau of Land Management, 1103 North Fancher Road, Spokane, Washington 99212–1275.

SUPPLEMENTARY INFORMATION: The meeting will start at 9 a.m. and adjourn about 4 p.m. Topics on the meeting agenda include:

- Update on Spokane District's management programs.
- Report from RAC Chair on meeting attended in April in Washington, DC.
- Upcoming Joint OR/WA RAC meeting in September in Oregon.

The RAC meeting is open to the public, and there will be an opportunity for public comment between 11 a.m. and 12 noon. Information to be distributed to Council members for their review is requested in written format 10 days prior to the Council meeting date.

FOR FURTHER INFORMATION CONTACT: Sandra Gourdin or Kathy Helm, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington 99212 or call (509) 536–1200.

Dated: June 20, 2003.

Kevin R. Devitt,

Acting District Manager.

[FR Doc. 03–16148 Filed 6–25–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–03–1420–BJ]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

SUPPLEMENTARY INFORMATION:

Indian Meridian, Oklahoma

T. 7 N., R. 12 W., approved April 1, 2003, for Group 62 OK;
T. 13 N., R. 23 E., approved June 16, 2003, for Group 95 OK;

Supplemental Plat for

T. 27 N., R. 10 W., approved June 2, 2003, for OK;

Informative Traverse for

T. 7 S., R. 10 W., approved April 17, 2003, NM; for Group 967 NM;

Protraction Diagrams for

T. 18 S., R. 10 E., approved June 12, 2003, NM;
T. 17 S., R. 10 E., approved June 16, 2003, NM;
T. 10 S., R. 11 E., approved June 12, 2003, NM;

New Mexico Principal Meridian, New Mexico

T. 10 S., R. 9 W., approved May 29, 2003, for Group 915 NM;
T. 23 N., R. 6 W., approved April 29, 2003, for Group 1002 NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final of appeals form the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish a protest.

A statement of reasons for a protest may be filed with the notice of protest

to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management. PO Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: June 17, 2003.

Robert A. Casias,

Chief Cadastral Surveyor.

[FR Doc. 03–16180 Filed 6–25–03; 8:45 am]

BILLING CODE 4310–FE–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1034 and 1035 (Preliminary)]

Certain Color Television Receivers From China and Malaysia

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Malaysia of certain color television receivers, provided for in subheadings 8528.12.28, 8528.12.32, 8528.12.36, 8528.12.40, 8528.12.44, 8528.12.48, 8528.12.52, and 8528.12.56 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On May 2, 2003, a petition was filed with the Commission and Commerce by Five Rivers Electronic Innovations, LLC, Greeneville, TN, the International Brotherhood of Electrical Workers (''IBEW''), Washington, DC, and the IUE–CWA, the Industrial Division of the Communications Workers of America, Washington, DC, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of LTFV imports of certain color television receivers from China and Malaysia. Accordingly, effective May 2, 2003, the Commission instituted antidumping duty investigations Nos. 731–TA–1034 and 1035 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 13, 2003 (68 FR 25627). The conference was held in Washington, DC, on May 23, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 16, 2003. The views of the Commission are contained in USITC Publication 3607 (June 2003), entitled *Certain Color Television Receivers from China and Malaysia: Investigations Nos. 731–TA–1034 and 1035 (Preliminary).*

By Order of the Commission.

Issued: June 18, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–16173 Filed 6–25–03; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Deanna Tanner Okun did not participate in these investigations.

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Extension of a currently approved collection application for restoration of firearms privileges.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, firearms and Explosives (ATF) 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 68, number 74, page 19008 on April 17, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 28, 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.

Overviews of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Application For Restoration of Firearms Privileges.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: ATF F3210.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. *Primary:* Individuals or households. *Other:* business or other for-profit. *Abstract:* Certain categories of persons are prohibited from possessing firearms. ATF F3210.1, Application for

Restoration of Firearms Privileges is the basis for ATF investigating the merits of an applicant to have his/her rights restored.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 250 respondents, who will complete the worksheet within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* The total annual public burden hours for this information collection is estimated to 125 hours.

If additional information is required contact 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.

Dated: June 20, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–16169 Filed 6–25–03; 8:45 am]

BILLING CODE 4410–FB–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection, ATF distribution center contractor survey.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 68, Number 75, page 19226 on April 18, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 28, 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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* ATF Distribution Center Contractor Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 1370.4. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: Individuals or households. *Abstract:* The information provided on the form is used to evaluate the ATF Distribution Center contractor and the services it provides the users of ATF forms and publications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 21,000 respondents, who will complete the form within approximately 1 minute.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 200 total burden hours associated with this 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: June 20, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–16170 Filed 6–25–03; 8:45 am]

BILLING CODE 4410–FB–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. National Council on Problem Gambling, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *National Council on Problem Gambling, Inc.* (''NCPG''), Civil Action No. 1:03 CV 01279. On June 13, 2003, the United States filed a Complaint to obtain equitable and other relief to prevent and restrain violations of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1. The United States brought this action to enjoin NCPG from engaging in an allocation along state lines for the provision of problem gambling services in the United States. The proposed Final Judgment, filed at the same time as the Complaint, requires NCPG to eliminate the anticompetitive conduct identified in the Complaint.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the U.S. Department of Justice in Washington, DC in Room 215, 325 Seventh Street, NW., and at the Office of the Clerk of the United States District Court for the District of Columbia, Washington, DC.

Public comment is invited within sixty (60) days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court.

Comments should be directed to Marvin N. Price, Jr., Chief, Chicago Field Office, Antitrust Division, U.S. Department of Justice, 209 S. LaSalle Street, Suite 600, Chicago, IL 60604, (telephone: (312) 353–7530).

Constance K. Robinson,

Director of Operations.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

1. A Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. Defendant shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

3. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

4. For purposes of this Stipulation and the accompanying Final Judgment only, defendant stipulates that: (i) The Complaint states a claim upon which relief may be granted under Section 1 of the Sherman Act; (ii) the Court has jurisdiction over the subject matter of this action and over each of the parties hereto; and (iii) venue of this action is proper in this Court.

5. In the event plaintiff withdraws its consent, as provided in paragraph (1) above, or in the event that the Court declines to enter the proposed Final Judgment pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendant represents that the undertakings ordered in the proposed Final Judgment can and will be satisfied, and that defendant will not later raise claims of hardship or difficulty as grounds for asking the Court to modify any of the undertakings contained therein.

Dated: June 13, 2003.

For Plaintiff United States of America

R. Hewitt Pate,
Acting Assistant Attorney General.

Deborah P. Majoras,
Deputy Assistant Attorney General.

Constance K. Robinson,
Director of Operations.

Marvin N. Price, Jr.,
Chief, Chicago Field Office.

Frank J. Vondrak,
Assistant Chief, Chicago Field Office.

Rosemary Simota Thompson,
Attorney, Chicago Field Office, IL Bar #6204990.

Attorneys, Department of Justice, Antitrust Division, 209 S. LaSalle Street, Suite 600, Chicago, Illinois 60604. Telephone: (312) 353–7530. Facsimile: (312) 353–1046.

For Defendant NCPG, Inc.

Sanford M. Saunders, Jr., Greenberg Traurig, LP,
800 Connecticut Avenue, NW., Suite 500, Washington, DC 20006. Telephone: (202) 331–3130. Facsimile: (202) 261–0150.

Final Judgment

Plaintiff, United States of America, filed its Complaint on June 13, 2003. Plaintiff and defendant, National Council on Problem Gambling, Inc. (''NCPG''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not constitute any evidence against or an admission by any party with respect to any issue of fact or law herein.

Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

Ordered, adjudged, and decreed, as follows:

I. Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act, 15 U.S.C. 1. Venue is proper in the District Court for the District of Columbia.

II. Definitions

As used in this Final Judgment:

A. ''Agreement'' means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons, at least one of which is the NCPG or a member of the NCPG.

B. ''And'' means and/or.

C. ''Any'' means one or more. The term is mutually interchangeable with ''all'' and each term encompasses the other.

D. ''Certification'' means NCPG's formal approval or endorsement of training programs for problem or compulsive gambling counselors.

E. ''Communication'' means any disclosure, transfer, or exchange of information or opinion, however made.

F. ''Customer'' means any person, whether governmental or private, including casinos, Indian tribes and other entities, who sponsors, funds, arranges, purchases, solicits, or facilitates the procurement of any problem gambling services.

G. ''Including'' means including, but not limited to.

H. ''Member'' means any person who is an organizational, individual, affiliate or any other type of member of the NCPG.

I. ''NCPG'' or ''defendant'' means the National Council on Problem Gambling, Inc.; any parent, predecessor, or successor of that organization; any joint venture to which such organization is or was a party; and each officer, director, employee, attorney, agent, representative, consultant, or other person acting on behalf of any of them.

J. ''Person'' means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental.

K. ''Problem gambling services'' means all services relating to the treatment or prevention of problem or compulsive gambling, including dissemination of information regarding problem gambling, telephonic hot-line or help-line services, training of problem gambling counselors, certification of various problem gambling training programs, and provision of any product or service aimed at assisting problem gamblers.

L. ''Problem gambling services provider'' (''PGSP'') means any person involved in the provision of problem gambling services, including the NCPG and any NCPG member.

M. ''Relating to'' or ''relate to'' means containing, constituting, considering, comprising, concerning, discussing, regarding, describing, reflecting, studying, commenting or reporting on, mentioning, analyzing, or referring, alluding, or pertaining to, in whole or in part.

N. ''Selling'' means offering for sale or actual sales of any problem gambling services.

O. ''Year'' means calendar year or the twelve-month period on which business records are based.

III. Applicability

A. Final Judgment applies to defendant and to those persons in active concert or participation with defendant who receive actual notice of this Final Judgment by personal service or otherwise, including each of defendant's officers, directors, agents, employees, successors, and assigns.

B. Defendant shall require, as a condition of any merger, reorganization, or acquisition by any other organization, that the organization to which defendant is to be merged or reorganized, or by which it is to be acquired, agree to be bound by the provisions of this Final Judgment.

C. Nothing contained in this Final Judgment is intended to suggest or imply that any provision herein is or has been created or intended for the benefit of any third party and nothing herein shall be construed to provide any right to any third party.

IV. Prohibited Conduct

Defendant is hereby enjoined from directly or indirectly:

A. Initiating, adopting, or pursuing any agreement, program, or policy that has the purpose or effect of prohibiting or restraining any PGSP from engaging in the following practices: (1) selling problem gambling services in any state or territory or to any customer; or (2) submitting competitive bids in any state or territory or to any customer.

B. Adopting, disseminating, publishing, seeking adherence to, facilitating, or enforcing any agreement, code of ethics, rule, bylaw, resolution, policy, guideline, standard, certification, or statement that has the purpose or effect of prohibiting or restraining any PGSP from engaging in any of the practices identified in Section IV(A) above, or that states or implies that any of these practices are, in themselves, unethical, unprofessional, or contrary to the policy of the NCPG.

C. Adopting, disseminating, publishing, seeking adherence to, facilitating, or enforcing any standard or policy that has the purpose or effect of:

(1) Requiring that any PGSP obtain permission from, inform, or otherwise consult with any other PGSP before selling problem gambling services or submitting bids for the provision of problem gambling services in any state or territory or to any customer;

(2) requiring that any PGSP contract with, provide a fee or a portion of revenues to, or otherwise remunerate any other PGSP as a result of selling problem gambling services in any state or territory or to any customer;

(3) sanctioning, penalizing or otherwise retaliating against any PGSP for competing with any other PGSP; or

(4) creating or facilitating an agreement not to compete between two or more PGSPs.

V. Permitted Conduct

A. Nothing in this Final Judgment shall prohibit any NCPG member, acting alone and not on behalf of or in common with defendant or any of defendant's officers, directors, agents, employees, successors, or assigns, from negotiating any lawful terms of its business relationship with any national, state, or local government entity, or any private entity.

B. Provided that such activities do not violate any provision contained in Section IV above, nothing in this Final Judgment shall prohibit any NCPG member from working with another person in a valid joint venture.

C. Provided that such activities do not violate any provision contained in Section IV above, nothing in this Final Judgment shall prohibit the NCPG from sanctioning or terminating a member according to a process described in the NCPG by-laws.

VI. Notification Provisions

Defendant is ordered and directed to:

A. Publish the Final Judgment and a written notice, in the form attached as Appendix A to this Final Judgment, in Card Player magazine within 60 days of the entry of this Final Judgment.

B. Send a written notice, in the form attached as Appendix A to this Final Judgment, to each current member of NCPG within 30 days of the entry of this Final Judgment.

C. Send a written notice, in the form attached as Appendix A to this Final Judgment, to each person who becomes a member of NCPG within 10 years of entry of this Final Judgment. Such notice shall be sent within 30 days after the person becomes a member of NCPG.

VII. Compliance Program

Defendant is ordered to establish and maintain an antitrust compliance program which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance Officer shall not be an officer or a director of an affiliate of the NCPG. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment and the related Competitive Impact Statement within 30 days of entry of the Final Judgment to each of defendant's officers, directors, and employees, except for employees whose functions are purely clerical or manual and do not address issues related to the provision of problem gambling services.

B. Furnishing within 30 days a copy of this Final Judgment and the related Competitive Impact Statement to any person who succeeds to a position described in Section VII(A).

C. Arranging for an annual briefing to each person designated in Section VII(A) or VII(B) on the meaning and requirements of this Final Judgment and the antitrust laws.

D. Obtaining from each person designated in Section VII(A) or VII(B), certification that he or she: (1) Has read and, to the best of his or her ability, understands and agrees to abide by the terms of this Final Judgment; (2) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer; and (3) understands that any person's failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court against NCPG.

E. Maintaining: (1) A record of certifications received pursuant to this Section; (2) a file of all documents related to any alleged violation of this Final Judgment; and (3) a record of all communications related to any such violation, which shall identify the date and place of the communication, the persons involved, the subject matter of the communication, and the results of any related investigation.

F. Conducting a program at each annual meeting of the NCPG on this Final Judgment and the antitrust laws.

G. Reviewing codes of ethics, rules, bylaws, resolutions, guidelines, agreements, and policy statements to ensure adherence with this Final Judgment.

H. Reviewing the purpose for the information or creation of each committee and subcommittee of the NCPG in order to ensure its adherence with this Final Judgment.

I. Attending all meetings of the NCPG's affiliate committee and viewing the proceedings to ensure adherence with this Final Judgment.

VIII. Certification

A. Within 60 days after the entry of this Final Judgment, defendants shall certify to the plaintiff that they have designated an Antitrust Compliance Officer and have distributed the Final Judgment and related Competitive Impact Statement in accordance with Section VII above.

B. For 10 years after the entry of this Final Judgment, on or before its anniversary date, defendant shall file with plaintiff an annual statement as to the fact and manner of its compliance with the provisions of Sections VI and VII, and of any potential violations of the terms and conditions contained in this Final Judgment.

C. If defendant's Antitrust Compliance Officer learns of any violations of any of the terms and conditions contained in this Final Judgment, defendant shall immediately take appropriate action to terminate or modify the activity so as to comply with this Final Judgment.

IX. Plaintiff's Access

A. For the purpose of determining or securing compliance with this Final Judgment or determining whether this Final Judgment should be modified or terminated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Antitrust Division of the United States Department of Justice, including consultants and other persons retained by the United States, shall upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, be permitted:

1. Access during defendant's office hours to inspect and copy, or at plaintiff's option, to require defendants to provide copies of all books, ledgers, accounts, records, and documents in the possession, custody, or control of defendant, relating to any matters contained in this Final Judgment; and

2. To interview, either formally or on the record, defendant's officers, directors, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendant.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of Antitrust Division, defendant shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the plaintiff to any person other than an authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies, in writing, the material in any such information or documents to which a claim of protection may be asserted under Rule 26 (c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, ''subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 10-days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which NCPG is not a party.

X. Duration of the Final Judgment

XI. Construction, Enforcement, Modification, and Compliance

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate for the constructions or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Appendix A

On June 13, 2003, the Antitrust Division of the United States Department of Justice filed a civil suit alleging that the National Council on Problem Gambling, Inc. (''NCPG'') had engaged in certain practices that violated Section 1 of the Sherman Antitrust Act. NCPG has agreed to the entry of a civil consent order to settle this matter. The consent order does not constitute evidence or admission by any party with respect to any issue of fact or law. The consent order applies to NCPG and all of its officers, directors, employees, agents, and assigns.

Under the consent order, NCPG is prohibited from directly or indirectly initiating, adopting, or pursuing any agreement, program, or policy that has the purpose or effect of prohibiting or restraining any Problem Gambling Service Provider (''PGSP'') from: (1) Selling problem gambling services in any state or territory or to any customer; or (2) submitting competitive bids in any state or territory or to any customer. The NCPG is also prohibited from directly or indirectly adopting, disseminating, publishing, seeking adherence to or facilitating any agreement, code of ethics, rule, bylaw, resolution, policy, guideline, standard, certification, or statement made or ratified by an official that has the purpose or effect of prohibiting or restraining any PGSP from engaging in any of the above practices, or that states or implies that any of these practices are, in themselves, unethical, unprofessional, or contrary to the policy of the NCPG.

The consent order further provides that the NCPG is prohibited from adopting or enforcing any standard or policy that has the purpose or effect of: (1) Requiring that any PGSP obtain permission from, inform, or otherwise consult with another PGSP before selling problem gambling services or submitting bids for the provision of problem gambling services in any state or territory or to any customer; or (2) requiring that any PGSP contract with, provide a fee or a portion of revenues to, or otherwise remunerate any other PGSP as a result of selling problem gambling services in any state or territory or to any customer. Finally, the NCPG is prohibited from adopting or enforcing any standard or policy or taking any action that has the purpose or effect of: (1) Sanctioning, penalizing or otherwise retaliating against any PGSP for competing with any other PGSP; or (2) creating or facilitating an agreement not to compete between two or more PGSP.

The consent order does not prohibit the NCPG from negotiating any terms of its business relationship with any national, state, or local government entity, or any private entity. It also does not prohibit the NCPG member from working with another person in a valid joint venture to meet the needs of problem gamblers in ways that do not otherwise violate the consent order. Finally, it does not prohibit the NCPG from sanctioning or terminating a member pursuant to its by-laws, as long as such action does not otherwise violate the consent order.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Room 200, 325 Seventh Street, NW., and at the Office of the Clerk of the United States District Court for the District of Columbia in Washington, DC.

Newspaper Notice

Take notice that a proposed Final Judgment has been filed in a civil antitrust case, *United States of America* v. *National Council on Problem Gambling, Inc.* (''NCPG''), Civil No. ____. On _____, the United States filed a Complaint to obtain equitable and other relief to prevent and restrain violations of Section 1 of the

Sherman Act, as amended, 15 U.S.C. 1. The United States brought this action to enjoin NCPG from engaging in a territorial allocation along state lines for the provision of problem gambling services in the United States. The proposed Final Judgment, filed at the same time as the Complaint, requires NCPG to eliminate the anticompetitive conduct identified in the Complaint. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, the industry, and the remedies available to private litigants who may have been injured by the alleged violation. Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC, in Room 200, 325 Seventh Street, NW., and the Office of the Clerk of the United States District Court for the District of Columbia, Washington, DC.

Interested persons may address comments to Marvin N. Price, Jr., Chief, Chicago Field Office, Antitrust Division, U.S. Department of Justice, 209 S. LaSalle Street, Suite 600, Chicago, IL 60604, (telephone: (312) 353–7530), within sixty (60) days of the date of this notice.

Competitive Impact Statement

The United States of America, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On June 13, 2003, the United States filed a civil antitrust Complaint alleging that the National Council on Problem Gambling, Inc. (''NCPG'') had violated Section 1 of the Sherman Act, 15 U.S.C. 1. The NCPG is a national trade association controlled by its state affiliates. Its activities are directed toward advancing the interest of its state affiliates who offer products and services to address the social problem of compulsive gambling. The NCPG does not distribute products or services through its affiliates. All NCPG officers except one where elected from the ranks of its state affiliates, which control the NCPG board of directors.

The Complaint alleges that, from at least 1995 until at least 2001, the NCPG orchestrated an unlawful territorial allocation of problem gambling products and services along state lines. On June 13, 2003, the Untied States and the NCPG filed a Stipulation in which they consented to the entry of a proposed Final Judgment that requires the NCPG to eliminate the anticompetitive conduct identified in the Complaint.

Under the Final Judgment, the NCPG is prohibited from directly or indirectly initiating, adopting, or pursuing any agreement, program, or policy that has the purpose or effect of prohibiting or restraining any Problem Gambling Service Provider (''PGSP'') from engaging in any of the following practices: (1) Selling problem gambling services in any state or territory or to any customer; or (2) Submitting competitive bids in any state or territory or to any customer. Under the Final Judgment and thereafter, ''problem gambling services'' include all services relating to the treatment or prevention of problem or compulsive gambling, including dissemination of information regarding problem gambling, telephonic hot-line or help-line services, training of problem gambling counselors, certification of various problem gambling training programs, and provision of any product or service aimed at assisting problem gamblers. The NCPG is also prohibited from directly or indirectly adopting, disseminating, publishing, seeking adherence to, facilitating, or enforcing any agreement, code of ethics, rule, bylaw, resolution, policy, guideline, and standard, certification or statement that has the purpose or effect of prohibiting or restraining any PGSP from engaging in any of the above practices, or that states or implies that any of these practices are, in themselves, unethical, unprofessional, or contrary to the policy of the NCPG.

The Final Judgment further prohibits the NCPG from adopting, disseminating, publishing, seeking adherence to, facilitating, or enforcing any standard or policy that has the purpose or effect of: (1) Requiring that any PGSP obtain permission from, inform, or otherwise consult with any other PGSP before selling problem gambling services or submitting bids for the provision of problem gambling services in any state or territory or to any customer; or (2) requiring that any PGSP contract with, provide a fee or a portion of revenues to, or otherwise remunerate any other PGSP as a result of selling problem gambling services in any state or territory or to any customer. Finally, the NCPG is prohibited from adopting or enforcing any standard or policy or taking any action that has the purpose or effect of: (1) Sanctioning, penalizing or otherwise retaliating against any PGSP for competing with any other PGSP; or (2) creating or facilitating an agreement not to compete between two or more PGSPs.

The United States and the NCPG have agreed that the proposed Final Judgment may be entered after compliance with the APPA, provided that the United States has not withdrawn its consent. Entry of the Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the Final Judgment's provisions and to punish violations thereof.

II. Description of Practices Giving Rise to the Alleged Violation of the Antitrust Laws

A. Description of the Defendant and Its Activities

The NCPS is a not-for-profit corporation organized and existing under the laws of the State of New York with its principal place of business in Washington, DC. All state affiliates are members of the NCPG board of directors. The NCPG's state affiliates, as a group, control a majority of the seats on its board of directors. The board has the sole authority to elect the NCPG's officers. As a trade association, the NCPG lobbies Congress for funding for problem gambling programs in general, conducts an annual conference, and offers books, videotapes and other publications about problem gambling.

The NCPG offers a few limited problem gambling services to its members. It maintains a website and sponsors a national telephone help-line, which is operated by the Texas affiliate. Other affiliates may pay to use this help-line in their own states or set up their own help-lines. The NCPG also sponsors a national gambling counselor certification program. This program does not train counselors, but generally accepts training conducted by state affiliates.

B. Description of the State Affiliates and Their Problem Gambling Services

The NCPG has 34 state affiliates. No state has more than one affiliate. All of the state affiliates are separately incorporated, non-profit corporations. The state affiliates provide problem gambling services to individuals, as well as government entities, casinos, racetracks, and others who are trying to assist problem gamblers. These problem gambling services include training and certification program for problem gambling counselors, telephone help-lines, and responsible gaming programs, workshops, and educational kits.

The NCPG does not create the services offered by its affiliates, nor does it significantly help its affiliates create these services. Each state affiliate creates its own individualized problem gambling services to meet the perceived needs of its customers. For example, some state affiliates target problem gambling in various ethnic populations, while others focus on problem gambling in high schools or among the eldery.

Consequently, the types of problem gambling services sold by each state affiliate are different from those sold by other state affiliates. Each state affiliate directly markets its problem gambling services.

Public and private parties seeking problem gambling products and services have few, if any, alternatives to the state affiliates. In most instances, the only bidder for the business is the NCPG affiliate within the customer's state. Several state affiliates have also offered services outside of their borders, which prompted defendant's unlawful territorial allocation. In a few instances, a party unaffiliated with the NCPG has submitted a bid for a customer's business.

C. The Illegal Territorial Allocation Agreement

Beginning at least as early as 1995 and continuing until at least 2001, the NCPG, through its officers and directors, and its state affiliates, facilitated, organized, promoted, and advocated an unlawful territorial allocation between and among the state affiliates for the provision of problem gambling services in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The territorial allocation was a horizontal agreement among the state affiliates of the NCPG which was effectuated by the NCPG. The purpose of this unlawful territorial allocation was to prevent the NCPG's state affiliates from offering or selling problem gambling services outside of their home states, thereby eliminating competition between and among the state affiliates of the NCPG.

Although many of its activities are in the public interest, the NCPG was acting illegally to curtail competition by establishing the territorial allocation. Its purpose in doing so reflected the desire of a controlling majority of its state affiliates to prevent competitive incursions by other state affiliates. In response to incipient competition from certain state affiliates, state affiliates met and agreed with the NCPG to adopt, publish, and enforce resolutions, policies, guidelines, and certification standards to limit the provision of problem gambling services across state lines. The territorial allocation was enforced by threats of sanctions, including fines and revocation of NCPG membership, and threats to deny national certification to counselors trained by out-of-state affiliates. These actions reduced competition among state affiliates, leaving customers with few, if any, choices other than the affiliate in their state. The territorial allocation deprived customers of the benefits of free competition, stifled innovation, and decreased quality.

In contrast to the legitimate, pro-competitive territorial allocations put into effect by many associations, the territorial allocation agreed to by the state affiliates and orchestrated by the NCPG curtailed competition among the state affiliates, without enhancing economic efficiency. When territorial allocations enhance economic efficiency, they may be pro-competitive. For example, when a manufacturer of a product sets up exclusive territories for its distributors to encourage them to maximize their sales, advertising, and promotion efforts, while at the same time providing them with assurance that they, and not other sellers of the manufacturer's product, will reap the benefits of their efforts, the public as well as the product manufacturer may benefit from their competitive efforts, vis-a-vis other competitive products. Thus, by limiting ''intrabrand'' competition for the product, ''interbrand'' competition among the competing products may be increased. Here, however, there is no ''product'' offered by the NCPG to its state affiliates. the NCPG does not create problem gambling services or products that it then distributes through its state affiliates, nor does it make an effort to identify the best problem gambling services or products among those sold by its affiliates or to encourage them to adopt any set of best problem gambling services or products. Instead, each of the state affiliates independently creates and sells its own problem gambling services and products, many of which are unique. For example, the Minnesota affiliate has developed a 60-hour counselor training program which also is offered as an interactive, web-based course. The Minnesota affiliate also consults with public policy think-tanks focused on the problem of compulsive gambling, such as one held at Harvard University. Other state affiliates, including the Texas affiliate, create and distribute publications in Spanish to meet the needs of Hispanic problem gamblers. Still other state affiliates sponsor programs for troubled teenagers, such as the Washington affiliate's ''Gambling, Addictions, and At-Risk Youth.'' Thus, the territorial allocation deprived customers of the benefits of free competition among the different services offered by different state affiliates.

The state affiliates agreed to have the NCPG implement and enforce the territorial allocation agreement in several ways. At a 1995 meeting in Puerto Rico, the NCPG state affiliates agreed to modify the Affiliate Guidelines to discourage competition between and among the state affiliates, requiring an out-of-state affiliate to get permission from the in-state affiliate before seeking business in that affiliate's state.

The following year, when some state affiliates continued to bid out-of-state, the state affiliates passed a resolution imposing sanctions against any state affiliate that attempted to compete outside its home state. Later in 1996, the state affiliates agreed with the NCPG Board Directors to adopt an ''Ethics Resolution'' setting forth the agreement to allocate territories as an ethical standard. It also required that a fee or a portion of revenues be paid to the in-state affiliate who consented to another affiliate providing in-state services. Affiliates failing to heed the Ethics Resolution were subject to sanctions, including fines or revocation of NCPG membership. In 1999, the NCPG incorporated the provisions of the Ethics Resolution into a formal Affiliate Agreement, which was ratified by a majority of state affiliates.

D. Effects of the Agreement

The unlawful territorial allocation has had the effect of limiting choice, reducing quality, and stifling innovation in the development and sale of problem gambling services. Customers have been deprived of the benefits of free and open competition in the purchase of problem gambling services, including the benefit of choosing among a variety of problem gambling services offered by different state affiliates. Prospectively, eliminating the unlawful territorial allocation will have the effect of increasing choice, increasing quality, and encouraging innovation.

The territorial allocation has been effective because the NCPG has had the means and the will to enforce it against affiliates that have sought to compete across state lines. Accusations of unethical conduct have dissuaded customers from contracting with offending affiliates. Withholding credit for problem gambling counselor training has prevented affiliates from offering training programs outside their home states. Threatening affiliates with the loss of NCPG membership also has served to confine affiliates to their home states because some states will contract only with the NCPG members.

Although the territorial allocation has been largely effective in preventing interstate competition, a few affiliates, most notably the Minnesota affiliate, have sought business outside their home states. These transgressions frequently precipitated NCPG enforcement actions that achieved their anti-competitive

purpose. For example, when the Minnesota affiliate sought a contract from the State of Nebraska, the NCPG asked that Minnesota withdraw its bid and support the efforts of the Nebraska affiliate. As a result, the Minnesota affiliate decided not to actively pursue the contract. When the Minnesota affiliate offered a gambling counselor training program in the State of Missouri, the NCPG warned that it would not grant credit for the training, thereby discouraging students from signing up for the program. Consequently, the Minnesota affiliate dropped the program. The in-state program that ultimately was provided was inferior because it employed less qualified instructors than the Minnesota affiliate proposed to use. In at least one instance, the Minnesota affiliate bid successfully in another state. It won a contract with the Arizona lottery by offering a far more comprehensive program than did the in-state affiliate. The Arizona affiliate complained to the NCPG, precipitating a hearing on sanctions against the Minnesota affiliate.

III. Explanation of the Proposed Final Judgment

A. Prohibited Conduct

The proposed Final Judgment prohibits the defendant from engaging in multiple categories of prohibited conduct. These prohibitions are intended to prevent the defendant from using a territorial allocation scheme to pressure PGSPs not to cross state lines to compete for contracts. These provisions will also bar the defendant from adopting policies which imply that competition between PGSPs across state lines in unethical, unprofessional, or contrary to the policy of the NCPG.

Section IV.A of the proposed Final Judgment contains a general prohibition against any agreement by the defendant that hinders any PGSP from: (1) Selling problem gambling services in any state or territory or to any customer; or (2) submitting competitive bids in any state or territory or to any customer. Section IV.B contains a prohibition against any agreement, code of ethics, rule, by-law, resolution, policy, guideline, standard, certification, or statement which implies that the competitive practices listed in Section IV.A are unethical, unprofessional, or contrary to NCPG policy. Section IV.C prohibits the defendant from adopting, disseminating, publishing, seeking adherence to, facilitating, or enforcing any standard or policy that: (1) Requires any PGSP to obtain permission from, inform, or consult with any other PGSP before submitting a bid or making a sale in any state or territory or to any customer; (2) requires any PGSP to contract with, provide a fee to, or a portion of revenues to, or otherwise remunerate any other PGSP as a result of selling in any state or territory or to any customer; (3) sanctions, penalizes, or otherwise retaliates against any PGSP for competing with any other PGSP; or (4) creates or facilitates an agreement not to compete between two or more PGSPs.

B. Limiting Conditions

Section V of the proposed Final Judgment contains certain limiting provisions that clarify the scope of the prohibitions in Section IV. Section V identifies specific activities that are unlikely to restrict competition and are not prohibited by the decree. Specifically, Section V.A states that nothing in the proposed Final Judgment limits any individual NCPG member from acting independently in negotiating any terms of its business relationships. Section V.B states that NCPG members may enter into valid joint ventures, as long as such activities do not violate any of the provisions of Section IV. Finally, Section V.C states that the NCPG retains the right to sanction or terminate any member according to the process described in its by-laws, provided that such activities do not violate any provision contained in Section IV.

C. Additional Relief

Section VI of the proposed Final Judgment requires the defendant to publish a notice describing the Final Judgment in Card Player magazine, a gambling industry publication, within sixty (60) days after the proposed Final Judgment is entered. Section VI also requires that written notice be sent to all current members of the NCPG within thirty (30) days after the proposed Final Judgment is entered. A copy of the written notice also must be sent to each new member of NCPG during the ten-year life of this Final Judgment.

Section VII requires the defendant to designate an Antitrust Compliance Officer who shall not be an officer or director of an affiliate of the NCPG, and to set up an antitrust compliance program to ensure that its members are aware of and comply with the prohibitions in the proposed Final Judgment and the antitrust laws. Defendant must furnish a copy of the Final Judgment and this Competitive Impact Statement to each of its officers, directors, and non-clerical employees who address issues related to the provision of problem gambling services. To ensure compliance with the Final Judgment, the Antitrust Compliance officer is also required to: (1) Conduct a program at each NCPG annual meeting on the antitrust laws; (2) review the NCPG code of ethics, rules, by-laws, resolutions, guidelines, agreements and policy statements; (3) review the purpose for the creation of each NCPG committee and sub-committee; and (4) attend all meetings of the NCPG affiliates committee and review the proceedings.

Section VIII requires the defendant to certify the designation of an Antitrust Compliance Officer and the distribution of the notice required by Section VII. It also requires the defendant to submit to the United States an annual statement regarding defendant's compliance with the Final Judgment. If the Antitrust Compliance Officer learns of any violations of the Final Judgment, defendant must take appropriate steps to terminate the activity so as to comply with the Final Judgment.

Section IX of the proposed Final Judgment provides that, upon request of the Department of Justice, the defendant must submit written reports, under oath, with respect to any of the matters contained in the Final Judgment. Additionally, the Department of Justice is permitted to inspect and copy all books and records, and to interview defendant's officers, directors, employees, and agents.

D. Effect of the Final Judgment

The parties have stipulated that the Court may enter the proposed Final Judgment at any time after compliance with the APPA. The proposed Final Judgment states that it shall not constitute any evidence against or an admission by either party with respect to any issue of fact or law. Section III of the proposed Final Judgment provides that it shall apply to the defendant and each of its officers, directors, agents, employees, successors, and assigns and to any organization to which it is to be merged or reorganized, or by which it is to be acquired.

The Government believes that the proposed Final Judgment is fully adequate to prevent the continuation or recurrence of the violations of Section 1 of the Sherman Act alleged in the Complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover

three times the damages suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Final Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against the defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest. The Department believes that entry of this Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Marvin N. Price, Jr., Chief, Chicago Field Office, U.S. Department of Justice, Antitrust Division, 209 S. LaSalle St., Suite 600, Chicago, Illinois 60604.

Under Section XI of the proposed Final Judgment, the Court will retain jurisdiction over this action, and the parties may apply to the Court for orders necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment. The proposed Final Judgment will expire ten (10) years from the date of its entry.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the Department considered litigation on the merits. The Department rejected that alternative for two reasons. First, a trial would involve substantial cost to both the United States and to the defendant and is not warranted because the proposed Final Judgment provides all the relief the Government would likely obtain following a successful trial. Second, the Department is satisfied that the various compliance procedures to which the defendant has agreed will ensure that the anticompetitive practices alleged in the Complaint are unlikely to recur and, if they do recur, will be punishable by civil or criminal contempt, as appropriate.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60 day comment period, after which the Court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' In making that determination, the Court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added).

As the Court of Appeals for the District of Columbia has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

Including this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.[2]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.* 858 F.2d 456, 462 (9th Cir. 1988), (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981)); *see also Microsoft,* 56 F.3d at 1458. ''Indeed, the district court is without authority to 'reach beyond the complaint to evaluate claims that the government did not make and to inquire as to why they were not made.' '' *United States* v. *Microsoft Corp.,* 231 F. Supp. 2d 144, 154 (D.D.C. 2002) (quoting Microsoft, 56 F.3d at 1459). Precedent requires that:

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[3]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it

[1] 119 Cong. Rec. 24, 598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. No. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538–39.

[2] *United States* v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977); *see also United States* v. *Loew's Inc.,* 783 F. Supp. 211, 214 (S.D.N.Y. 1992); *United States* v. *Columbia Artists Mgmt., Inc.,* 662 F. Supp. 865, 870 (S.D.N.Y. 1987).

[3] *United States* v. *Bechtel Corp.,* 648 F.2d at 666 (emphasis added); *see also United States* v. *BNS, Inc.,* 858 F.2d at 462–63 (district court may not base its public interest determination on antitrust concerns in markets other than those alleged in government's complaint); *United States* v. *Gillette Co.,* 406 F. Supp. at 716 (court will not look at settlement ''hypercritically, nor with a microscope''); *United States* v. *National Broad. Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978) (same).

mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. A ''proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is within the reaches of public interest.'' [4]

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Since the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing the case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.* at 1459–60.

VIII. Determinative Materials and Documents

There are not determinative documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 13, 2003.

Respectfully submitted,

Rosemary Simota Thompson,
Attorney, Chicago Field Office, IL Bar #6204990, Department of Justice, Antitrust Division, 209 S. LaSalle St., Suite 600, Chicago, Illinois 60604. Telephone: (312) 353–7530. Facsimile: (312) 353–1046.

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[4] Microsoft, 231 F. Supp. 2d at 153 (quoting *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), (citation omitted), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983)); *see also United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (standard is not whether decree is one that will best serve society, but whether it is within the reaches of the public interest); *United States* v. *Carrols Dev. Corp.,* 454 F. Supp. 1215, 1222 (N.D.N.Y. 1978) (standard is not whether decree is the best of all possible settlements, but whether decree falls within the reaches of the public interest).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Extension of a currently approved collection, collection of laboratory analysis data on drug samples tested by non-Federal (State and Local) crime laboratories.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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. Comments are encouraged and will be accepted until August 25, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7138.

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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local) Crime Laboratories.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, and Tribal Governments. Other: None. Abstract: Information is needed from state and local laboratories to provide DEA with additional analyzed drug information for the National Forensic Laboratory Information System.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 150 respondents participate in this voluntary collection. Respondents respond monthly. Each response, which is provided electronically, takes ten minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* This collection is estimated to take 300 hours.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 20, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

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DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Leading and Sustaining Change

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of

funds in FY 2003 for a cooperative agreement to fund the project ''Leading and Sustaining Change.'' NIC will award a one year cooperative agreement to assist state prisons by developing change leadership competency in key leaders and by providing professional change advisors/consultation to those leaders so they are able to change the culture of their institutions from a negative to a positive prison culture.

A total of $100,000 is reserved for the project during fiscal years 2003. There will be $100,000 available in FY 2004 upon satisfactory performance. The current application is only for the FY 2003 funds.

A cooperative agreement is a form of assistance relationship where the National Institute of Corrections is substantially involved during the performance of the award. The recipient of the award will be selected through the competitive solicitation process.

DATES: Applications must be received by 4 p.m. Eastern Daylight Savings Time on July 30, 2003.

ADDRESSES/APPLICATION PROCEDURES: Applications must be submitted in six copies to the Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. At least one copy of the application must have the applicant's original signature in blue ink. A cover letter must identify the responsible audit agency for the applicant's financial accounts.

Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by due date as the mail at the National Institute of Corrections is still being delayed due to decontamination procedures. Applications mailed or submitted by express delivery should be sent to: National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534, Attn: Director. Hand delivered applications can be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call (202) 307–3106 extension 0 for pickup. Faxed or e-mailed applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and applications forms can be downloaded from the NIC Web site at *http://www.nicic.org.* Hard copies of the announcement can be obtained by calling Rita Rippetoe (800) 995–6423, extension 44222 or by e-mail via *rrippetoe@bop.gov.*

All technical and or programmatic questions concerning this announcement should be directed to Evelyn Bush at the above address or by calling (800) 995–6423, extension 40376 0r (202) 514–0376 or by e-mail via *E1Bush@bop.gov.*

SUPPLEMENTARY INFORMATION: None.

Background: The NIC Prisons Division has responded to many technical assistance requests from prisons over the past several years that have been focused on problems such as excessive use of force, staff sexual misconduct, high rates of violence and prison disturbances. Through these efforts, NIC has learned that the presenting problems were often symptomatic of an underlying problem within the prison culture. These dysfunctional prison cultures were guiding staff behavior away from their legitimate missions and putting institutions in jeopardy of vulnerability to lawsuit, violence, injuries and abuse.

One of the growing problems was in the area of staff sexual misconduct complaints. beginning in 1996, the Prisons Division initiated a program focuses on addressing staff sexual misconduct. Throughout this work, consistent themes emerged underscoring the importance of the institutional environment. This ''environment'' or ''culture'' emerged as the single most important factor influencing the underlying, presenting issue.

Correctional agencies have a ''formal'' culture, exemplified by mission statements, policies, procedures, codes of conduct, etc. which provide staff with the guiding rules for working in that agency. Those ''rules'' are affirmed through staff recognition ceremonies, promotions, awards, ribbons of distinction and other rituals. However, within every organization there are day-to-day events and situations which are not covered by policy. An ''informal'' culture emerges to give staff guidance about ''the way things are really done here.'' The kind of support staff receive, the manner in which stress response behaviors are handled, the amount of trust and pride which are characteristic of the workforce are all dependent on the informal culture.

Staff attitudes and behaviors, and whether they support the formal culture or encourage deviant alternatives, will define the culture of any correctional institution. When the formal and informal cultures are complementary, a positive prison culture will prevail and such environments are sometimes referred to as healthy or ''hope-based'' cultures. However, when the formal and informal cultures are contradictory, then the environment becomes negative, unhealthy and is often referred to as a ''fear-based'' culture. Staff may feel disconnected from the institution based on a number of factors, including time on the job, age, race, gender, education background, and ''old school vs. new school'' mentality. A fear-based institutional culture can be characterized by cliches, selective sharing of critical information, abuse of power and position, codes of silence, and even intimidation, among other factors. This negative prison culture permeates the environment, impacting both staff and inmates, and can be seen as the backdrop to a host of prison problems ranging from poor staff morale to abuse of inmates and high rates of inmate violence.

Based on information gathered from the Mission Change and Staff Sexual Misconduct projects over the past few years, NIC recognized that there are several elements of changing a prison's culture which are necessary in order to accomplish a change in the culture, not just the climate of the prison. There needs to be an assessment of the current culture and an understanding of the dynamics which are driving this culture. From a comprehensive assessment, an initial plan of action can be developed which will chart the course for changing the prison culture. NIC worked for several years to develop, test and implement the prison culture. NIC worked for several years to develop, test and implement the Organizational Culture Assessment Protocol—Prisons (described on a following page). NIC also recognized that there are some needs that a number of prisons might have in common and so began developing several responses which could be implemented in a prison if they were warranted. Strategic Planning and Management assistance as well as training in Promoting a Positive Prison Culture and Effective Supervising a Multi-generational Workforce are still being developed but are nearing the point where they can be implemented in a prison.

This solicitation will build on those previous works and become a part of the assistance that NIC will offer to prisons attempting to change their prison to a positive, hope-based culture. The warden will need to take the lead in accomplishing any culture change in a prison. Most wardens come from backgrounds where operational skills are prominent and they have developed leadership abilities throughout their careers. However, being an effective leader and being an effective Change Leader are not the same set of skills and abilities. The warden will need to understand the key elements of organizational change, who to lead and inspire staff through a change process, how various roles will perceive the

value of the change, and many other elements of change leadership. Developing the capacity of wardens and other critical staff to lead the change process will be one of the primary objectives of this solicitation.

Organizational changes is complicated—doing it inside a prison with a fear-based culture is even more complicated. Recognizing that there are expert professionals who understand organizational change on a deep level, NIC will work collaboratively with them to provide guidance to the leaders of all the institutions in the Institutional Culture Initiative. They will work with the wardens and other changes leaders for a period of potentially several years in order to accomplish the changing of a prison's culture. They will recommend actions which can be taken, training which can be provided, developmental opportunities where they are required, organizational changes if they are desired. They will identify the type of change an institution is going through (developmental, transitional or transformational) and target the change strategies to most effectively work in that type of change process. The Change Advisers will recommend NIC assistance and Department of Corrections resources as needed to successfully accomplish a culture change. They will also be able to assess an institution's Readiness for Change and will be in a position to identify the Lessons Learned about changing prison culture which can add to the knowledge base on the corrections profession.

The projects which are currently part of the Institutional Culture Initiative include:

1. *Institutional Culture Assessment:* A validated organizational culture assessment was adapted for use in a prison. The organizational Culture Assessment Instrument-Prisons (OCAI–P) has been developed in a Protocol (OCAP–P) which as been applied in 12 state prisons. The report describes the overall culture, unique features and the institution's strengths and weaknesses, as well as suggestions for improvement and change. NIC is committed to assisting these prisons to use their assessment information to change the culture of the prison from the previous state to a desired positive prison culture.

2. *Strategic, Planning, Management and Response:* A cooperative agreement was awarded in September 2002 to review Strategic Planing models being used by state departments of corrections and other public sector agencies to select one Strategic Planning model that would be of greatest benefit to state departments of corrections and state prisons. The selected mode, which is 50% completed, will be fully developed with all relevant materials that would be required for implementation in an opening correctional agency. The model will be tested as part of a supplemental cooperative agreement. This cooperative agreement will also develop a training program and train twelve correctional professionals to facilitate use of the model in selected sites to improve prison culture.

3. *Promoting a Positive Prison Culture Program (PPPC):* The purpose of this two day Program is to introduce all levels of correctional staff in one institution to the concepts of organizational culture and its influences on achievement of the prison's mission. The curriculum is being developed and will be complete in August 2003. The objectives of the PPPC program are for participants to be able to:

- Differentiate between climate and culture;
- Explain the relationships among and between the formal and informal culture;
- Identify their roles and responsibilities in developing, changing and sustaining culture;
- Define the current culture and create a picture of their future; and
- Understand and explain how mission, values, beliefs, and assumptions are interrelated and how they can contribute to or detract from the prison's mission.

It will be available to be utilized at prisons involved in this part at the Change Advisor's recommendation.

4. *Multi-generational Workforce:* A two-day training program, to be piloted in September 2003, that will assist correctional staff in examining the changing values and demographic shifts that are impacting the workforce and hence, the environmental. Failure to recognize the different values and attributes of the changing workforce can result in an underlying dysfunctional culture issue.

Leading and Sustaining Change will be an additional component of the Institutional Culture Initiative. Working with prisons already involved in the Institutional Culture Initiative, it will provide correctional wardens and other key staff with the assistance needed to develop the capacity for change leadership and will provide a Change Advisor to assist in the culture change process.

Purpose: The National Institute of Corrections is seeking applications for a cooperative agreement to assist state prisons by developing change leadership competency in key leaders and by providing professional change advisors/consultation to those leaders so that they are able to change the culture of their institutions from a negative to a positive prison culture.

Scope of Project

1. Develop competencies for Change Leadership at the level of state prison warden and for key persons above and below them in the correctional chain of command. Development of this competency can include training, developmental opportunities, team activities, coaching, and/or any other strategy the applicant proposes. The applicant should address how to develop a leadership culture in the prison. The applicant should provide a sound rationale for their proposed plan.

2. Provide professional Change Coaches/Consultants/Advisers to work with state prison wardens who are engaged in changing the culture of their institution. The Change Advisers (the term which will be used throughout the RFP) should plan to begin working upon award of this cooperative agreement with four to six state prisons which have had an Institutional Culture Assessment conducted.

3. Identify available instruments which can assess an institution's Readiness of Change, with a supported recommendation from the applicant regarding the instruments which would be most appropriate in which situations. The applicant must propose individuals as part of the project team or as consultants who are qualified to administer the proposed instruments.

4. The selected applicant will be required to attend a preliminary meeting for the purpose of getting an overview of the current NIC work in the Institutional Culture Initiative as well as a refinement of the project work plan. The applicant is also required to attend two (2) coordinating meetings each year with all the other project staff from the Institutional Culture Initiative. The applicant can determine how many project staff, in addition to the Project Director, should participate in these meetings. The cost for attendance at these meetings must be reflected in the budget.

5. Document the process of changing each project institution's culture for the purpose of ultimately producing a Guide to Changing Prison Culture, which incorporates a Lessons Learned summary to understanding culture change in prisons.

6. Prepare a Final Report which includes a Case Study to date of each prison which is in the process of changing their culture.

Specific Requirements

1. Although the Warden will be the primary Change Leader at the institution, the applicant should identify what positions above and below the warden level would benefit by developing competency in change leadership. The applicant should clearly identify what developmental activities would be appropriate for which levels of correctional staff.

2. Applicants must purpose one or more professional Change Advisers who will be a significant part of the Project Team. The background and experience of the Change Adviser(s) are critical to successfully competing for this award. Therefore the Change Advisers must meet the following requirements:

• All Change Advisers who will work on this project must be identified in the application and must meet the requirements identified in this RFP. All Change Advisers must submit a statement of their intent to work on this project and the time they are willing to commit.

• All Change Advisers must have extensive experience in guiding multiple organizations/agencies through a significant change process and these must be identified in their resume or biographical statement.

• As part of this cooperative agreement application, all persons identified as Change Advisers must submit one (1) Case Study of an organizational change process they guided (the actual name of the organziation may be changed for the case study but actual names must be included in the resume). The Case Study must include, at a minimum: the presenting organizational problem(s); how they were identified; how the Change Adviser was brought into the organization and what their original charge/mission was; the role they played in the organizational change process and whether their role changed during the time they were involved; the strategies used in effecting organizational change and the Change Adviser's role in them; interventions which were implemented and their impact; the time frame for the Change Adviser's involvement in the change process compared to the duration of the change process itself; the total amount of time the Change adviser committed to the organization going through organizational change; the Change Advisers relationship with the CEO of the organization; the amount of face time the Change Adviser spent with the CEO; whether there were behaviors that the CEO changed as a result of working with the Change Adviser. There is no expectation that the Case Study will involve a correctional institution.

3. In developing the competencies for change leadership, the applicant should specifically address the role of first line supervisors in the change process and how they would be included in the process of changing the prison culture.

4. The applicant should discuss Developmental, Transitional and Transformational Change in relation to prisons changing their culture. Applicants must address the implications for the change leader in evaluating the type of change and how they would identify appropriate strategies targeted to the type of change.

5. The Change Adviser should plan to be brought in early to the Institutional Culture Assessment process for all those institutions which are assessed after this cooperative agreement is awarded and they will fully participate in the development of the Action Plan. For those institutions which have already had a Culture Assessment conducted and Action Plan developed, the Change Adviser will review the plan and begin working with the institution Change Leaders. The costs of the assessment and all work connected with the assessment are contained in another cooperative agreement. The applicant will have full access to all of the assessment data on each prison which is part of the Institutional Culture Initiative.

6. Technical Assistance will be provided by NIC to accomplish as much of the recommended work as is possible. The institutions themselves and the departments of corrections will also be asked to fund some of the work needed to change the prison culture. This cooperative agreement is not intended to fund the interventions which might be required to change the culture other than what is identified in the scope of the project.

7. The application must clearly identify the relationship among change advisers and other project staff. The applicant will assure that the project team offers technical expertise in the required areas to fulfill this solicitation.

8. The applicant must identify specific strategic for working collaboratively with NIC and with the other contractors managing the various components of the Institutional Culture Initiative to provide the most effective assistance to state prisons in changing their culture.

9. The applicant must include professional Change Advisers and experienced correctional professionals on their project team. These persons can be project staff or consultants. The correctional experience must be at the state prison level and at least one team member/consultant must have worked in a management position in a state prison, preferably as a warden. Although anyone who has worked in an administrative position within a department of corrections could say they have participated in accomplishing change, that experience will not be sufficient for meeting the requirements of a professional Change Adviser. All proposed project staff and consultants will need to be individually approved by NIC prior to working in any of the prisons in the culture change project.

10. There is a limited amount of funds for this work. The applicant should consider the amount of time that will need to be spent on-site at the institutions versus coaching/consulting that can effectively be conducted electronically or work that can be done with groups of prison staff. Costs for all travel must be included in this application.

11. The applicant can recommend any additional programs/components that might strengthen and improve the Institutional Culture Initiative, based on their work with the project sites.

12. It is anticipated that there will be $100,000 available in FY 2004, based on satisfactory performance by the awardee, to continue the work with the original sites and to add additional prisons to the project work. If a training program is proposed as part of the competency in developing Change Leadership, the applicant may provide a rationale for developing the training program/curriculum in this fiscal year 2003 cooperative agreement and funding the implementation of the program from the fiscal year 2004 funds.

13. The person designated as project director is required to be the person who will manage the project on a day-to-day basis and who has full decision-making authority to work with the NIC project manager. This person must have enough time dedicated to the project to assure they are available to direct step by step activities of the project and to be available for collaboration with the NIC project manager. The position of the project director must be described in this paragraph.

Application Requirements: Applications must be submitted using OMB Standard Form 424, Federal Assistance, and attachments. The applications should be concisely written, typed double-spaced, and referenced to the project by the number and title given in this cooperative agreement announcement.

The narrative portion of this cooperative agreement application should include, at a minimum:

• A brief paragraph that indicates the applicant's understanding of the purpose of this cooperative agreement;

• One or more paragraphs to detail the applicant's understanding of the need for this project in the correctional arena;

• A brief paragraph that summarizes the project goals and objectives;

• A clear description of the methodology that will be used to complete the project and achieve its goals;

• A clearly developed Project Plan which demonstrates how the various goals and objectives of the project will be achieved through its various activities so as to produce the required results;

• A chart of measurable project milestones and time lines for the completion of each milestones;

• A description of the qualifications of the applicant organization and each project staff;

• A description of the staffing plan for the project, including the role of each project staff: The time commitment for each, the relationship among the staff (who reports to whom), and a statement from individual staff that they will be available to work on this project;

• A budget that details all costs for the project, shows consideration for all contingencies for this project, and notes a commitment to work within the budget proposed (budget should be divided into object class categories as shown on application Standard Form 424A). A budget narrative must be included which explains how all costs were determined.

Authority: Public Law 93–415.

Funds Available: The award will be limited to a maximum of $100,000.00 (direct and indirect costs) in fiscal year 2003. An additional award of $100,000 may be available with satisfactory performance. Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. This project will be a collaborative venture with the NIC Prisons Division. NIC retains the right to select the applicants for participation.

Eligibility of Applicants: An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, individuals or team with expertise in the requested areas.

Review Considerations: Applicants received under this announcement will be subjected to 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 03P24. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424 and on the outside of the envelope in which the application is sent.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

The Catalog of Federal Domestic Assistance number is: 16.601, Title: Training and Staff Development.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 03–16145 Filed 6–25–03; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 19, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR's) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of these ICR's with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Vanessa Reeves on 202–693–4124 (this is not a toll-free number) or e-mail: *reeves.vanessa2@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316/this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Economic Survey Schedule.

Type of Review: Extension of currently approved collection.

OMB Number: 1215–0028.

Frequency: Biennially.

Affected Public: Business or other for-profit; State, Local, or Tribal Government.

Number of Respondents: 55.

Number of Annual Responses: 55.

Estimated Time Per Response: 45 minutes.

Total Burden Hours: 41.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: From WH–1 is used by the Department of Labor to collect data and prepare an economic report for the industry committee which sets industry rates in American Samoa. This collection of information is authorized by 29 CFR 511.6 and 511.11.

Agency: Employment Standards Administration.

Title: Notice of Termination, Suspension, Reduction or Increase in benefit Payments.

Type of Review: Extension of a currently approved collection.

OMB Number: 1215–0064.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 325.

Number of Annual Responses: 9,000.

Estimated Time Per Response: 12 minutes.

Total Burden Hours: 1,800.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing service): $3,600.

Description: 20 CFR 725.621 requires coal mine operators who pay monthly black lung benefits must notify Division of Coal Mine Workers' Compensation (DCMWC) of any change in benefits and the reason for that change. DCMWC uses this notification to monitor payments to beneficiaries.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–16162 Filed 6–25–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 19, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316/ this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Reports of Injuries to Employees Operating Mechanical Power Presses.

OMB Number: 1218–0070.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 75.

Total Annual Responses: 75.

Average Response Time: 20 minutes.

Annual Burden Hours: 25.

Description: In the event an employee is injured while operating a mechanical power press, 29 CFR 1910.217(g) requires an employer to provide information to OSHA regarding the accident within 30 days of the accident. These reports are a source of up-to-date information on power press machines. Particularly, this information identifies the equipment used and conditions associated with these injuries.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–16163 Filed 6–25–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 17, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316) this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificate of Registration.

OMB Number: 1215–0037.

Affected Public: Individuals or households; Business or other for-profit; and Farms.

Frequency: On occasion and Biennially.

Number of Respondents: 9,200.

Name of Annual Responses: 9,200.

Average Response Time: 30 minutes.

Total Burden Hours: 4,600.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/ maintaining systems or purchasing services): $2,392.

Description: Section 101(a) of the Migrant and Seasonal Agricultural Worker Protection Act provides that no individual may perform farm labor contracting activities without a certificate of registration. Form WH–530 is the application form that provides the Department of Labor with the information necessary to issue certificates specifying the farm labor contracting activities authorized. This collection of information is authorized by 29 CFR part 500.

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Wage Statement.

OMB Number: 1215–0148.

Frequency: On occasion.

Affected Public: Farms; Business or other for-profit; and Individuals or households.

Number of Respondents: 1.4 million.

Number of Annual Responses: 34 million.

Estimated Time Per Response: 1 minute.

Total Burden Hours: 566,667.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/ maintaining systems or purchasing services): $0

Description: Section 201(d) and 301(c) of the Migrant and Seasonal Agricultural Protection Act and 29 CFR Part 500 requires employers of agricultural workers to maintain records of certain payroll information given to each worker.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–16164 Filed 6–25–03; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Time of Meeting

It has been determined by the National Credit Union Administration Board that it will be necessary to change the time of the previously announced open Board meeting (**Federal Register**, Vol. 68, No. 120, page 37177, June 23, 2003) scheduled for Thursday, June 26, 2003 at 10 a.m. The meeting will now be held at 2 p.m. Earlier announcement of this change was not possible.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone: (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–16299 Filed 6–24–03; 11:20 am]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 68 FR 19582 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB by July 28, 2003.

ADDRESSES: Written comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, NSF Reports Clearance Office at (703) 292–7556 or send e-mail to *splimpto@nsf.gov.*

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Academic Research and Development Survey Expenditures at Universities and Colleges, FY 2003 through FY 2006.

OMB Control No.: 3145–0100.

Proposed Project: Separately budgeted current fund expenditures on research and development in the sciences and engineering performed by universities and colleges and federally funded research and development centers—A web survey, the Survey of Scientific and Engineering Expenditures at Universities and Colleges, originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey is the academic expenditure component of the NSF statistical program that seeks to provide a ''central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal government, as mandated in the National Science Foundation Act of 1950.

Use of the Information: The proposed project will continue the current survey cycle for three to five years. The Academic R&D Survey will be a census of the full population of an expected 646 institutions (610 universities or colleges plus 36 federally funded research and development centers—FFRDCs) for academic years 2003 through FY 2006. These institutions account for over 95 percent of the Nation's academic R&D funds. The survey has provided continuity of statistics on R&D expenditures by source of funds and by science & engineering (S&E) field, with separate data requested on current fund expenditures for research equipment by S&E field. Further breakdowns are collected on passed through funds to subrecipients and received as a subrecipient. Additional measures on current fund expenditures for separately budgeted research and development by field of science and engineering are requested as being part of the core survey on select Federal Government agency sources. Data are published in NSF's annual publication series Academic Science and Engineering R&D Expenditures and are available electronically on the World Wide Web.

The survey is a fully automated web data collection effort and is handled primarily by the administrators at the Institutional Research Offices. To minimize burden, institutions are provided with an abundance of guidance and help menus on the web, in addition to printing and responding via paper copy if necessary. Each record is pre-loaded with the institutions 2 previous year's data and a complete program for editing and trend checking. Response to this voluntary survey in FY 2001 was 95.4 percent.

Burden estimates are as follows: [1]

[1] Average burden hours for institutions responding to burden item.

Total number of institutions	Doctorate-granting burden hours	Masters-granting burden hours	Bachelors degree burden hours	FFRDC's burden hours
FY 1999 480	20.8	13.0	7.5	9.4
FY 2000 700	21.0	12.0	10.5	9.2
FY 2001 625	30.2	11.9	9.0	12.1

Dated: June 20, 2003.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 03–16136 Filed 6–25–03; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act; Meeting

AGENCY HOLDING MEETING: National Science Foundation. National Science Board.

DATE AND TIME: June 30, 2003: 10 a.m.–11 a.m. Open Session.

PLACE: The National Science Foundation, 4201 Wilson Boulevard—Room 130, Arlington, VA 22230, *www.nsf.gov/nsb.*

CONTACT FOR INFORMATION: Robert Webber, (703) 292–700.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Monday, June 30, 2003.

Open: NSB Subcommittee on Education and Human Resources Teleconference, Room 130.

- Overview of K–12 Working Group Objectives
- Strategies for Achieving Working Group Objectives
- Comments and Requests Related to the May 2003 Three-Groups Background Book
- Overview of Research Finding on Impact of Inquiry-Based Learning—NSF Staff
- Coordination with other Federal Agencies
- Schedule for K–12 Working Group Activities

Robert Webber

Policy Analyst, NSBO.

[FR Doc. 03–16267 Filed 6–23–03; 4:31 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No.: 72–25]

Foster Wheeler Environmental Corporation's Proposed Idaho Spent Fuel Facility; Notice of Availability of Draft Environmental Impact Statement

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing a Draft Environmental Impact Statement (DEIS) for the Foster Wheeler Environmental Corporation (FWENC) license application dated November 19, 2001, and docketed on June 27, 2002, (67 FR 43358) for the receipt, transfer, and storage of spent nuclear fuel (SNF) at it's proposed Idaho Spent Fuel Facility to be located at the U.S. Department of Energy's (DOE's) Idaho National Engineering and Environmental Laboratory (INEEL) site in Butte County, Idaho.

The DEIS discusses the purpose and need for the proposed facility and reasonable alternatives to the proposed action, including the no-action alternative. The DEIS also discusses the environment potentially affected by the proposed facility, presents and compares the potential environmental impacts resulting from the proposed action and its alternatives, and identifies mitigation measures that could eliminate or lessen the potential environmental impacts.

The DEIS is being issued as part of the NRC's decision-making process on whether to issue a license to FWENC. Based on the preliminary evaluation in the DEIS, the NRC environmental review staff have concluded that the proposed action will have small effects on the public and existing environment. The DEIS is a preliminary analysis of the environmental impacts of the proposed action and its alternatives. The Final EIS and any decision documentation regarding the proposed action will not be issued until public comments on the DEIS have been received and evaluated. Notice of the availability of the Final EIS will be published in the **Federal Register**.

At this time, the NRC is soliciting public comments on the DEIS. Due to limited interest during the ''Scoping'' phase of the DEIS preparation, the NRC staff has elected not to hold a public meeting on the DEIS. However, the DEIS is still being offered for public review and comment in accordance with applicable NRC regulations, including requirements in 10 CFR parts 51.73, 51.74 and 51.117. Any interested person may submit written comments on the DEIS for consideration by the NRC staff. Please *see* the **DATES** and **ADDRESSES** sections of this notice for directions on when and how to submit comments.

DATES: The public comment period begins with publication of this notice of availability in the **Federal Register** and continues until August 18, 2003. Written comments submitted by mail should be postmarked by that date to ensure consideration. Comments mailed after that date will be considered to the extent practical. Comments will also be accepted by electronic or facsimile submission.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rules Review and Directives Branch, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Please note Docket No. 72–25 when submitting comments. Due to the current mail situation in the Washington, DC area, it is encouraged that comments be sent electronically to *isffacility@nrc.gov* or by facsimile to (301) 415–5398, Attn: Matt Blevins.

FOR FURTHER INFORMATION CONTACT: For environmental review questions, please contact Matthew Blevins at (301) 415–7684. For questions related to the safety review or overall licensing of the Idaho Spent Fuel Facility, please contact James Randall Hall at (301) 415–1336.

Information and documents associated with the Idaho Spent Fuel Facility project, including the Environmental Report and the License Application, submitted on November 19, 2001, may be obtained from the Internet on NRC's Idaho Spent Fuel Facility Web page: *http://www.nrc.gov/waste/spent-fuel-storage.html* (case sensitive). In addition, all documents, including the DEIS, are available for public review through our electronic

reading room: *http://www.nrc.gov/reading-rm.html*. Any comments of Federal, State, and local agencies, Indian tribes or other interested persons will be made available for public inspection when received. Documents may also be obtained from NRC's Public Document Room located at U.S. Nuclear Regulatory Commission Headquarters, 11555 Rockville Pike (first floor), Rockville, Maryland. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's Public Document Room at 1–800–397–4209.

SUPPLEMENTARY INFORMATION: A Settlement Agreement dated October 17, 1995, among the DOE, the U.S. Navy, and the State of Idaho requires, among other things, the transfer and dry storage of SNF until it can be removed from Idaho. As part of it's efforts to meet the Settlement Agreement, the DOE has contracted with FWENC to design, license, construct, and operate the proposed Idaho Spent Fuel Facility for portions of the SNF currently in storage at the INEEL. If approved, FWENC will be issued an NRC license, under the provisions of 10 CFR part 72, to receive, transfer, and store SNF. The proposed facility would store SNF and associated radioactive material from the Peach Bottom Unit 1 High-Temperature Gas-Cooled Reactor, the Shippingport Atomic Power Station, and various Training, Research, and Isotope reactors built by General Atomics (TRIGA reactors). The majority of this SNF is currently in storage at the Idaho Nuclear Technology Center located on the INEEL immediately adjacent to the proposed facility. DOE plans to transfer the SNF to the proposed facility using existing INEEL and DOE procedures. The transfers to the proposed facility would take place completely within the boundaries of the INEEL. Upon arrival at the proposed facility, the SNF would be (1) remotely removed from the containers in which it is currently stored, (2) visually inspected, (3) inventoried, (4) placed into new storage canisters, and (5) placed into interim dry storage.

The DEIS for the proposed Idaho Spent Fuel Facility was prepared by the staff of the NRC and its contractor, Center for Nuclear Waste Regulatory Analyses, in compliance with the National Environmental Policy Act (NEPA), and the NRC's regulations for implementing NEPA (10 CFR part 51). The proposed action involves a decision by NRC of whether to issue a license under the provisions of 10 CFR part 72 that would authorize FWENC to receive, transfer, and store SNF and associated radioactive materials at the proposed facility.

NRC published a Notice of Intent to prepare an EIS for the proposed Idaho Spent Fuel Facility and to conduct a scoping process in the **Federal Register** on July 26, 2002, (67 FR 48953). The NRC accepted scoping comments through September 16, 2002, and subsequently issued a Scoping Summary Report on December 2, 2002.

The DEIS describes the proposed action and alternatives to the proposed action, including the no-action alternative. The DEIS assesses the impacts of the proposed action and its alternatives on human health, air quality, water resources, waste management, geology, noise, ecology, land use, cultural resources, socioeconomics, accident impacts, and environmental justice. Additionally, the DEIS analyzes and compares the costs and benefits of the proposed action.

Based on the preliminary evaluation in the DEIS, the NRC environmental review staff have concluded that the proposed action will have small effects on the public and existing environment and should be approved. The DEIS is a preliminary analysis of the environmental impacts of the proposed action and its alternatives. The Final EIS and any decision documentation regarding the proposed action will not be issued until public comments on the DEIS have been received and evaluated. Notice of the availability of the Final EIS will be published in the **Federal Register**.

Dated at Rockville, Maryland, this 19th day of June, 2003.

For the Nuclear Regulatory Commission,

Lawrence E. Kokajko,

Acting Chief, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–16174 Filed 6–25–03; 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 July 9–11, 2003, 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).

Wednesday, July 9, 2003, Commissioners' Conference Room O–1G16, One White Flint North, Rockville, Maryland

8:30 a.m.–6:30 p.m.: Safeguards and Security (Closed)—The Committee will meet with representatives of the NRC staff, Nuclear Energy Institute (NEI), and their contractors to discuss safeguards and security matters, including Commission papers on risk-informed guidance for vulnerability assessment and on risk-informed decisionmaking, integration of the results of the vulnerability studies, potential vulnerability to sabotage of spent fuel storage facilities, and NEI-sponsored work in the area of safeguards and security. Also, the Committee will discuss a proposed ACRS report on safeguards and security matters.

Thursday, July 10, 2003, Conference Room T–2B3, Two White Flint North Rockville, Maryland

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.: ESBWR Pre-Application Review (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the General Electric Company regarding design aspects of the Economic and Simplified Boiling Water Reactor (ESBWR) design and requests for additional information submitted by the staff.

10:45 a.m.–11:45 a.m.: Proposed Criteria for the Treatment of Individual Requirements in Regulatory Analyses (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed criteria for treatment of individual requirements in regulatory analyses and related matters.

12:45 p.m.–2:45 p.m.: Mixed Oxide Fuel Fabrication Facility (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the applicant [Duke Cogema Stone and Webster (DCS)] regarding DCS application to construct a mixed oxide fuel fabrication facility at the Savannah River Site, Aiken, SC., and the resolution of open items.

3 p.m.–4:30 p.m.: Expert Elicitation in Support of Risk-Informing 10 CFR 50.46 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff with regard to conducting an expert elicitation as directed by the

Commission in the March 31, 2003 Staff Requirements Memorandum related to risk-informing 10 CFR 50.46.

4:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss proposed ACRS reports on Safety Culture and on Safeguards and Security matters (Closed). The discussion of the Safeguards and Security report will be held in Room T–8E8.

Friday, July 11, 2003, Conference Room T–2B3, Two White Flint North Rockville, Maryland

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.–9:30 a.m.: Recent Operating Events (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC Office of Nuclear Reactor Regulation on the South Texas Project Reactor Vessel Bottom Head Penetration Leakage.

9:30 a.m.–10:15 a.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.

10:30 a.m.–10:45 a.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.

10:45 a.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss proposed ACRS reports on Safety Culture and on Safeguards and Security (Closed). The discussion of the Safeguards and Security report will be held in Room T–8E8.

7 p.m.–7:15 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.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss and protect information classified as national security information pursuant to 5 U.S.C. 552b(c)(1).

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: June 20, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–16177 Filed 6–25–03; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employer's Deemed Service Month Questionnaire.

(2) *Form(s) submitted:* GL–99.

(3) *OMB Number:* 3220–0156.

(4) *Expiration date of current OMB clearance:* 9/30/2003.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 150.

(8) *Total annual responses:* 4,000.

(9) *Total annual reporting hours:* 133.

(10) *Collection description:* Under section 3(i) of the Railroad Retirement Act, the Railroad Retirement Board may deem months of service in cases where an employee does not actually work in every month of the year. The collection obtains service and compensation information from railroad employers needed to determine if an employee may be credited with additional months of railroad service.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement

Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–16106 Filed 6–25–03; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2003–15481]

Request for Public Comment on the Impact of Airlines Emerging From Bankruptcy on Hub Airports, Airport Systems and U.S. Capital Bond Markets

AGENCY: Federal Aviation Administration, United States Department of Transportation.

ACTION: Request for public comment.

SUMMARY: The Department of Transportation is gathering information to examine the impact that airlines emerging from bankruptcy could have on hub airports, as well as the ramifications on airport systems and U.S. capital bond markets. We intend to meet with airport personnel and visit various airports to conduct studies and review available information that has been completed on recent airport finance developments. Specifically, we are trying to determine: (1) How airport's operations have been affected by air carriers going bankrupt and emerging from bankruptcy; (2) the financial impact that carriers' bankruptcies have had on airports; (3) the impact that carriers emerging from bankruptcy have had on markets for airport debt; and (4) actions that the federal government or airports themselves could take to ameliorate any significant financial disruption from airline bankruptcy.

DATES: Comments should be received by July 28, 2003. Comments received after that will be considered to the extent possible.

ADDRESSES: Comments should be sent to: Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 7th Street, SW., Washington DC, 20590–0001. You must identify the docket number (insert here) at the beginning of your comments and send two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed stamped postcard.

You may also file comments through the Internet at *http://dms.dot.gov.* You may review the public docket containing comments in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is located in Room Plaza 401 of the NASSIF Building at the U.S. Department of Transportation at the address listed above.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Hebert, Financial Analysis and Passenger Facility Charge Branch, APP–510, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3845; facsimile (202) 267–5302.

SUPPLEMENTARY INFORMATION: Congress, in H.R. Rep. 108–76 (April 12, 2003), directed the Secretary of Transportation to ''examine the impact that airlines emerging from bankruptcy could have on hub airports, as well as the ramifications on airport systems and U.S. capital bond markets.'' In response, Department of Transportation is assembling information to examine the impact that airlines emerging from bankruptcy have on hub airports as well as the effect this has on airport systems and U.S. capital bond markets. This information is being accumulated to understand the effects carriers' bankruptcy have had on airport operations and financial health as a whole. The goal is to observe these effects and determine whether government intervention is warranted. Further, the information gathered will be used to identify financial and operating strategies that could be valuable to the airport industry in responding to an airline bankruptcy and in aiding in the recovery of a carrier emerging from bankruptcy.

We welcome comments from all interested parties, including state and local officials, airport operators, air carriers, academics, financial experts and the flying passengers. Our goal is to have a final report by September 2003.

We are interested in acquiring information that would help us answer the following questions: (1) Is an airport's health tied to a particular carrier? (2) What actions have airports taken to aid airlines emerging from bankruptcy? (3) Has any airport canceled or deferred any capital development projects based on the financial condition of a particular carrier? (4) What carriers that have filed for bankruptcy have defaulted on lease payments or rejected leases and contracts? (5) What financial impact did the airport experience from those carriers filing for bankruptcy or emerging from bankruptcy? (6) What would be the financial impact to the airport if the bankruptcy carriers defaulted on lease and contract agreements, rejected these agreements, or reduced or ceased service? (7) Has any airport changed any of its policies regarding leases and operating permits due to a carrier bankruptcy? (8) Have the bankrupt carriers caused an airport to incur higher debt and service costs? (9) Have the carriers' recent financial problems caused any airports to defer or cancel Airport Improvement Program or Passenger Facility Charge funded development programs? (10) Do the benefits that carriers obtain from bankruptcy help or hurt airports? (11) What actions, if any, could the federal government take now to help airports adjust to their current financial environment?

Issued in Washington, DC

Catherine M. Lang,

Director, Office of Airport Planning and Programming.

[FR Doc. 03–16227 Filed 6–25–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34330]

The Burlington Northern and Santa Fe Railway Company—Acquisition and Operation Exemption—Montana Western Railway Company, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board is granting a petition for exemption from the prior approval requirements of 49 U.S.C. 11323–25 for The Burlington Northern and Santa Fe Railway Company to acquire the interest of the current operator, the Montana Western Railway Company, Inc., a Class III carrier, and to operate a 52-mile line of rail from Garrison to Butte, MT.

DATES: This exemption is effective on July 23, 2003. Petitions to stay must be filed by July 8, 2003. Petitions to reopen must be filed by July 18, 2003.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34330 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of all pleadings must be served on petitioner's representative, Robert M. Jenkins III, Mayer, Brown, Rowe & Maw, 1909 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Copies of the decision may be purchased from Dā 2 Dā Legal Copy Service by calling (202) 293–7776 (assistance for the hearing impaired is available through FIRS at 1–800–877–8339) or by visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 20, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 03–16181 Filed 6–25–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 18, 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, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before July 28, 2003 to be assured of consideration.

Departmental Offices/International Portfolio Investment Data Systems

OMB Number: 1505–0146.

Form Number: TD F SHCA–1, –2, –3.

Type of Review: Revision.

Title: Survey of U.S. Ownership of Foreign Securities.

Description: The survey will collect information on U.S. holdings of foreign securities. The information will be used in the computation of the U.S. balance of payments accounts and international investment position, as well as in the formulation of U.S. financial and monetary policies. The survey is also part of an international effort coordinated by the International Monetary Fund (IMF) to improve worldwide balance of payments statistics. Respondents are primarily the largest banks, securities dealers, and investors.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 541.

Estimated Burden Hours Per Respondent/Recordkeeper: 82 hours.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 44,159 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 03–16118 Filed 6–25–03; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 17, 2003.

The Department of the 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 July 28, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0162.

Form Number: IRS Form 4136.

Type of Review: Revision.

Title: Credit for Federal Tax Paid on Fuel.

Description: Internal Revenue Code section 34 allows a credit for Federal excise tax for certain fuel uses. This form is used to figure the amount of the income tax credit. The data is used to verify the validity of the claim for the type of nontaxable or exempt use.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/Recordkeepers: 1,828,759.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping 19 hr.,—46 min.

Learning about the law or the form—6 min.

Preparing and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 5,806,890 hours.

OMB Number: 1545–1541.

Revenue Procedure Number: Revenue Procedure 97–27.

Type of Review: Revision.

Title: Changes in Methods of Accounting.

Description: The information requested in sections 6, 8, and 13 of Revenue Procedure 97–27 is required in order for the Commissioner to determine whether the taxpayer is properly requesting to change its method of accounting and the terms and condition of that change.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 3 hours, 1 minute.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 9,083 hours.

OMB Number: 1545–1801.

Revenue Procedure Number: Revenue Procedure 2002–67.

Type of Review: Extension.

Title: Settlement of Section 351 Contingent Liability Tax Shelter Cases.

Description: This revenue procedure prescribes procedures for taxpayers who elect to participate in a settlement initiative aimed at resolving tax shelter cases involving contingent liability transactions that are the same or similar to those described in Notice 2001–17 (''contingent liability transaction''). There are two resolution methodologies: a fixed concession procedure and a fast track dispute resolution procedure that includes binding arbitration.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Respondent: 50 hours.

Frequency of Response: Other (one-time).

Estimated Total Reporting Burden: 7,500 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue

Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 03–16119 Filed 6–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 19, 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 July 28, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0046.

Form Number: IRS Form 982.

Type of Review: Extension.

Title: Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).

Description: Internal Revenue Code section 108 allows taxpayers to exclude from gross income amounts attributable to discharge of indebtedness. Code section 1081(b) allows corporations to exclude from gross income amounts attributable to certain transfers of property. The data is used to verify adjustments to basis of property and reduction of tax attributes.

Respondents: Business or other for-profit, Individuals or households, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 44 min.

Learning about the law or the form—2 hr., 10 min.

Preparing and sending the form to the IRS—2 hr., 22 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 10,300 hours.

OMB Number: 1545–0062.

Form Number: IRS Form 3902.

Type of Review: Extension.

Title: Moving Expenses.

Description: Internal Revenue Code (IRC) section 217 requires itemization of various allowable moving expenses. Form 3903 is filed with Form 1040 by individuals claiming employment related moves. The data is used to help verify that the expenses are deductible and that the deduction is computed correctly.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 678,678.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—3 min.

Learning about the law or the form—9 min.

Preparing the form—15 min.

Copying, assembling, and sending the form to IRS—13 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 807,627 hours.

OMB Number: 1545–0770.

Regulation Project Number: FI–182–78 NPRM.

Type of Review: Extension.

Title: Transfers of Securities Under Certain Agreements.

Description: Section 1058 of the Internal Revenue Code provides tax-free treatment for transfers of securities pursuant to a securities lending agreement. The agreement must be in writing and is used by the taxpayer, in a tax audit situation, to justify nonrecognition treatment of gain or loss on the exchange of the securities.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 11,742.

Estimated Burden Hours Per Respondent: 50 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 9,781 hours.

OMB Number: 1545–1163.

Form Number: IRS Form 8822.

Type of Review: Extension.

Title: Change of Address.

Description: Form 8822 is used by taxpayers to notify the Internal Revenue Service that they have changed their home or business address or business location.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1,500,000.

Estimated Burden Hours Per Respondent: 16 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 387,501 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 03–16120 Filed 6–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 19, 2003.

The Department of the 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 July 28, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0059.

Form Number: IRS Form 4137.

Type of Review: Extension.

Title: Social Security and Medicare Tax on Unreported Tip Income.

Description: Section 3102 requires an employee who receives tips subject to Social Security and Medicare tax to compute tax due on these tips if the employee did not report them to his or her employer. The data is used to help verify that the Social Security and Medicare tax on income is correctly computed.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 76,000.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—26 min.
Learning about the law or the form—7 min.
Preparing the form—26 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 101,080 hours.

OMB Number: 1545–0160.

Form Number: IRS Form 3520–A.

Type of Review: Extension.

Title: Annual Information Return of Foreign Trust with a U.S. Owner.

Description: Section 6048(b) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return on Form 3520–A. The form is used to report the income and deductions of the foreign trust and provide statements to the U.S. owners and beneficiaries. IRS uses Form 3520–A to determine if the owner of the trust has included the net income of the trust in its gross income.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—37 hr., 18 min.
Learning about the law or the form—2 hr., 40 min.
Preparing and sending the form to the IRS—3 hr., 24 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 21,700 hours.

OMB Number: 1545–0192.

Form Number: IRS Form 4970.

Type of Review: Extension.

Title: Tax on Accumulation Distribution of Trusts.

Description: Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hr., 12 min.
Learning about the law or the form—15 min.
Preparing the form—1 hr., 25 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 96.600 hours.

OMB Number: 1545–1181.

Form Number: IRS Form 8752.

Type of Review: Extension.

Title: Required Payment or Refund Under section 7519.

Description: This form is used to verify that partnerships and S corporations that have made a section 444 election have correctly reported the payment required under section 7519.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 72,000.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hr., 44 min.
Learning about the law or the form—1 hr., 0 min.
Preparing, copying, assembling, and sending the form to the IRS—1 hr., 7 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 565,920 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 03–16121 Filed 6–25–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Treasury.

ACTION: Notice of alteration to a Privacy Act System of Records.

SUMMARY: The Department is altering its system of records Treasury .001-Treasury Payroll and Personnel System due to the recent upgrade of the automated, integrated human resources system (HRS) used by the Department.

DATES: Comments must be received by July 28, 2003. The proposed altered systems of records will become effective August 5, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Comments should be sent to: Director, Office of Human Resources Enterprise Solutions, Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Kim Pridgen, Office of Human Resources Enterprise Solutions, (202) 622–1520.

SUPPLEMENTARY INFORMATION: In January 2001, the Human Resources System Program Office (HRSPO) and the Treasury Integrated Management Information Systems (TIMIS) organizations were merged to create the Office of Human Resources Enterprise Solutions (HRES). The new structure, whose mission is to improve human resources systems and service delivery to Treasury through the application of innovative enterprise-wide technology, was designed to concentrate efforts and resources on Human Resource (HR) system modernization and to consolidate operations support into the future. Treasury and its bureaus have undertaken efforts to reengineer HR management and to design, develop and implement a new automated human resources system (HRS), which is based on a suite of commercial-off-the-shelf (COTS) products. The Departmental and bureau partnership formed to implement the new system will aid Treasury's bureaus in meeting their primary business need for an integrated HRS that will increase the timeliness and accuracy of personnel data, assist in streamlining personnel processes and enable users to directly and easily access and enter HR information in a secure environment. The basis for the Treasury initiative is to leverage COTS products to act as a catalyst to reengineer HR processes and practices at the Department. These improvements will reduce non-value added work so that resources can be redirected to value-added use.

The System name is being changed from Treasury Payroll and Personnel System to ''Treasury Personnel and Payroll System''. The address for each bureau is being added under ''system location'' to bring the notice into conformance with other Treasury-wide notices.

As a result of the establishment of the Department of Homeland Security and the transfer of four Treasury bureaus: Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, Federal Law Enforcement Training Center and the United States Secret Service, the references to those bureaus are being removed from this system of records. In addition, pursuant to Treasury Order 120–01 dated January 21, 2003, the Alcohol and Tobacco Tax and Trade Bureau (TTB) was established and is being added to ''System location'' and ''System manager''.

The notice is also revised to add applicants and applicant data as new

categories under ''Categories of individuals covered by the system,'' ''Categories of records in the system'' and ''Purposes.'' ''Retrievability'' is being revised to add ''employee identification'' as a category. The ''System manager(s)'' is revised to identify the official responsible for the program at each bureau. The alterations also add new authority citations under ''Authority for maintenance of the system,'' and adds routine use (17) as a new routine use to the notice.

The notice for the system of records was last published in its entirety on February 19, 2002 at 67 FR 7461.

The altered system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, Federal Agency Responsibilities for Maintaining Records About Individuals, dated November 30, 2000.

The system of records, ''Treasury .001—Treasury Personnel and Payroll System—Treasury'' is published in its entirety below.

Dated: June 19, 2003.

W. Earl Wright, Jr.,

Acting Chief Management and Administrative Programs Officer.

Treasury .001

SYSTEM NAME:

Treasury Personnel and Payroll System—Treasury.

SYSTEM LOCATION:

The Shared Development Center of the Treasury Personnel/Payroll System is located at 1750 Pennsylvania Avenue NW., Suite 1300, Washington, DC 20220. The Treasury Personnel System processing site is located at the Internal Revenue Service Detroit Computing Center, 985 Michigan Avenue, Detroit, MI 48226. The Treasury Payroll processing site is located at the United States Department of Agriculture National Finance Center, 13800 Old Gentilly Road, New Orleans, LA 70129.

The locations at which the system is maintained by all Treasury components, except the Office of Thrift Supervision, and their associated field offices are:

(1) Departmental Offices (DO):

a. 1500 Pennsylvania Ave., Washington, DC 20220.

b. The Office of Inspector General (OIG): 740 15th Street, NW., Washington, DC 20220.

c. Treasury Inspector General for Tax Administration (TIGTA): 1125 15th Street, Suite 700A, NW., Washington, DC 20005.

(2) Alcohol and Tobacco Tax and Trade Bureau (TTB): 650 Massachusetts Avenue, NW., Washington, DC 20226.

(3) Office of the Comptroller of the Currency (OCC): 250 E Street, SW., Washington, DC 20219–0001.

(4) Bureau of Engraving and Printing (BEP): 14th & C Streets, SW., Washington, DC 20228.

(5) Financial Management Service (FMS): 401 14th Street, SW., Washington, DC 20227.

(6) Internal Revenue Service (IRS): 1111 Constitution Avenue, NW., Washington, DC 20224.

(7) United States Mint (MINT): 801 9th Street, NW., Washington, DC 20220.

(8) Bureau of Public Debt (BPD): 999–E Street, NW., Washington, DC 20239.

(9) Financial Crimes Enforcement Network (FinCEN), PO Box 39, Vienna, VA 22183–0039.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and applicants for employment, in all Treasury Department bureaus and offices, except the Office of Thrift Supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system include such data as: (1) Employee identification and status data such as name, social security number, date of birth, sex, race and national origin designator, awards received, suggestions, work schedule, type of appointment, education, training courses attended, veterans preference, and military service; (2) Employment data such as service computation for leave, date probationary period began, date of performance rating, and date of within-grade increases; (3) Position and pay data such as position identification number, pay plan, step, salary and pay basis, occupational series, organization location, and accounting classification codes; (4) Payroll data such as earnings (overtime and night differential), deductions (Federal, state and local taxes, bonds and allotments), and time and attendance data; (5) Employee retirement and Thrift Savings Plan data; (6) Employment history, and (7) Tables of data for editing, reporting and processing personnel and pay actions. These include nature of action codes, civil service authority codes, standard remarks, signature block table, position title table, financial organization table, and salary tables.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 321; Treasury Directive 80–05, Records and Information Management Program.

PURPOSE(S):

The purposes of the system include, but are not limited to: (1) Maintaining current and historical payroll records that are used to compute and audit pay entitlement; to record history of pay transactions; to record deductions, leave accrued and taken, bonds due and issued, taxes paid; maintaining and distributing Leave and Earnings statements; commence and terminate allotments; answer inquiries and process claims; and (2) maintaining current and historical personnel records and preparing individual administrative transactions relating to education and training; classification; assignment; career development; evaluation; promotion, compensation, separation and retirement; making decisions on the rights, benefits, entitlements and the utilization of individuals; providing a data source for the production of reports, statistical surveys, rosters, documentation, and studies required for the orderly personnel administration within Treasury; and (3) maintaining employment history.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to:

(1) Furnish data to the Department of Agriculture, National Finance Center (which provides payroll and personnel processing services for Treasury under a cross-servicing agreement) affecting the conversion of Treasury employee payroll and personnel processing services; the issuance of paychecks to employees and distribution of wages; and the distribution of allotments and deductions to financial and other institutions, some through electronic funds transfer;

(2) Furnish the Internal Revenue Service and other jurisdictions which are authorized to tax employees' compensation with wage and tax information in accordance with a withholding agreement with the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, for the purpose of furnishing employees with IRS Forms W–2 that report such tax distributions;

(3) Provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal personnel systems or other agencies'

systems in accordance with applicable laws, Executive Orders, and regulations;

(4) Furnish another Federal agency with information necessary or relevant to effect interagency salary or administrative offset, except that addresses obtained from the Internal Revenue Service shall not be disclosed to other agencies; to furnish a consumer reporting agency information to obtain commercial credit reports; and to furnish a debt collection agency information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service are routinely released to consumer reporting agencies to obtain credit reports and are arguably relevant to debt collection agencies for collection services;

(5) Disclose information to a Federal, state, local, or foreign agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, that has requested information relevant to or necessary to the requesting agency's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(6) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation or settlement negotiations in response to a subpoena where arguably relevant to a proceeding, or in connection with criminal law proceedings;

(7) Disclose information to foreign governments in accordance with formal or informal international agreements;

(8) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(9) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relates to civil and criminal proceedings;

(10) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(11) Provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(12) Provide wage and separation information to another agency, such as the Department of Labor or Social Security Administration, as required by law for payroll purposes;

(13) Provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state employment compensation board, housing administration agency, and Social Security Administration;

(14) Disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation of, or for implementing, a statute, regulation, order, or license, where the disclosing agency becomes aware of a potential violation of civil or criminal law or regulation;

(15) Disclose information about particular Treasury employees to requesting agencies or non-Federal entities under approved computer matching efforts, limited only to those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Department of the Treasury or any constituent unit of the Department, to improve program integrity, and to collect debts and other money owed under those programs (*e.g.*, matching for delinquent loans or other indebtedness to the government);

(16) Disclose to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, the names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees, for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement activities as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193);

(17) Disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Department of the Treasury, when necessary to accomplish an agency.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made pursuant to 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, Pub. L. 97–365; debt information concerning a government claim against an individual is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt. Disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records, microfiche, and hard copy. Disbursement records are stored at the Federal Records Center.

RETRIEVABILITY:

Records are retrieved generally by social security number, position identification number within a bureau and sub-organizational element, employee identification or employee name. Secondary identifiers are used to assure accuracy of data accessed, such as master record number or date of birth.

SAFEGUARDS:

Entrances to data centers and support organization offices are restricted to those employees whose work requires them to be there for the system to operate. Identification (ID) cards are verified to ensure that only authorized personnel are present. Disclosure of information through remote terminals is restricted through the use of passwords and sign-on protocols, which are periodically changed. Reports produced from the remote printers are in the custody of personnel and financial management officers and are subject to the same privacy controls as other documents of similar sensitivity.

RETENTION AND DISPOSAL:

The current payroll and personnel system and the personnel and payroll system's master files are kept as electronic media. Information rendered to hard copy in the form of reports and payroll information documentation is also retained in an electronic media format. Employee records are retained in automated form for as long as the employee is active on the system (separated employee records are maintained in an ''inactive'' status). Files are purged in accordance with Treasury Directives 80–05, ''Records and Information Management Program.''

SYSTEM MANAGER(S) AND ADDRESS:

Department of the Treasury: Official prescribing policies and practices: Director, Office of Human Resources Enterprise Solutions, 1750 Pennsylvania Avenue NW., Washington, DC 20220.

The systems managers for the Treasury components are:

(1) a. DO: Chief, Personnel Resources, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

b. OIG: Personnel Officer, 740 15th Street NW., Suite 500, Washington, DC 20220.

c. TIGTA: National Director, Human Resources, 1111 Constitution Avenue, NW., Room 6408, TIGTA: MRS, Washington, DC 20224.

(2) TTB: Chief, Personnel Division, 650 Massachusetts Ave., NW., Washington, DC 20226.

(3) OCC: Director, Human Resources, 250 E Street, SW., Washington, DC 20219.

(4) BEP: Chief, Office of Human Resources, 14th & C Streets, SW., Room 202–13A, E&P Annex, Washington, DC 20228.

(5) FMS: Director, Personnel Management Division, 3700 East West Hwy, Room 115-F, Hyattsville, MD 20782.

(6) IRS: Associate Director, Transactional Processing Operations, 1111 Constitution Avenue, NW., CP6, A:PS:TP, 2nd Floor, Washington, DC 20224.

(7) MINT: Assistant Director for Human Resources, 801 9th Street, NW., 6th Floor, Washington, DC 20220.

(8) BPD: Director, Human Resources Division, 999–E Street, NW., Washington, DC 20239.

(9) FinCEN: Chief of Personnel and Training, P.O. Box 39, Vienna, VA 22183–0039.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions pertaining to individual Treasury components appearing at 31 CFR part 1, subpart C, appendices A–L.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

The information contained in these records is provided by or verified by the subject of the record, supervisors, and non-Federal sources such as private employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–16117 Filed 6–25–03; 8:45 am]

BILLING CODE 4810–25–P

Federal Register

Thursday,
June 26, 2003

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Tires; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–03–15400]

RIN 2127–AI54

Federal Motor Vehicle Safety Standards; Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: The Transportation Recall Enhancement, Accountability, and Documentation Act of 2000 mandates that we conduct a rulemaking proceeding to revise and update our safety performance requirements for tires. In response, we are establishing new and more stringent tire performance requirements that will apply to all new tires for use on light vehicles, *i.e.*, those vehicles with a gross vehicle weight rating of 10,000 pounds or less, except motorcycles and low speed vehicles. The final rule increases the stringency of the existing high speed and endurance tests, defers action on proposals to replace the existing strength test and the bead unseating resistance test with a road hazard impact test and a different bead unseating test, respectively, adds a low pressure performance test, and defers action on a proposal to add an aging test. Together with new safety information requirements that we recently established for those tires, the new performance requirements will improve tire safety.

DATES: This final rule is effective June 1, 2007. Voluntary compliance is permitted before that date. If you wish to submit a petition for reconsideration of this rule, your petition must be received by August 11, 2003.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues: Mr. George Soodoo or Mr. Joseph Scott, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2720. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Highlights of the Notice of Proposed Rulemaking

Section 10 of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act mandates that the agency issue a final rule revising and updating its tire performance standards. In response, the agency examined the value of modifying each of the existing tests in its tire standards applicable to tires for light vehicles, *i.e.*, those vehicles with a gross vehicle weight rating of 10,000 pounds or less, except motorcycles and low speed vehicles. In addition, NHTSA examined the value of adopting several new tests. In doing so, it placed particular emphasis on improving the

ability of tires to withstand the effects of factors mentioned during the consideration and enactment of the TREAD Act, such as tire heat build up, low inflation, and aging. The agency conducted extensive testing, data gathering and analyses as well as reviewed other existing international, industry and national standards and proposals, and submissions by the public.

As a result of these efforts, the agency identified an array of amendments for revising and updating its tire standards and thereby improving tire performance. In the notice of proposed rulemaking (NPRM) that NHTSA published on March 5, 2002 (67 FR 10050, Docket No. NHTSA–00–8011), the agency proposed to upgrade its existing requirements and test procedures addressing the following aspects of tire performance: Tire dimension, high speed, endurance, road hazard impact, and bead unseating. The agency proposed also to add new requirements that would require that underinflated tires and aged tires provide specified levels of performance.[1] The agency recognized the potential significant cost of some of the proposed amendments, but decided that, in view of the broad mandate in the TREAD Act and the uncertainty associated with the analysis of benefits and costs, the most appropriate course of action was for the agency to seek public comment on the wide array of proposals and use the information in the responses to adjust and refine the amendments.

The highlights of the proposal were as follows:

(1) *High speed and endurance tests*—the current high speed and endurance tests in FMVSS No. 109, *New Pneumatic Tires—Passenger Cars,* 49 CFR 571.109, would have been replaced with a more stringent combination of testing parameters (ambient temperature, load, inflation pressure, speed, and duration.) The proposed high speed test would have specified test speeds (140, 150 and 160 km/h (87, 93, and 99 mph)) that are substantially higher than those currently specified in FMVSS No. 109 (120, 128, 136 km/h (75, 80, 85 mph)). The proposed endurance test would have specified a test speed 50 percent greater (120 km/h (75 mph)) than that currently specified in FMVSS No. 109 (80 km/h (50 mph)), as well as a duration that is 6 hours longer (40 hours total) than that currently specified in FMVSS No. 109 (34 hours total).[2]

(2) *Road hazard impact test and bead unseating test*—these two tests would have been modeled on SAE Recommended Practice J1981, *Road Hazard Impact Test for Wheel and Tire Assemblies (Passenger Car, Light Truck, and Multipurpose Vehicles),* and the Toyota air loss test, respectively. These new tests would have replaced the strength and bead unseating resistance tests in the current FMVSS No. 109 with tests that were believed to be more real-world and more stringent.

(3) *Low inflation pressure performance*—two alternative tests were proposed. Both tests would have utilized tires significantly under-inflated, for instance, 140 kPa (20 psi) for P-metric tires (the low inflation pressure threshold requirement for warning lamp activation in the then proposed Tire Pressure Monitoring System (TPMS) standard, Docket No. NHTSA–00–8572 (66 FR 38982, July 26, 2001)), as the ''inflation pressure'' testing parameter for standard load P-metric tires.

(4) *Aging effects*—three alternative tests were proposed that would have evaluated a tire's long term durability through methods different than and/or beyond those required by both the current and the proposed endurance test parameters. The three tests would have used peel strength testing, long-term durability endurance requirements, and oven aging, respectively.

(5) *Tire Selection Criteria/De-Rating of P-metric Tires*—the agency proposed retaining the de-rating percentage of 1.10 for P-metric tires used on non-passenger car vehicles and revising FMVSS No. 110 to specify that the determination of vehicle normal load (''reserve load'') on the tire be based on 85% of the load at vehicle placard pressure.

Also, the agency discussed revising FMVSS No. 110, *Tire selection and rims,* for passenger cars, 49 CFR 571.110, and FMVSS No. 120, *Tire selection and rims for motor vehicles other than passenger cars,* 49 CFR 571.120, to reflect the applicability of the proposed new light vehicle tire standard to vehicles up to 10,000 pounds GVWR. It also discussed revising FMVSS No. 117, *Retreaded pneumatic tires,* 49 CFR 571.117, and FMVSS No. 129, *New non-pneumatic tires for passenger cars,* 49 CFR 571.129, to replace the performance tests that reference or mirror those in FMVSS No. 109 with those specified in the proposed new light vehicle tire standard.

The agency proposed two alternative implementation schedules for tires: A two-year phase-in under which all applicable tires would have been required to comply with the final rule by September 1, 2004, and a three-year phase-in under which all applicable tires would have been required to comply with the final rule by September 1, 2005. For light vehicles, the agency proposed that all those manufactured on or after September 1, 2004 would have had to comply with the final rule.

The aforementioned proposals are summarized more fully in section IV.B. of this document.

B. Highlights of the Final Rule

In response to the NPRM, the agency received cost data from commenters and other information that assisted it in refining its assessment of benefits and costs and in choosing amendments to fashion a final rule that will offer the American public enhanced tire safety and be consistent with the principles of Executive Order 12866. The resulting final rule establishes new and more stringent tire performance requirements that apply to all new radial tires for use on passenger cars, multipurpose passenger vehicles, trucks, buses and trailers that have a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less and that are manufactured after 1975, and to all new passenger cars, multipurpose passenger vehicles, trucks, buses and trailers that have a GVWR of 4,536 kg (10,000 pounds) or less. The requirements are fully summarized in section VI.A. of this document.

The agency believes the final rule is a reasoned one that is based on the best currently available information and that will improve tire safety. NHTSA believes that this rule will be effective at ensuring that future tires will have their strength, endurance, and heat resistance evaluated in a way that will increase the required level of performance.[3] As a result, these tires are expected to exhibit less variability in levels of performance and experience fewer blowouts and tire failures. Additionally, the reserve load requirements of FMVSS No. 110, combined with the de-rating of P-metric tires when used on SUVs, vans, trailers, and pick-up trucks, will provide a

[1] *See* 67 FR 69600; November 18, 2002, for the recently adopted tire information requirements. For the convenience of the reader, we have placed in the docket for today's final rule a document that shows how the tire safety information and performance requirements appear together in Standard No. 139.

[2] At the specified test speed (120 km/h), the proposed endurance test distance (4800 km) would have been almost double the distance accumulated than under the current endurance test (2720 km at 80 km/h).

[3] The agency estimates that 5–11% of tires will have to be modified to meet this final rule.

sufficient safety margin for tires used on light vehicles.

In response to comments from the tire and vehicle industries arguing that the compliance costs were underestimated in the NPRM and in recognition of the limited quantifiable safety benefits, NHTSA has reduced the stringency of some of its proposals and deferred others, to ensure that this rule's safety improvements will be reasonably related to the rule's costs.

C. Adopted Aspects of the NPRM

High speed and endurance—The agency is upgrading the existing high speed and endurance tests, although to a more modest degree than we proposed. Both the high speed test and the endurance test contain testing parameters (ambient temperature, load, inflation pressure, speed, and duration) that make the tests more stringent than those tests currently found in our tire standards, as well as the tests suggested by industry. Most significantly, the high speed test specifies test speeds of 140, 150, and 160 km/h substantially higher than those specified in the passenger car tire standard. Likewise, the endurance test specifies a test speed 50% higher than that currently specified in the car tire standard. Under the new endurance test, a tire is assessed over 50% more distance than a tire must endure under the current endurance test.

Low inflation pressure performance—The agency is adopting a low inflation pressure test that seeks to ensure a minimum level of performance safety in tires when they are underinflated to 140 kPa (20 psi). That is the minimum level of inflation at which tire pressure monitoring system warnings will be required to be activated. This requirement mirrors conditions of long distance family travel and will assist in ensuring that tires will withstand conditions of severe underinflation during highway travel in fully loaded conditions.

Applicability and LTVs—Given the increasing consumer preference for using light trucks for personal transportation purposes, NHTSA is, for the first time, requiring light trucks to have a specified tire reserve, the same as for passenger cars, under normal loading conditions. The agency is also extending the tire performance requirements for passenger car tires to LT tires (load range C, D, and E) used on light trucks.

D. Deferred Aspects of the NPRM

Road hazard impact—Instead of replacing the current strength test with the proposed road hazard test, the agency is retaining the strength test for passenger car and LT tires. Post-NPRM agency testing data and public comments called into question whether the proposed road hazard impact test, which was modeled after a SAE recommended practice, would provide both a more stringent and more real-world test than the current test. The agency will address these uncertainties in the near future. After it conducts research on tire aging and resistance to bead unseating, it will conduct research on road hazard impact. Based on the test results, it will decide whether to initiate rulemaking to adopt a new or revised test.

Resistance to bead unseating—Instead of replacing the current bead unseating test with a proposal based on a Toyota test, the agency is retaining the bead unseating test and extending it to LT tires. Industry previously recommended dispensing with a bead unseating test because radial tires are easily able to satisfy the current one. Results from the agency's 1997–1998 rollover testing provided a strong rationale for upgrading, rather than deleting, the bead unseating test. Post-NPRM agency testing data and public comments, however, called into question whether the Toyota test provides both a more stringent and more real-world test than the FMVSS No. 109 bead unseating test. The agency will conduct research on bead unseating after conducting its research on tire aging, and, based on the test results, decide whether to initiate rulemaking to adopt a new or revised test.

Aging—At this time, the agency is not adopting a test to address the deterioration of tire performance caused by aging. We proposed three alternatives for an aging effects test that would expose tires to the type of failures experienced by consumers at 40,000 kilometers or beyond. Because we had little data and analysis regarding any of these tests and understood the tire industry to be regularly conducting aging testing, we requested comments on which alternative should be adopted. The tire industry did not, however, disclose any of its testing data or provide any analysis in its comments on the NPRM. However, some industry members have recently begun a dialogue and offered to share data with the agency.

In an attempt to gain a thorough understanding of existing aging test mechanisms and methodologies, as well as data and analysis relating to that testing, the agency is commencing its own research on aging. The agency anticipates publishing a NPRM proposing an aging test in approximately two years after this final rule.

Benefits

At the time of the NPRM, we were able to quantify only very slight safety benefits. Given the reductions in several of our proposals and the deferral of several of other proposals, the benefits of the final rule will be less than we then projected. We now estimate 1 to 4 lives saved and 23 to 102 injuries reduced. Nevertheless, the final rule will increase the required level of performance for all tires and will improve the strength, endurance, and heat resistance of the 5–11% of tires that will have to be redesigned or modified to achieve compliance.

Costs

Although in issuing the proposal we were able to estimate costs for only two of the proposed tests, we estimated that those two tests alone would result in costs of almost $300 million per year. However, given the reductions in or deferrals of some of our proposals, we estimate that the final rule will, in its entirety, result in annual costs for new original equipment and replacement tires of $3.6 million to $31.6 million. The net costs per equivalent life saved will be about $5 million based on the mid-point of cost and discounted benefits estimates.

Effective Dates/Implementation

The agency is providing a 4-year lead time for both tire and vehicle manufacturers. All covered tires and vehicles must comply with the amendments by June 1, 2007. In view of the comments by the tire and vehicle industry regarding the extent and significance of design and production changes that might have to be made as a result of changing requirements in an area that has been not substantively revised in 30 years, NHTSA finds that an effective date of June 1, 2007 is more reasonable than the shorter lead time proposed in the NPRM and is in the public interest.

II. Background

A. The Transportation Recall Enhancement Accountability and Documentation Act

Section 10, ''Endurance and Resistance Standards for Tires,'' of the TREAD Act, Pub. L. 106–414, mandates that the agency issue a final rule to revise and update its tire performance standards. However, the Act gives the agency substantial discretion regarding the substance of the final rule. The Act does not specify how the standards should be revised or updated. For

example, it does not specify which particular existing performance requirements and test procedures should be improved or how much they should be improved. Likewise, it does not specify which particular new requirements should be added or how stringent they should be.

In response to section 10 of the TREAD Act, the agency comprehensively examined possible ways of revising and updating its tire standards. In doing so, it placed particular emphasis on improving the ability of tires to withstand the effects of factors mentioned during the consideration and enactment of the TREAD Act such as tire heat build up, low inflation, and aging. The agency examined the value of modifying the existing tests in its tire standards. In addition, it examined the value of adopting several new tests.

B. Safety Problem

1. Outdated Performance Requirements

Prior to the enactment of the TREAD Act, the Firestone tire recalls in 2000 focused public attention on the agency's passenger car tire standard, FMVSS No. 109. The standard had not been substantively revised since first issued over 30 years ago in 1967. At that time, nearly all (more than 99 percent) of passenger car tires in the U.S. were of bias, or bias belt construction. Accordingly, the requirements and test procedures in FMVSS No. 109 were developed primarily to address bias tires. Today, bias tires have been almost completely replaced by radial tires on passenger cars and other light vehicles. The use of radial tires has grown to the extent that they represent more than 95 percent of passenger tires in both the U.S. and Europe and are used on most other new light vehicles sold in the U.S.

NHTSA does not require that light vehicles be equipped with radial tires, but regulates radial tire performance through FMVSS Nos. 109 and 119. Radial tires are less susceptible than bias ply tires to most types of failures.[4] Also, the switch to radial tire designs resulted in significant improvements in tire performance compared with bias ply tires. Given the superior performance of radial tires, it is easier for them than for bias tires to comply with the requirements of FMVSS No. 109.[5]

While the durability and performance of tires have improved, the conditions under which tires are operated have become more rigorous. Higher speeds, greater loads, extended lifetimes of tires, longer duration of travel[6] and shifting demographics of vehicles sales[7] have all contributed to much greater stresses and strains being placed upon today's radial tires than those endured by earlier generation radial tires.

The characteristics of a radial tire construction in conjunction with present usage and purchasing patterns render the existing required minimum performance levels in the high-speed test, endurance test, strength test[8], and bead-unseating test ineffective in differentiating among today's radial tires with respect to these aspects of performance.

2. Safety Problems Associated With Tires

Essentially, the size of the tire problem has remained the same over the last eight years. With the increasing sales of light trucks, and the fact that light trucks have more tire problems than passenger cars, the problem has shifted more toward light trucks and away from passenger cars. As discussed in the NPRM, several crash files contain information on ''general'' tire related problems that precipitate crashes. The more recent of these files are the National Automotive Sampling System—Crashworthiness Data System (NASS–CDS)[9] and the Fatality Analysis Reporting System (FARS).[10]

[4] A radial passenger car tire carcass is typically made up of one or two plies of cord material that run from bead to bead at an angle of approximately 90 degrees to the centerline of the tire. As a result, the cords do not crisscross. Because the cords do not crisscross and because the opposite ends of each cord are anchored to the beads at points that are directly opposite to each other, the radial tire sidewall is more flexible than that of a bias tire and the treadface is less flexible. The radial tire is reinforced and stabilized by a belt that runs circumferentially around the tire under the tread. This construction allows the sidewalls to act independently of the belt and tread area when forces are applied to the tire. This ''independent'' action is what allows the sidewalls to readily absorb road irregularities without overstressing the cords. Impact breaks caused by cord rupture do not occur in radial-ply passenger car tires. This ''independent'' action also allows two important things to happen during cornering: (1) The tread of a radial tire remains fully in contact with the road over the entire tread width, and (2) the ply cords and sidewall are able to absorb the cornering forces without exerting the twisting force on the beads that are exerted by bias constructions.

[5] A bias passenger car tire carcass is typically made up of two or four plies of cord material that run from bead to bead at an angle of approximately 35 degrees to the centerline of the tire. Alternating plies are applied at alternating angles during tire manufacture so that the cord paths of alternating plies crisscross. This type of construction provides a very strong, durable carcass for the tire. However, it has drawbacks. Because the ply cords crisscross and all the cords are anchored to the beads, the sidewall is stiff and treadface is flexible. This type of construction prevents different parts of the tire from acting independently of one another when forces are applied to the tire. As a result, a bias construction is susceptible to impact breaks because it does not easily absorb road irregularities.

[6] Passenger cars average 12,258 miles per year during the first 6 years after purchase, while light trucks average 12,683 miles per year during the same time period. NPTS data also indicates that minivans make the most person-trips per day, followed by SUVs, passenger cars, and finally pickups. SUVs are estimated to make, on average, 4.6% more person-trips per day than passenger cars. Also, the 1995 Nationwide Personal Transportation Survey (NPTS) data set suggests that the average light duty truck (LDT) (pickup trucks, SUVs, and minivans) is used over longer distances and with more people aboard than passenger cars. Additionally, SUVs are popular for long distance weekend travel.

[7] Americans have shifted toward a significantly higher use of minivans, pickup trucks, and SUVs for personal travel. (*Journal of Transportation and Statistics*, December 2000). Sales of light trucks have risen steadily for over the past 20 years and now account for almost half of the U.S. light vehicle market—more than twice their market share as recently as 1983. (*Industries in Transition,* 1/01/00; *Journal of Transportation and Statistics*, December 2000.) Sales growth of heavier light trucks, those that have GVWRs above 6,000 pounds, increased at a much faster rate than their lighter counterparts, with larger SUVs (6,000–10,000 pounds GVWR) showing an average increase of 38 percent annually between 1990 and 1998.

Approximately 90 percent of these light trucks use passenger car (P-metric) tires. The other 10 percent use light truck (LT) tires load range C, D, or E tires, which are typically used on heavier light trucks with a gross vehicle weight rating (GVWR) between 6,000 and 10,000 pounds. Continued growth in the sales and production of light truck vehicles also drove the number of original equipment light truck (LT) tires to a record high of approximately 8.4 million units or a 25.2 percent increase over 1998's figures. (*RMA 2000 Yearbook*)

[8] The FMVSS No. 109 plunger energy or strength test was designed to evaluate the strength of the reinforcing materials in bias ply tires, typically rayon, nylon or polyester, and it continues to serve a purpose for these tires. However, a radial tire is not susceptible to the kind of failure for which this test was designed to prevent. The flexible sidewalls of radial tires easily absorb the shock of road irregularities.

Because of the belt package, radial tires far exceed the strength requirements of the test and many times the plunger bottoms out on the rim instead of breaking the reinforcing materials in the radial tire. During the years 1996 through 1998 RMA members reported conducting nearly 19,000 plunger energy (strength) tests on radial tires. There were no reported failures.

[9] For the NASS–CDS system, trained investigators collect data on a sample of tow-away crashes around the country. These data can be ''weighted up'' to national estimates. A NASS–CDS General Vehicle Form contains the following information: a critical pre-crash event, such as vehicle loss of control due to a blowout or flat tire. This category includes only part of the tire-related problems that cause crashes. This coding would only be used when the tire went flat or there was a blowout that caused a loss of control of the vehicle, resulting in a crash.

[10] In FARS, tire problems are noted after the crash, if they are noted at all. The FARS file does not indicate whether the tire problem caused the crash, influenced the severity of the crash, or just occurred during the crash. For example, some crashes may have been caused by a tire blowout, while in others the vehicle may have slid sideways and struck a curb, causing a flat tire that may or may not have influenced whether the vehicle experienced rollover. Thus, while an indication of a tire problem in the FARS file give some indication as to the potential magnitude of the tire problem in fatal crashes, it can neither be considered the lowest

Continued

NASS–CDS data for 1995 through 1998 [11] indicate that there are an estimated 23,464 tow-away crashes per year coded by the NASS investigators (relying on the police report of the crash) as having been caused by blowouts or flat tires. Based on that estimate, about one-half of one percent of all crashes are caused by these tire problems. The rate of blowout-caused crashes for light trucks (0.99 percent) is more than three times the rate of those crashes for passenger cars (0.31 percent). Blowouts cause a much higher proportion of rollover crashes (4.81) than non-rollover crashes (0.28), and more than three times the rate in light trucks (6.88 percent) than in passenger cars (1.87 percent).

FARS data for 1999 through 2001 show that 1.10 percent of all light vehicles in fatal crashes were coded by investigators as having had tire problems. Light trucks had slightly higher rates of tire problems (1.34 percent) than passenger cars (0.92 percent). The annual average number of vehicles with tire problems in FARS was 528 (255 passenger cars and 273 light trucks).

A further examination of the FARS data indicates that heat is a factor in tire problems. An examination of two surrogates for heat, the region of the U.S. in which the crash occurred, and the season in which the crash occurred, indicates that the highest rates of tire problems occurred in light trucks in southern states in the summertime, followed by light trucks in northern states in the summertime, and then by passenger cars in southern states in the summertime. The lowest rates occurred in winter and fall. Based on these data, tires on light trucks appear to be more affected by higher ambient temperatures than tires on passenger cars.

Examining tire problems in the NASS–CDS from 1992 to 1999 by types of light trucks and vehicle size indicates that LT tires used on light trucks exhibited more problems than P-metric tires. LT tires are used on vehicle classes identified for this analysis as Van Large B and Pickup Large B groups of vehicles. These groups of vehicles typically consist of the ¾-ton and 1-ton vans and pick-ups. P-metric tires are used on most of the other light trucks. The data indicate that the average percentage of light trucks in the NASS–CDS having a LT tire problem is 0.84, while the average percent of light trucks having a P-metric tire problem is 0.47 percent. These larger pickups and vans, however, carry heavier loads and may be more frequently overloaded than lighter trucks. In addition, these heavier vehicles are often used at construction sites and may be more apt to encounter nail punctures and experience flat tires. Thus, there may be usage issues that increase the percentage of tire problems for these larger trucks, rather than exclusively a qualitative difference between P-metric and LT tires.

C. Existing NHTSA Performance Requirements for Tires

The following discussion summarizes existing NHTSA requirements relating to tires.

FMVSS No. 109, *New pneumatic tires*, 49 CFR 571.109, specifies the requirements for all tires manufactured for use on passenger cars manufactured after 1948. This standard, which was issued in 1967 under the National Traffic and Motor Vehicle Safety Act (Safety Act), specifies dimensions for tires used on passenger cars and requires that the tires meet specified strength, resistance to bead unseating, endurance, and high speed requirements, and be labeled with certain safety information. FMVSS No. 109 applies to passenger car (P-metric) tires produced for use on passenger cars, multipurpose passenger vehicles (MPV), and light trucks (sport utility vehicles (SUV), vans, minivans, and pickup trucks). The standard was adopted from the Society of Automotive Engineers (SAE) recommended practice J918c, *Passenger Car Tire Performance Requirements and Test Procedures*, which was first issued by the SAE in June 1965.[12] The current FMVSS No. 109 includes four performance requirements for tires:

- A strength test, which evaluates the strength of the reinforcing materials in the tire;
- A resistance-to-bead unseating test, which evaluates how well the tire bead is seated on the rim (regulating the tire-rim interface guards against sudden loss of tire air pressure when a tire is subjected to lateral forces such as during severe turning maneuvers);
- An endurance test, which evaluates resistance to heat buildup when the tire is run at or near its rated load nonstop for a total of 34 hours; and
- A high-speed test, which evaluates resistance to heat buildup when the tire is run at 88 percent of its maximum load at speeds of 75 mph, 80 mph, and 85 mph for 30 minutes at each speed.

For the purposes of testing tires to determine their compliance with these requirements, the standard specifies values for several factors, such as tire inflation pressure, the load [13] on the tire, and the rim on which a tire is mounted. The standard specifies permissible inflation pressures (or wheel sizes, in the case of bead unseating test) to facilitate compliance testing. The standard requires that each passenger car tire have a maximum permissible inflation pressure labeled on its sidewall (S4.3). Section 4.2.1(b) lists the permissible maximum pressures: 32, 36, 40, or 60 pounds per square inch (psi) or 240, 280, 290, 300, 330, 340, 350, or 390 kiloPascals (kPa). A manufacturer's selection of a maximum pressure has the effect of determining the pressures at which its tire is tested. For each permissible maximum pressure, Table II of the standard specifies pressures at which the standard's tests must be conducted. The intent of this provision is to limit the number of possible maximum inflation pressures and thereby reduce the likelihood of having tires of the same size on the same vehicle with one maximum load value, but with different maximum permissible inflation pressures.

Closely related to FMVSS No. 109 is FMVSS No. 110, *Tire selection and rims*, 49 CFR 571.110. FMVSS No. 110 requires that each passenger car be equipped with tires that comply with FMVSS No. 109, that tires on the cars be capable of carrying the maximum loaded vehicle weight, that the rims on the car be appropriate for use with the tires, and that certain information about the car and its tires appear on a placard in the passenger car. FMVSS No. 110 also specifies rim dimension requirements and further specifies that, in the event of a sudden loss of inflation pressure at a speed of 97 km/h (60 mph), rims must retain a deflated tire until the vehicle can be stopped with a controlled braking application. FMVSS No. 110 initially became effective in April 1968.

FMVSS No. 117, *Retreaded pneumatic tires*, 49 CFR 571.117, establishes performance, labeling, and

possible number because the tire might not have caused the crash, nor the highest number of cases because not all crashes with tire problems might have been coded by the police.

[11] Based on the consistency in the overall numbers of tire problems in FARS during the past eight years, the agency has not deemed it necessary to update the injury numbers in the more intricate analysis of NASS–CDS data. We believe that there would be almost no change in the target population if a few more recent years, *e.g.*, 1999–2001, were included in the NASS–CDS analysis.

[12] SAE is an organization that develops voluntary standards for aerospace, automotive and other industries. Many of SAE's recommended practices are developed using technical information supplied by vehicle manufacturers and automotive test laboratories.

[13] Load percentages stated throughout this document, unless otherwise specified, are based on the sidewall maximum rated load.

certification requirements for retreaded pneumatic passenger car tires. Among other things, the standard requires retreaded passenger car tires to comply with the tubeless tire resistance to bead unseating and the tire strength requirements of FMVSS No. 109. FMVSS No. 117 also specifies requirements for casings to be used for retreading, and certification and labeling requirements.

FMVSS No. 119, *New pneumatic tires for vehicles other than passenger cars*, 49 CFR 571.119, specifies performance and labeling requirements for new pneumatic tires designed for highway use on multipurpose passenger vehicles, trucks, buses, trailers and motorcycles manufactured after 1948, and requires treadwear indicators in tires, and rim matching information concerning those tires. Under this standard, each tire must meet requirements that are qualitatively similar to those in FMVSS No. 109 for passenger car tires. The high speed performance test in this standard only applies to motorcycle tires and to non-speed-restricted tires of 14.5-inch nominal rim diameter or less marked load range A, B, C, or D. In addition, FMVSS No. 119 does not contain a resistance-to-bead unseating test.

A tire under FMVSS No. 119 is generally required to meet the performance requirements when mounted on any rim listed as suitable for its size designation in the publications, current at the time of the tire's manufacture, of the tire and rim associations that are listed in the standard. Further, the tire is required to meet the dimensional requirements when mounted on any such rim of the width listed in the load-inflation table s of this standard. In addition to the permanent marking for any non-matching listed rims, each tire manufacturer is required to attach to the tire, for the information of distributors, dealers and users, a label listing the designations of rims appropriate for use with the tire.

FMVSS No. 120, *Tire Selection and rims for motor vehicles other than passenger cars*, 49 CFR 571.120, requires that vehicles other than passenger cars equipped with pneumatic tires be equipped with rims that are listed by the tire manufacturer as suitable for use with those tires and that rims be labeled with certain information. It also requires that these vehicles shall be equipped with tires and rims that are adequate to support the vehicle's certified gross weight.

Tire selection under FMVSS No. 120 consists of two elements. With one exception, each vehicle must be equipped with tires that comply with FMVSS No. 119 and the load rating of those tires on each axle of the vehicle must together at least equal the gross axle weight rating (GAWR) for that axle. If the certification label lists more than one GAWR-tire combination for the axle, the sum of the tire's maximum load ratings must meet or exceed the GAWR that corresponds to the tire's size designation. If more than one combination is listed, but the size designation of the actual tires on the vehicle is not among those listed, then the sum of the load ratings must simply meet or exceed the lowest GAWR that does appear.

FMVSS No. 120 also contains a requirement related to the use of passenger car tires on vehicles other than passenger cars. The requirement states that when a tire that is subject to FMVSS No. 109 is installed on a multipurpose passenger vehicle, truck, bus, or trailer, the tire's load rating must be reduced by a factor of 1.10 by dividing by 1.10 before determining whether the tires on an axle are adequate for the GAWR. This 10 percent de-rating of P-metric tires provides a greater load reserve when these tires are installed on vehicles other than passenger cars. The reduction in the load rating is intended to provide a safety margin for the generally harsher treatment, such as heavier loading and possible off-road use, that passenger car tires receive when installed on a MPV, truck, bus or trailer, instead of on a passenger car.

FMVSS No. 129, *New non-pneumatic tires for passenger cars*, 49 CFR 571.129, includes definitions relevant to non-pneumatic tires and specifies performance requirements, testing procedures, and labeling requirements for these tires. To regulate performance, the standard contains performance requirements and tests related to physical dimensions, lateral strength, strength (in vertical loading), tire endurance, and high-speed performance. The performance requirements and tests in FMVSS No. 129 were based upon those contained in FMVSS No. 109.

III. Pre-TREAD Act Enactment Agency Response to Safety Problem

Prior to this rulemaking, NHTSA embarked on a program of global harmonization for light vehicle tire standards under the auspices of the United Nations/Economic Commission for Europe's (UN/ECE) World Forum for Harmonization of Vehicle Regulations (WP.29).[14] NHTSA, within the WP.29's Working Party on Brakes and Running Gear (GRRF),[15] had been working cooperatively with other countries to develop a global tire standard that could better assess the safety performance of modern tires.

Beginning in July 1999, the GRRF had been considering a draft global technical regulation (GTR) based on the Global Tire Standard 2000 for New Pneumatic Car Tires (GTS–2000),[16] [17] an industry developed standard. Prior to the enactment of the TREAD Act, tentative consensus within an ad hoc tire harmonization working group of the GRRF concerning the draft GTR had been reached on the following issues: (1) to adopt the ECE R30 high speed test methodology (see **Note**) in place of the FMVSS No. 109 high speed test, (2) to keep the current FMVSS No. 109 resistance-to-bead unseating test until NHTSA develops an alternative that is more appropriate for radial tires, and (3) to develop an optional requirement for testing wet grip.

Note: The ECE Regulation 30 includes a single performance requirement, the high-speed test, which is conducted at a speed close to and up to the rated speed of the tire. The methodology used in ECE R30 and suggested by the tire industry in GTS–2000 for tire harmonization determines the test speed based on the tire's speed symbol rated speed. The following chart illustrates the rated speed in km/h for each speed symbol.

Speed symbol	Rated speed—km/h
F	80
G	90
J	100
K	110
L	120
M	130
N	140
P	150
Q	160
R	170
S	180
T	190

[14] Formerly, ''Working Party on the Construction of Vehicles (WP.29).'' The Forum's Web site is *http://www.unece.org/trans/main/welcwp29.htm.*

[15] The GRRF is a Working Party within WP.29 that is responsible for developing draft global technical regulations on brakes, tires, wheels, and other chassis components of motor vehicles.

[16] [17] GTS–2000 would replace the current FMVSS No. 109 high-speed test with the high-speed test required by ECE—R30 (the European tire regulation for tires used on light passenger vehicles), including temporary spares. It would also limit the application of the other three tests currently required by FMVSS No. 109, namely the strength test, the bead unseating test, and the endurance test, to bias tires and low speed rated radial tires because industry believes that these three tests have relevance to bias and bias-belted tires, but little, if any, relevance to radial tires, with the single exception of the endurance test for low speed (160 km/h/99 mph, or less) radial tires.

Speed symbol	Rated speed—km/h
U	200
H	210
V	240
W	270
Y	300
ZR	>300

These speeds range from a minimum of 140 km/h (88 mph) to 300 km/h (188 mph) for W, Y categories. The total test time is 50 minutes. The inflation pressures for the ECE R30 high-speed test are typically much higher than those recommended by vehicle manufacturers for vehicle operation.

Other issues that had also been under discussion in the ad hoc group prior to the TREAD Act included: (a) the U.S.'s suggestion to lower the inflation pressures for and increase the duration of the high speed test (current ECE R30 test), (b) the U.S.'s suggestion to agree on the need for tire labeling requirements that are unique to the U.S., such as maximum inflation pressure, and UTQG consumer information, (c) the U.S.'s suggestion to identify requirements that should be included as optional requirements, (d) assigning to the UN the responsibility for tire plant code registration for a global standard, and (e) the U.S.'s suggestion to increase the ambient temperature for the high speed test.

In a February 2001 submission to the docket (Docket No. NHTSA–2000–8011), the Chairman of the GRRF Tire Harmonization Working Group had recommended on behalf of the GRRF that NHTSA adopt a draft text that reflects the current state of deliberations for developing a harmonized tire standard. At its 126th session in March 2002, WP.29 decided that there was little prospect of achieving global agreement at this stage and suspended further work indefinitely. The group, as its final task, submitted comments on the NPRM in this rulemaking. The U.S. representative to the GRRF recused himself from these deliberations.

IV. Post-TREAD Act Enactment Agency Response to Safety Problem

A. Tire Testing and Opening of Docket No. 2000–8011

Shortly after the enactment of the TREAD Act, the agency had initiated tire testing at Standards Testing Labs (STL) in November 2000 to evaluate the high-speed performance, endurance performance, and low inflation pressure performance of a limited number of current production tires. The agency had developed a test matrix which focused on the five main parameters currently used in tire testing under FMVSS Nos. 109 and 119: load, inflation pressure, speed, duration, and ambient temperature. Copies of the test matrix and testing results for P-metric tires and for LT tires have been available in the docket (*see* the Tire Test Matrix in NHTSA Docket No. 2000–8011–1).

In summary, the results of the high speed and endurance tests had indicated that the agency could develop and propose test requirements that were realistic in terms of the test parameters, yet more stringent than the current FMVSS No. 109, FMVSS No. 119 requirements, European Regulation ECE R 30, GTS 2000, and RMA 2000. The proposed test requirements had differentiated tires with better high speed and endurance performance from those with lesser performance. The low pressure validation tests had indicated that tires that were able to successfully complete the endurance testing could also complete an additional 90-minute test at a low inflation pressure, 140 kPa for P-metric tires, thus providing an adequate safeguard for consumers to take corrective action when the low pressure warning lamp proposed under the tire pressure monitoring system rulemaking is activated at a ''significantly'' under-inflated level.

In September 2000, NHTSA had opened a docket, NHTSA–2000–8011, titled ''Tire Testing—Federal Motor Vehicle Safety Standard (FMVSS No. 109).'' The purpose of this docket has been to collect tire test data and receive feedback on its high speed and endurance performance testing matrices. At issuance of the NPRM, comments and recommendations from 7 entities had been received in the docket. Additionally, Toyota Motor Company (Toyota) had submitted a copy of its air loss test procedure to the docket. Substantive comments and recommendations in response to NHTSA's testing matrices were discussed in the NPRM.

B. March 5, 2002, Notice of Proposed Rulemaking (NPRM)

As a result of the aforementioned testing and data collection efforts, the agency identified an array of amendments for revising and updating its tire standards and thereby improving tire performance in a NPRM published on March 5, 2002. Some of these amendments would have upgraded existing tests, while the others would have added new ones.

In the NPRM, the agency proposed to include the new tire performance requirements in Standard No. 139, a new tire standard established in a November 18, 2002 final rule on Tire Safety Information (Docket No. NHTSA–02–13678, 67 FR 69600, November 18, 2002). The standard applies to light vehicle tires. As used in the tire safety information final rule, ''light vehicles'' are vehicles (except motorcycles) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less.

Under the NPRM, the new standard would have contained requirements and test procedures addressing the following aspects of tire performance: Tire dimension, high speed, endurance, road hazard impact, bead unseating, low inflation pressure performance, and aging effects.[18]

The proposed high speed and endurance tests would have replaced the current high speed and endurance tests in FMVSS No. 109, *New Pneumatic Tires—Passenger Cars,* 49 CFR 571.109, with a more stringent combination of testing parameters (ambient temperature, load, inflation pressure, speed, and duration.) Most significantly, the proposed high speed test would have specified test speeds (140, 150 and 160 km/h (87, 93, and 99 mph)) that are substantially higher than those currently specified in FMVSS No. 109 (120, 128, 136 km/h (75, 80, 85 mph)). Likewise, the proposed endurance test would have specified a test speed 50 percent faster (120 km/h (75 mph)) than that currently specified in FMVSS No. 109 (80km/h (50 mph)), as well as a duration 6 hours longer (40 hours total) than that currently specified in FMVSS No. 109 (34 hours total). At the specified test speed (120 km/h), the proposed endurance test distance (4800 km) would have been almost double the distance accumulated than under the current endurance test (2720 km at 80 km/h). These new testing parameters were based on NHTSA's activities undertaken in response to the TREAD Act, including extensive agency testing, data gathering and analyses as well as agency review of other existing international, industry and National standards and proposals, and submissions by the public.

The proposed road hazard impact test and the bead unseating test were modeled on SAE Recommended Practice J1981, *Road Hazard Impact Test for Wheel and Tire Assemblies (Passenger Car, Light Truck, and Multipurpose Vehicles)*, and the Toyota air loss test, respectively. These new tests would have replaced the strength and bead unseating resistance tests in the current FMVSS No. 109 with tests

[18] For the convenience of the reader, we have placed in the docket for today's final rule a document that shows how the recently promulgated tire safety information requirements (*see* Footnote # 1) and performance requirements appear together in FMVSS No. 139.

that were believed to be more real-world and stringent.

In addition to the tests cited above, the proposed standard would have contained tests for two new aspects of performance: Low inflation pressure performance and aging effects. By seeking to establish tests for these aspects of performance, the agency was attempting to address concerns raised by members of Congress in hearings preceding the enactment of the TREAD Act that NHTSA's current test requirements do not evaluate how well tires perform either when significantly underinflated or after being in use for several years and being subjected to environmental variables, such as heat. In particular, underinflation and heat were factors highlighted as contributing to failure of the Firestone ATX and Wilderness tires in the TREAD hearings, and in the agency's Firestone investigation (NHTSA Office of Defects Investigation (ODI) investigation number EA00–023).

To test low inflation pressure performance, the agency proposed two alternative tests based on agency testing and data analyses. Both tests would have evaluated tires when they are significantly under-inflated. For instance, 140 kPa (20 psi) for P-metric tires (the low inflation pressure threshold requirement for warning lamp activation in the proposed Tire Pressure Monitoring System (TPMS) standard, Docket No. NHTSA–00–8572 (66 FR 38982, July 26, 2001) would have been used as the ''inflation pressure'' testing parameter for standard load P-metric tires. To test for resistance to aging effects, the agency proposed three alternative tests that would have evaluated a tire's long term durability through methods different than and/or beyond those required by both the current and the proposed endurance test parameters. The three tests would have used peel strength testing, long-term durability endurance requirements, and oven aging, respectively. The agency solicited comments on which of the two proposed tests for addressing low inflation pressure performance, and which of the three tests proposed for addressing aging effects, should have been chosen for the new standard.

In addition to proposing test procedures for the new standard, the agency also discussed in this document its ongoing and future research plans on tire safety, and sought comments on the future use of shearography analysis (a method of analysis using laser technology) for evaluating the condition of tires subjected to the proposed testing procedures and the plans for revising the Uniform Tire Quality Grading Temperature Grading Requirement testing speeds so that they would have been consistent with the test speeds in the proposed high speed tests.

With regard to tire selection criteria and the de-rating of P-metric tires, the agency proposed retaining the de-rating percentage of 1.10 for P-metric tires used on non-passenger car vehicles and revising FMVSS No. 110 to require that the determination of vehicle normal load (''reserve load'') on the tire be based on 85% of the load at vehicle placard pressure.

Finally, the agency discussed revising FMVSS Nos. 110, *Tire selection and rims,* for passenger cars, 49 CFR 571.110, and 120, *Tire selection and rims for motor vehicles other than passenger cars,* 49 CFR 571.120, to reflect the applicability of the proposed light vehicle tire standard to vehicles up to 10,000 pounds GVWR, and revising FMVSS Nos. 117, *Retreaded pneumatic tires,* 49 CFR 571.117, and 129, *New non-pneumatic tires for passenger cars,* 49 CFR 571.129, to replace the performance tests which reference or mirror those in FMVSS No. 109 with those specified in the proposed new light vehicle tire standard.

Emphasizing that the agency was mindful of the principles for regulatory decisionmaking set forth in Executive Order 12866, Regulatory Planning and Review, and wished to adopt only those amendments that contribute to improved safety, NHTSA carefully examined the benefits and costs of these amendments. The agency noted that its efforts to do so, however, were limited by two factors: (1) The limited time allowed by the schedule specified in the TREAD Act for completing this rulemaking, and (2) the difficulty inherent in crash avoidance rulemakings, stemming from the multiplicity of the factors contributing to the occurrence of any crash and the difficulty of ascertaining the relative contribution of each factor, in linking specific improvements in safety requirements with specific reductions in crashes and resulting deaths and injuries.

The agency, based on the proposed high speed and endurance test, estimated that the benefits of this would have been 27 lives saved and 667 injuries reduced and emphasized that not all benefits could have been quantified, *e.g.*, benefits from the proposed aging test, the proposed low inflation pressure performance tests, the proposed road hazard and bead unseating tests, and aspects of the proposal that address the overloading of vehicles.

The agency estimated that about one-third (32.8 percent) of all tires would have needed improvements to pass the high speed and endurance tests and that the overall annual cost of these tests for new original equipment (64 million tires) and replacement tires (223 million tires) would have been estimated at $282 million for a total of 287 million tires sold annually and the net costs per equivalent life saved would have been about $7.2 million. The agency noted that it anticipated receiving cost data and other information that would enable it to refine its assessment of benefits and costs.

Expressing concern about the overall costs of the rulemaking and the net costs per equivalent life saved, the agency sought comments on the proposed new standard, including its applicability and test procedures, modifications to related existing standards, and lead time provided for manufacturers to achieve compliance.

C. Post-NPRM Technical Submissions to NHTSA Tire Upgrade Docket

1. NHTSA Testing at Standards Testing Labs (STL)

The agency conducted tire testing at Standards Testing Labs (STL) to evaluate the performance of tires tested to the high speed and endurance parameters proposed in the NPRM. The agency tested 20 (15 P-metric and 5 LT) current production tires.

For high speed testing, at an ambient temperature of 38° C, all 20 tires tested for a duration of 30 minutes at 140, 150, and 160 km/h with the proposed inflation pressures completed the test without failure. At an ambient temperature of 40° C with the other parameters being the same, all 15 P-metric tires completed the test without failure. For LT tires, 1 of 5 tires tested failed the high-speed test. Testing to these same conditions during Winter 2002 with 40 P-metric and 20 LT tires resulted in failures in 2 P-metric tires and 0 LT tires.

Endurance testing was conducted with the same parameters proposed in the NPRM—load combinations of 90/100/110 percent load, test speeds of 120 km/h, duration of 40 hours, ambient temperature of 40 C, and the inflation pressure of 180 kPa for P-metric tires and 75 percent of maximum inflation pressure for LT tires. Four of 15 tires failed to complete the test, representing a 27 percent failure rate. The same 15 tire brands were tested at the same parameters except the ambient temperature was reduced to 38° C and the loads were reduced to 85/90/100 percent. Under these conditions, 1 of

the 15 tires failed to complete the test, representing a failure rate of 7 percent. The one failure was a ''Q'' speed-rated snow tire that completed the 40-hour duration but failed the post-inspection because of chunking.

For the 5 LT tires tested, 3 of the 5 completed the endurance tests at the proposed parameters, representing a 40 percent failure rate. When the load and ambient temperature were reduced to 85/90/100 percent and 38° C, respectively, all 5 LT tires completed the test without any failures.

The agency also conducted low pressure testing at Smithers Scientific to evaluate Alternative 2 of the proposed low pressure test on the performance of 13 tires (10 P-metric and 3 LT).[19] The proposed 40-hour endurance test was performed on the tires before they were run to the low pressure test. The low pressure test parameters included an inflation pressure of 140 kPa, a speed of 140, 150, 160 km/h, a duration of 90 minutes (30 minutes at each test speed), a 67 percent load. The same tests were performed using 3 LT tires, but at inflation values of 260/340/410 kPa for load ranges C/D/E, respectively. These inflation pressure values represent the lowest inflation pressure provided by tire industry standardizing bodies for a tire load limit.

One of the P-metric tires failed to complete the endurance test and, therefore, was not tested to the low pressure test. The 12 remaining tires tested completed the 90-minute low inflation test without failure.

2. Rubber Manufacturer's Association (RMA) Design of Experiment (DOE) and Confirmation Testing

Members of the RMA developed a response surface model Design of Experiment (DOE) to assess tire temperatures versus test conditions (inflation pressure, load, and speed), surface type (standard test wheel of 1.7-m diameter versus a flat surface), and ambient temperature. An additional follow-up confirmation round of testing, which contained a broader range of tire types and sizes, was also conducted by RMA.[20]

RMA tested P-metric and LT tires to a matrix of high speed and endurance tests. Seven (4 P-metric and 3 LT) tire sizes of various brands were included in the test protocol. P-metric tires included P235/75R15 for all season, P215/70R15 for standard load ''broad line,'' P265/75R16 for all terrain, and P215/70R15 for snow. For LT tires, the sizes were LT245/75R16 LRE for all-terrain/all-traction, LT 235/85R16 LRE for all season, and 31 x 10.5 R 15 LRC for mud. A total of 145 tires were tested.

The parameters RMA used for its high speed testing for P-metric tires were identical to the agency's, except for the ambient temperature. For LT tires, RMA's test parameters were 10 km/h lower than the agency's proposal for speed (130, 140, 150 km/h), and higher for inflation pressures at 330 and 520 kPa for load ranges C and E tires, respectively. All 42 P-metric tires tested to RMA's proposal completed the 160 km/h step without any failures. Of the 32 LT tires tested, 1 tire failed to complete the 150-km/h step, representing a 3 percent failure rate, and 2 LT tires failed to complete the 160 km/h speed step, a 6 percent failure rate.

For its endurance test parameters for P-metric tires, RMA utilized an ambient temperature at 38° C, a load at 85/90/100 percent of the maximum load rating, the same test speed proposed in the NPRM (120 km/h) and duration at 34 hours. For LT tires, RMA's testing included the same parameters as those for P-metric tires except it utilized a lower test speed of 110 km/h and higher inflation pressures at 285 and 445 kPa for load ranges C and E tires, respectively. For the 30 P-metric tires tested to RMA's endurance test, 2 failed to complete the 100 percent load step (5 percent failure rate). For LT tires, 2 of 32 tires tested failed to complete the 100 percent load step (6 percent failure rate).

The outline of RMA's DOE text matrix, including specific test conditions applied by tire type, as well as a full set of DOE tables, charts, graphs, and data are included as DOE Attachment II to RMA's comments (Docket No. 2000–8011–64).

According to RMA, tires included in the test matrix were selected to cover the appropriate range of technical parameters and to ensure representative high volume in the marketplace. The three ''popular'' tire sizes chosen by RMA were: (1) P205/65R15, (2) P235/75R15, and (3) LT245/75R16 LRC/LRE. Most of the tires tested by RMA, particularly those used for the confirmation testing, were at the lower end of the speed rating scale, *e.g.* ''Q'' through ''S'' and included snow tires, which represent a small percent of sales of replacement tires in the U.S. A brief summary of RMA's DOE conclusions and recommendations are briefly discussed below. RMA's recommendations and comments on the NPRM proposals are summarized in the following section of this document.

In summary, the RMA concluded from the DOE and confirmation test results that:

(1) Speed is the most dominant test parameter. Larger temperature increases are observed when speed is increased compared to changing inflation pressure or load, particularly on a test wheel. According to the DOE, at 80 km/h the average tire temperature is 2° C higher on a 1.7 m test wheel than a flat surface, at 160 km/h the curved surface is 25° C higher.

(2) Passenger car and light truck tires require different test conditions on a test wheel, particularly for speed, to achieve comparable levels of severity. The effect of this curved surface of the 1.7 m test wheel is to increase the tire deflection compared to a flat surface. In addition, the combination of the curvature of the tire and reverse curvature of the test wheel results in the footprint of the tire being altered. The footprint shape is altered in a non-representative manner when compared to a flat surface. This altered deflection and footprint area result in substantially higher stresses. This is demonstrated by the higher tire temperatures on a curved versus flat surface.

(3) The effect of the test wheel curvature increases substantially with speed. Standing waves, which lead to early tire failure, occur at speeds 10 to 20 km/h lower on a curved surface compared to flat. To have a realistic test that can be related to real-world conditions, it is important to properly adjust test conditions on a curved surface to as closely as possible match those of a flat surface.

3. Ford Motor Company (Ford) Tire Aging Analysis

In June 2002, Ford presented its analysis on the effectiveness of the aging protocols proposed by NHTSA for FMVSS No. 139. Ford's presentation was comprised of evaluated results obtained from tire investigations and data analysis from experiments based on

[19] The agency did not re-test any tires to Alternative 1 of the low pressure endurance performance test since earlier testing (in Spring 2001) of 24 tires that completed a more stringent endurance test (50 hours and loads of 100/110/115 percent indicated no failures.

[20] An additional follow-up confirmation round of testing, containing a broader range of tire types and sizes, was conducted to validate the results of the DOE. RMA ran a matrix of passenger and light truck tires on high speed (increasing speed in 10 km/h steps to failure) and endurance (increasing load in 10% steps to failure). Seven high-volume, representative tire sizes of various brands were included in the test protocol (4 passenger and 3 light truck). Each tire size was tested for high speed and endurance; a total of 145 tires were tested. Passenger tire sizes tested included: P235/75R15 for economy all-season; P215/70R15 for standard load ''broad-line''; P265/75R16 for all-terrain; and, P215/70R15 for snow. The light truck sizes tested included: LT245/75R16 LRE for all-terrain/all-traction; LT235/85R16 LRE for all-season; and, 31 x 10.5 R15 LRC for mud.

the parameters discussed in the Notice. Based on the results from these experiments, Ford recommended aging mounted tires with a 50/50 blend of oxygen/nitrogen in an oven for two weeks followed by a peel test to be performed on the tire. They also suggested that it would be more appropriate to test the endurance, high speed, or low pressure performance of a tire aged in this manner.

Ford's observations and conclusions are summarized below:

Results Obtained From Tire Investigations: (1) There is a very strong correlation between cross-link density and peel strength for all of the manufacturing facilities, (2) peel strength decreases exponentially as, over time, cross-link density increases (as cross-link density increases, the elongation at break decreases), (3) since there is a relationship between cross-link density and peel strength, and also a relationship between peel strength and age of the tire, a relationship between cross-link density and age of the tire should also exist, (4) the evidence that cross-link density exponentially increases over time suggests that skim and wedge rubber is aging oxidatively, and (5) the aging mechanism of spare tires is the same as road tires, oxidative.

Results From NHTSA ODI Report on Firestone Wilderness AT Tires: (1) The overwhelming majority of tires analyzed aged oxidatively in the field and oxidative aging is the predominant mechanism in the reduction of peel strength over time.

Adhesion (Peel) Test: (1) Although peel testing is an important characteristic of tires, the data for Alternative 1 do not support the use of endurance testing as an appropriate aging condition for the tire because the test procedure does not influence the peel strength to any significant degree, *i.e.*, after 24 hours of testing, only a 10% decline in peel strength is affected, while after 50 hours, a 16.8% decrease is measured, (2) the cross-link density of the skim rubber becomes lower as a result of the conditions at which the endurance test is run and this indicates that anaerobic aging due to severe heat and stress is degrading the rubber properties, (3) field aged tires increase in cross-link density with time, not decrease, (4) the wedge properties of the endurance tested tires also show anaerobic aging and this data shows that significant anaerobic aging occurs during endurance testing of this tire, (5) the field data obtained by both NHTSA and Ford suggest aerobic/oxidative aging.

Michelin's Long-Term Durability Endurance Test: (1) The test is not an appropriate universal aging test because it does not properly age the wedge region of larger tires or tires with a heavier tread mass (in the late 1970s and early 1980s when this test was first developed, tread patterns were more all season than all terrain and the average tire size was smaller), (2) the dynamic aspect of the test is too benign for the nearly 10.5 days of test wheel time required (for passenger car tires, running the tire slightly overloaded (11%) and significantly overinflated (17%—significant because inflation pressure changes have a more pronounced effect than load changes in test wheel tests) at 97 km/h essentially prolongs the test so that oxidative aging can occur but fails to test the belt package in any meaningful way once it is aged), (3) the test is not without merit; the 50/50 oxygen/nitrogen blend does accelerate the oxidative aging mechanism of skim rubber.

Oven Aging: (1) Oven aging tires, either un-mounted or mounted with air, has very little effect on the chemical and physical properties of the belt package rubber; only when mounted with the 50/50 blend do properties significantly change, (2) it is possible, by using the 50/50 oxygen/nitrogen blend, to artificially age tire rubber to the chemical equivalent of 3–4 years in age and, from a chemical aging standpoint, properties of the skim rubber can be aged just as effectively in an oven using the 50/50 oxygen/nitrogen blend as on the test wheel, (3) for oven aging, the wedge rubber ages similar to field-aged tires; contrasting with tires run to the ''Michelin'' test, which showed severe reversion in the wedge rubber, (4) tires oven aged with the 50/50 oxygen/nitrogen blend are in a condition similar to an older full size spare and, therefore, it may be more appropriate to test the endurance, high speed, or low pressure performance of a tire aged in this manner.

Ford also submitted aging testing results, as well as data regarding the high speed, endurance and low-pressure test. Ford's data have been granted confidential status. Therefore, it is not available for review in the docket. Their recommendations from their high-speed, endurance and low-pressure testing are summarized in the comment summary section of this document.

4. Goodyear Endurance Testing

In a August 2002 presentation to NHTSA and submission to the docket, Goodyear provided the following comments on NHTSA's proposed endurance test based on additional testing conducted by Goodyear: (1) Heat induced damage mode (tread chunking) exhibited in proposed FMVSS No. 139 endurance testing is not representative of real world failures in the field, (2) tires with proven safe field performance will not pass the proposed FMVSS No. 139 due to tread chunking caused by excessive heat build-up due to high speed on curved surface and high load conditions, and (3) tire design changes/compromises to reduce heat induced tread chunking will negatively impact other safety performance characteristics (*e.g.*, wet traction, wet handling, dry traction).

Based on the aforementioned observations, Goodyear concluded that (1) FMVSS No. 139 on a 1.7m curved surface causes shorter footprint length, high footprint pressures and elevated strain energy resulting in higher tire running temperatures, (2) 65 mph with a 10% load reduction on a 1.7m test wheel yields tire temperatures equivalent to FMVSS No. 139 conditions on a flat surface, (3) a tire that did not pass the FMVSS No. 139 test on a 1.7m test wheel due to tread chunking passed when the test was duplicated on a flat surface.

Goodyear stated that it agrees with the agency the test speed needs to be 75 mph on a flat surface but suggests the following revision to the proposal to correlate the speed to an equivalent speed and load on a 1.7m curved surface: (1) Reduce the load by 10% to 100% at the final load step to effect a 8° F (4.4° C) reduction in the shoulder surface temperature, and (2) reduce the speed 10 mph, to 65 mph, to effect an 9° F (5° C) reduction in shoulder surface temperature. According to Goodyear, the reduced load and speed parameters would reduce heat induced chunking.

V. Summary of Public Comments on NPRM

NHTSA received over 5,000 comments on the March 2002 NPRM. The comments were submitted by: vehicle and tire manufacturers and associations, consumer advocacy organizations and individual members of the public. Substantive comments are summarized below.

A. NHTSA's Proposed Test Procedures

1. High Speed Test

RMA agreed with NHTSA's proposed conditions for passenger tires but believed that adjustments in speed and inflation pressure are necessary for light truck tires to achieve a similar degree of severity as proposed for passenger tires.

ITRA supported the proposal made by the RMA and stated that NHTSA's proposed high speed tests results generally show heat precipitated tread

chunking as opposed to tread separation.

GRRF, JATMA, and ETRTO urged the Agency to adopt the high speed test program as specified in the draft Global Technical Regulation (GTR) submitted to the Agency by the *ad-hoc* group of WP29/GRRF.

Ford agreed with the agency's position that the current high speed test procedure should be upgraded.

Advocates supported the agency's selection of test speed increments, ambient temperature, inflation pressure, load, and duration with regard to NHTSA's proposed single minimum requirement to be met by all tires.

CU recommended all tires be speed rated and then tested according to the RMA 2000 procedure because the RMA 2000 procedure follows GTS 2000 closely and would provide greater promise for reaching global harmonization than the proposed FMVSS No. 139 test. CU, however, believed that ambient temperature testing conditions, as specified by RMA 2000, should be raised to 40° C to equal typical daytime temperatures in the southern regions of the U.S. during the summer.

RMA, ETRTO, GRRF, and JATMA stated that the temperature increase from 38° C to 40° C will create considerable complexity to the industry since most other tests are run at 38° C and suggest retaining 38° C as the ambient temperature for all tests. PC supported the agency's modification of the temperature parameters in order to better simulate real world conditions.

Ford recommended that the test be conducted at the maximum rated load (105% of the maximum rated load) for the tire and not the 85% condition so that tires would be tested at loads consistent with the critical stress conditions for the tire. GRRF stated that the load percentage used for testing should reflect the vehicle normal load condition but also take into account the effect of the curvature of the test drum. ITRA/TANA commended NHTSA for reducing the load in the parameters of the high speed test from 88% to 85%. CU supported the change in load if the proposed high speed methodology is adopted and stated that it will be beneficial for LT tires to be testing with same load conditions so that light trucks would also have the same reserve load under normal loading conditions.

GRRF stated that testing on a drum at the lower inflation pressures specified in the NPRM will result in an increase in stress in areas of the tire not usually subject to such high stress levels and may result in some tires having to be ''stiffened'' by having a greater amount of material in these areas simply to pass the test. RMA stated that the proposal results in more overload (or over-deflection) in light truck tires compared to passenger tires and suggested the following test pressures: LT load range C: 330 kPa; LT load range D: 425 kPa; LT load range E: 520 kPa. Ford suggested testing at various inflation pressures to reflect a wider range of conditions to which tires may be exposed: P-metric 35, 32, 29 psi (241, 220, 200 kPa), Extra Load P-metric 42, 38, 34 psi (290, 262, 234 kPa), LT load range C 50, 46, 42 psi (345, 317, 290 kPa), LT load range D 65, 60, 55 psi (448, 414, 379 kPa), LT load Range E 80, 73, 66 psi (552, 503, 455 kPa). Public Citizen supported the proposed inflation pressures for the high-speed test.

GRRF, Ford, RMA, PC, and Advocates believed the test should be replaced with a procedure based on the rated speed capability of the tire. They felt that the road safety interests of the consumer would be better met by using speed values during the high speed test that take into account the speed capability of the tire and the designed maximum speed of the vehicle to which it may be fitted. In lieu of a speed-rating regime, RMA suggested speed steps of 130/140/150 km/h for light truck tires stating the change in predicted running temperature from a flat surface to a 1.7-m test wheel is different for passenger and light truck tires and, therefore, a reduction of 10 km/h in the test speeds for light truck tires to compensate for this effect and maintain a change in severity from flat to test wheel similar to passenger tires is needed.

GRRF stated that a test duration step of 10 minutes has been found to be acceptable in achieving temperature equilibrium and that the intermediate speed step duration is less relevant than the duration at the chosen final speed. CU agreed with NHTSA that the ten-minute speed steps used in RMA 2000 are too short to evaluate high-speed capability.

2. Endurance Test

ETRTO and GRRF stated that failure mode reached during the test might not reflect real world tire failure mode because of the deflection of the tire on the test wheel.

RMA and ITRA/TANA suggested an alternative test protocol that: (1) Reduces load from 110 to 100%; (2) reduces duration from 40 to 34 hours in 4/6/24-hour steps; (3) adjusts light truck tire inflation pressure from 75% of maximum to 81.8% of maximum to reflect a proportional load capacity as shown in the TRA light truck load tables; (4) adjusts light truck tire speed from 120 km/h to 110 km/h to maintain comparable severity from flat to test wheel similar to passenger tires; and, (5) reduces ambient temperature from 40° C to 38° C. RMA stated that for light truck tires, this alternative test proposal adjusts the test conditions to be more equivalent to the tire temperatures that would be produced on a flat surface for the specified test conditions.

GRRF suggested that consideration should be given to combining the proposed endurance and aging tests in order to eliminate unnecessary testing.

CU and Advocates supported the proposed parameters.

GRRF, RMA, and JATMA stated that the test ambient temperature should be 38 ± 3° C so the existing equipments can be used without any change. Advocates agreed with the agency that 40° C is a more realistic selection based on the ambient operating temperatures in the southern part of the U.S. and Public Citizen supported the agency's modification of the temperature parameters in order to better simulate real world conditions.

RMA suggested testing at 85/90/100 percent of maximum load for P-metric and light truck tires and argue that the tires in the proposed test are significantly over-deflected (40 to 36%) during the last load/time step of 22 hours. Advocates stated that given the excessive loading of larger light trucks, those usually having GVWR greater than 6,000 pounds, it supports the more demanding alternative discussed by NHTSA. PC stated that NHTSA should adopt load specifications of 100, 110 and 115 percent to adequately provide for the loading conditions of these heavier commercial vehicles over 6,000 GVWR.

RMA suggested an adjustment in inflation pressure for LT tires from 75% to 81.8%, following the respective load/pressure formulas for passenger and light truck tires as defined by the TRA. According to RMA, this reflects a load capacity difference between passenger and light truck tires at the same percent pressure. ITRA/TANA stated that LT tires with heavier casing construction should be tested at pressures not less than 80 percent of their maximum inflation pressure because their designs generate a much higher temperature than P-metric tires when conducted on a curved test wheel in a lab instead of a flat road surface. Advocates supported the inflation parameters.

RMA believed that the increase in speed is the most significant change to the endurance test and states that the speed increase from 80 to 120 km/h

produces an average increase of 30° C in tire temperatures for P-metric tires over FMVSS No. 109 and an average increase of 40° C for LT tires. RMA suggested a reduction of 10 km/h for the LT tire test speed in order to maintain the same relative severity from flat to test wheel as that which occurs with passenger tires. Ford stated that increasing the test speed from 50 mph (80 km/h) to 75 mph (120 km/h) causes reversion in the tire and is not representative of real world tire performance.

Ford suggested that the agency adopt the current endurance test protocols as defined in FMVSS No. 109 for a period of 48 hours at the end of the current protocol and that FMVSS No. 119 be modified to include an additional test step at 130% rated load. Ford stated that their data indicate that tires with marginal sidewall designs will have difficulty passing this added test step. Advocates and PC supported the 40 hours duration as being a sufficiently stringent test.

3. Low Inflation Pressure Performance

a. Generally

GRRF, ETRTO, the Alliance, and JATMA asserted that the proposed endurance and high-speed tests obviate the need for a low inflation pressure test.

GRRF, JATMA, ETRTO, and ITRA/TANA opposed to the establishment of 140 kPa as an acceptable level of inflation pressure at which to carry out a low inflation pressure test. GRRF stated that the use of inflation pressures as low as 140 kPa (20 psi) for the proposed low pressure test, taking into account the drum and the duration of the test, will result in testing at abuse levels well outside any that could be reasonably expected to be taken into account in tire design and are outside operating recommendations given by the tire industry.

RMA stated that the low-pressure test should be run at 90% of the tire's maximum load capacity rather than 100% so that 20 psi is not 42% below the required test load but at 30%, the maximum allowed under the TPMS final rule.

The Alliance and Ford stated the low-pressure testing protocols, proposed in the notice, are not representative of real world aging conditions because the 40-hour endurance test preceding the low-pressure tests causes the belt region to age anaerobically. Results from these tests showed a tremendous heat build up in the tire which leads to tread chunking, a benign failure mode rarely if ever seen outside of a racetrack. They stated that it would be better to run a low-pressure test on a tire that had gone through an aging procedure that correlates to actual field aging of tires.

CU stated that the NPRM does not provide enough information to determine when exactly the tire would be run to the low-pressure conditions following successful completion of the endurance test. They recommended that the tire be allowed to cool down for a minimum of three hours at the ambient test condition before starting the low-pressure test.

b. Low Inflation Endurance

RMA, ITRA and TANA favored Option 1 stating that the Option 2 conditions are so severe that the tires experience thermal runaway (*i.e.,* the temperature did not stabilize within 30 minutes) during the required steps. RMA recommended a modified Option 1 test with adjusted test conditions which they state more accurately reflect performance on the flat surface and to more closely reflect the conditions that should exist when the TPMS warning is given: (1) Lowers LT tire speed from 120 to 110 km/h to maintain consistency with the RMA proposed endurance test conditions; (2) reduces the test load from 100 to 90% of the tire's maximum load capacity to reasonably simulate the effect of a 30% decrease in inflation pressure when the test pressure is specified at the minimum pressure listed in the NPRM at paragraph S6.4.1.1.1; and, (3) extends the time from 15 minutes to one hour for post-test measurement of inflation pressure.

CU favored an endurance type TPMS low pressure test over the high speed version proposed because they believe it is more representative of conditions consumers are likely to encounter. However, CU believed that testing the tires for 90 minutes at 75 mph represents too short a distance (just 112.5 miles) and is well below the typical fuel range of most vehicles. CU recommends that the test duration be at least four hours at 75 mph, simulating a distance of 300 miles and is more representative of the fuel range of a typical vehicle.

Advocates regarded this alternative as undemanding and insufficient for determining the underinflation tolerance of current light vehicle tires. Public Citizens believed that the stringency of the test is highly questionable considering that all of the tires tested passed the test.

c. Low Inflation High Speed

GRRF noted surprise that a test load of only 67% is quoted because it seems impractical for a consumer to reduce the vehicle load following a TPMS warning indication.

JATMA stated that this test is unjustified to demand tire performance of this type because consumers would not continue driving at above 140 km/h for over one hour with a tire pressure warning.

Ford supported the low-pressure high-speed test if the tires are aged in an oven with a 50/50 blend of oxygen and nitrogen and an allowance is made for a 2-hour break-in period at 180 kPa and 120 km/h at 85% load, similar to the FMVSS No. 109 high-speed test. Ford stated that the aging process and test protocol more closely approximates a full size spare that is put into service after 3–4 years: oxidatively aged and potentially under-inflated. The break-in period would give the aged tire an opportunity to be worked before being deflated and run to the low pressure test procedure and does not cause reversion in wedge rubber of the tire.

Advocates and PC supported the parameters of this test. However, Advocates regarded a 67 percent load as completely unrealistic and recommends that the agency consider raising the loading percentage for the low pressure/high speed test from 67 percent to 100 or 110 percent.

4. Road Hazard Impact

RMA stated the current FMVSS No. 109 plunger test should remain only for bias ply tires because radial tires are not susceptible to the type of failure that the current plunger tests was designed to prevent.

RMA, GM, the Alliance, ETRTO, and GRRF stated that the SAE J1981 test was developed as a wheel damage test, to test a wheels ability to withstand potholes and other anomalies, and has very limited use or experience within the industry as a tire test and significant work will be required to develop it into a tire test. RMA, ITRA/TANA, JATMA, GM, Alliance, and Advocates stated that a road hazard test, if NHTSA feels it is necessary, should be deferred for further study and research and to not be included in the proposed FMVSS No. 139.

Ford, the Alliance, and CU recommended that the agency retain the current test and Ford and CU suggest that the agency augment the stringency of the test. Ford stated that it currently uses twice the value specified in FMVSS No. 109 as a corporate specification for their tire suppliers and this level provides a reasonable indication that radial tires will exhibit good resistance to rock inducted tread damage.

Advocates, PC, and CU stated that NHTSA needs to explore other methods using more sophisticated means of evaluation, *e.g.,* shearography, for damage. GM noted that any anomaly from the pendulum impacts in its testing was undetectable by visual inspection.

5. Bead Unseating

RMA and GRRF believed that a bead-unseating test is unnecessary for radial tires. RMA, and ITRA/TANA suggested that if a bead unseating test must be maintained, then the current test be retained rather than adopting a completely new test. However, they believed that it does need to be modified to take into account the aspect ratio of tires. ITRA and TANA asked that retread tires be exempt from the proposed tests because the bead of the tire is part of the original casing and is not altered in the retreading process, and, as such, there would be redundancy in testing the original casings.

GRRF, Toyota, the Alliance, CU, and Ford stated that the introduction of this revised test without further validation would seem to be premature at this stage. They asserted concerns regarding the lack of a fully defined procedure, the specification of the test equipment, the costs of equipment, and the availability of suitable equipment on the open market. Several commenters, including Toyota, Ford, and the Alliance, asserted that there are significant differences between the agency's proposal and Toyota's test and/or certain specifications that need refinement, such as the load values, specifications for the test wheel/rim, inflation pressures, test device methods, and lateral force.

PC and Advocates supported the agency's proposal for the air loss bench test method because the test is independent of vehicle type but do not support the 200 millimeters per second as being satisfactory because they say it reveals nothing about how a tire would perform in a skid when the vehicle encounters either a pothole or a raised fixed object on the roadside applying an extremely rapid lateral, peak load to the tire. Advocates, however, questioned whether the test advances tire safety if all current production tires would pass the test.

6. Aging Effects

a. Generally

RMA and ITRA/TANA stated that none of the options in the NPRM are accepted industry tests with a proven relationship to actual tire performance. RMA and GRRF added that any aging test would be redundant in light of the revised high-speed and endurance tests plus a new low-pressure test.

The Alliance and ETRTO stated that the three test options proposed artificially decay of the materials in the tire structure, but those decays do not reflect what occurs in ''real life'' over a long period of service.

Ford stated that the predominant factor for tire aging in normal service is aerobic/oxidative aging, which may be accelerated by heat and cites to the NHTSA Office of Defects Investigation (ODI) Engineering Analysis Report on Firestone tires in support of this statement. Ford and the Alliance stated that the proposed tests do not appear to age the tire aerobically/oxidatively. Ford recommended aging mounted tires with a 50/50 blend of oxygen/nitrogen in an oven 70° C for 2 weeks. After this oven aging, they recommend a peel test be performed on the tire and suggest that it may be more appropriate to test the endurance, high speed, or low-pressure performance of a tire aged in this manner.

ITRA/TANA argued that retreads should be exempt from this test.

PC and Advocates asserted that shearographic analysis is critical in accurately determining aging test compliance.

Consumers Union believed further investigation of a more suitable procedure is needed.

b. Adhesion (Peel) Test

RMA stated that the proposed adhesion peel force test is the least appropriate option due to the following reasons: (1) ASTM–D413 is a peel adhesion test used in the industry to monitor trends and detect large shifts in historic levels and, under the best scenario for minimizing variability, has a 16.8% inherent variability, (2) the test is evaluating only a component of the tire, not the tire's overall performance, (3) peel force does not correlate with field performance, or, at a minimum, a recognized industry test wheel test—the peel adhesion test is not a separation-initiating test, it relates only to propagation (4) there is a lack of mechanical and chemical interaction as would occur in actual field.

GRRF and JATMA opposed this test stating that the proposals do not specify which of the several interfaces of the belt construction are to be tested.

ETRTO stated that the ASTM method is known by the industry to evaluate the vulcanized cord ply, not cut specimens from the tire.

CU believed that the peel test is not sufficiently repeatable or precise and urged NHTSA to conduct more research to develop a practical and efficient method of testing the effects of tire aging.

c. Michelin's Long Term Durability

RMA, JATMA, GRRF, and CU did not support this test because of its length and inherent cost.

ETRTO and JATMA stated that the use of pure oxygen for inflating tires, presents a danger of explosion and requires special safety procedures to be implemented in the laboratories.

JATMA stated that the test ambient temperature should be 38 ± 3° C so existing equipments can be used without any change. JATMA also states that the NHTSA test criterion that no reduction of inflation pressure from initial test pressure is not possible because O_2 is consumed during the test.

PC supported this test as a starting point for the proposed aging test.

d. Oven Aging

ETRTO asserted that this test will cause an extended vulcanization of all rubber components inside a tire and does not represent ''real world'' service conditions where the area subjected to heating and to repeated stresses is that inside the edges of the tread area.

RMA, ITRA/TANA, and GRRF believed this test is a more valid measure of tire performance than Option 1 and significantly less onerous than Option 2. RMA recommended the following modifications if the agency chooses to pursue this test: (1) lower the aging temperature from 75 to 70° C. 70° C is an industry standard for aging of rubber compounds and used by some companies for aging of tires prior to test, and (2) adopt the ambient temperature, inflation pressures, and speed from the RMA recommended endurance tests with steps of: (a) 4 hours at 85% load, (b) 6 hours at 90% load, (c) 14 hours at 100% load.

JATMA stated that a 15-day test is not suitable for mass production management. JATMA further states that the test ambient temperature should be 38 ± 3° C so the existing equipments can be used without any change.

CU stated that this procedure does not resemble what consumers experience in the real world with tire aging. In real world conditions, tires do not heat up evenly, and it is often the hot spots and dynamic flexing that define the weak link in tire design.

B. Application of New Standard/Deletion of FMVSS No. 109

RMA and TRA recommended that the proposed FMVSS No. 139 apply to new pneumatic radial tires on powered

motor vehicles (other than motorcycles) that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less and that were manufactured after 1975 and that tires designed for severe snow conditions, speed restricted tires, various trailer tires for special use, temporary service spare tires, and all bias tires should be excluded from FMVSS No. 139 and continue to be certified under existing FMVSS Nos. 109 and 119. RMA suggests that, under FMVSS No. 139, a passenger tire should be defined as one intended for normal highway service and its size designation typically shown as ''P'' metric or ''Hard'' metric and a light truck tire should be defined as one intended for normal highway service and its size designation includes ''LT'' and is load range ''C'', ''D'', or ''E''. JATMA requests that performance requirements for deep tread depth snow tires be stipulated apart from FMVSS No. 139 because of their special usage and design characteristics, *e.g.,* deep grooved tread.

JATMA and GRRF stated that the tire size designation, in addition to the load range, should be clearly stipulated for LT tires. GRRF stated that depending on tire size, some high load capacity LT tires correspond to a gross vehicle mass greater than 10,000 lbs.

SEMA, ITRA/TANA, Denman and Specialty Tires requested that limited-production specialty radial and bias-ply tires remain subject to the current testing procedures of FMVSS Nos. 109 and 119 because (1) tires manufactured in limited production do not present a general safety issue; (2) limited production specialty bias-ply tires cannot meet the standard of proposed FMVSS No. 139 and will be unfairly outlawed; (3) the potential cost for small businesses to otherwise comply with these rules would not be justified; and (4) NHTSA testing procedures and requirements result from the testing and analysis of solely radial tires.

C. Modification of Application of FMVSS Nos. 110 and 120

AIAM believed that NHTSA inadvertently proposed a prohibition on the use of Load Range E tires on vehicles exceeding 10,000 lbs. GVWR by, in S5.1.1 of FMVSS 120, requiring each vehicle to be equipped with tires complying with FMVSS No. 119. AIAM recommends that NHTSA revise S5.1.1 of FMVSS 120 to permit the installation of tires meeting the requirements set forth in FMVSS No. 139 and the rims listed in accordance with FMVSS No. 139 on vehicles exceeding 10,000 lbs. GVWR, as long as the tire load rating is not exceeded.

D. Modification to FMVSS Nos. 117 and 129

ITRA/TANA recommended that retreaded tires not be subjected to the proposed road hazard and bead unseating tests because the retread process does not affect the structure of an original casing and it is redundant to test a casing twice.

GRRF stated that principle of requiring retread tires to meet the same performance requirements as new tires is followed in the United Nations ECE Regulations 108 and 109 for car and truck retread tires, respectively.

E. De-Rating of P-metric Tires/Tire Selection/Load Reserve

RMA and GRRF supported NHTSA's retention of the 1.10 load service factor used to reduce the load rating of passenger car tires when installed on an MPV, truck, bus, or trailer, as specified in Part 571.110 Paragraph S4.2.2.2 of the proposed rule. RMA believed that this reduction in load rating is necessary for the reasons stated by NHTSA and is also appropriate to reduce the load rating for passenger car tires used on light trucks, vans, SUVs, and trailers for the following reasons: (1) higher stress on the tire due to the higher center of gravity of these vehicles; (2) more severe service conditions as compared to passenger cars; (3) greater potential for overload due to open cargo areas and increased likelihood for towing; and (4) more tire related problems on light trucks, SUVs, and vans.

RMA and GRRF stated that selection based on vehicle normal load not exceeding 88% of the tire maximum load would reduce the potential for overloading of tires.

GM recommended that the tire selection criteria not be linked to the load used in the high-speed test.[21]

The Alliance, AIAM, Subaru, Honda, and GM strongly recommended that the tire selection criteria in the proposed standard be modified as follows: (1) De-rating of the tire load capacity by dividing by 1.10 be applied only when comparing the GAWR with the vehicle maximum load and not on the vehicle normal load on tire for passenger car tires used on MPVs and light trucks; and (2) for vehicle normal load on a tire, even when passenger car tires are used on MPVs and light trucks, use 88% of the maximum load rating of the tire as marked on the sidewall. These vehicle manufacturers asserted that a lack of attention to the influence on vehicle design could lead to potentially serious unintended consequences (*e.g.*, increasing tire size beyond the need to provide adequate load capacity could raise the center of gravity of the vehicle, which may adversely affect it handling and stability and increase the likelihood of rollovers in some situations).

Ford agreed with the agency that tire robustness could be increased through additional load margin in the application or rating of tires. Ford recommended that the agency require tires to be tested at 105% of their rated load for all vehicle applications 10,000 lbs. GVWR and below. They believed that this additional 5% reserve capability at the maximum rated load condition would provide increased robustness for tire application on all vehicles, not only in OE applications.

PC and Advocates commended the agency for requiring LT tires to provide for a reserve load. However, they believe that a 15 percent load specification does not adequately account for the typical loading conditions for the range of these vehicles. PC recommends that the agency require between an 18 and 20 percent reserve load for vehicles that exceed the 6000 lbs. GVWR. Advocates urged the agency to consider a reserve figure of 18 percent for all light trucks or, in the alternative, a reserve figure of 18 percent for those from 6,001 to 10,000 pounds GVWR.

F. Lead Time

RMA, ETRTO, JATMA, and GRRF stated that it would not be possible to comply with effective dates of September 1, 2003, for passenger car tires, and September 1, 2004, for light truck tires. RMA added that if their recommended changes are accepted, the number of modifications will not be as great and compliance could be accomplished on a more expedited basis, possibly within five (5) years from the date of the final rule.

JATMA stated that a 5-year lead time is required in case of tires supplied to original equipment manufacturers to evaluate and achieve the target performance for driving stability, riding comfort, and noise etc. Also, they stated that facilities need to be increased, test procedure needs to be formed, and employees need to be trained.

The Alliance, GM, Ford, DC, and Mitsubishi recommended that the new tire performance requirements and the amended vehicle requirements of FMVSS NO. 110 become optional as soon as the final rule is published, and become mandatory on September 1, 2007. They requested the longer lead

[21] The 88% used for the load in the high speed test is currently linked to the reserve load determination in FMVSS No. 110. In 1982, the agency stated in a rulemaking (47 FR 36180) that the 88% load on the test road wheel is equivalent to 100% load on a flat surface.

time because of the number of tires that will have to be changed in terms of materials/compounds or construction, and the time required to make these changes will have indirect effects on the vehicles which will require revalidation for braking, dynamics, fuel consumption, ride, handling, and noise/vibration, including legal noise requirements. Additionally, the Alliance stated that a tire designed to the new requirements cannot be mass-produced until it has been matched to a given vehicle, and the vehicle has been validated for braking, vehicle dynamics, fuel economy, ride, handling, etc. Therefore, the tire and vehicle effective dates must be the same.

DC stated that it cannot begin to conduct necessary vehicle development and tuning programs until an adequate supply of tires meeting any new regulations become readily available from the tire manufacturers (in quantities, styles, and sizes sufficient for vehicle development). They strongly urged that there must be at least a two year lag time between the sufficient availability of development tires meeting any new requirements and the vehicle level phase-in or effective date scheduled.

Advocates urged NHTSA to consider a one-year compliance delay from the date of a final rule effective on September 1, 2002, and believes that LT tires need to be improved just as quickly, if not more quickly, than P-metric tires and a delay in compliance for LT tires is not in the best interest of vehicle and traffic safety.

G. Shearography Analysis

JATMA stated that shearography is suitable for evaluation of new compound and new tire structure of developing products, but is too expensive and not suitable for a test to assure the quality of mass production goods.

The Alliance, Ford, ETRTO, GRRF, and ITRA/TANA stated that all shearography analysis techniques rely on a subjective assessment by a skilled operator and the present state of technology is such that they may not be acceptable as a regulatory control requirement.

PC supported the use of shearography analysis in conjunction with visual inspection. Additionally, Public Citizen recommended that the agency devise a list of all the possible indications of tire failure.

H. Revise UTQG

ETRTO, GRRF, and CU suggested that test requirements for Temperature in UTQG are useless once the correct service description including the Speed Symbol is required for the tires, which are then tested according to the corresponding high-speed test schedules in UN/ECE Regulations 30 and 54.

RMA urged NHTSA not to revise the existing UTQGS scope and testing conditions at this time.

I. Additional Questions

1. Opportunity To Harmonize

The Alliance, ETRTO, RMA, the Center for Regulatory Effectiveness (CRE), and GRRF stated that the adoption of a UN/ECE Regulation 30 type test, such as the GTS–2000 or proposed GTR, would help to ensure that safety standards are consistent worldwide and that the burden on industry through having to meet several differing standards of various countries is removed. CRE also suggested that NHTSA is obligated to consider the following voluntary consensus standards—ISO 10191, SAE J1561, and SAE J1633/ISO 10454 under the National Technology Transfer and Advancement Act. RMA argued that this action would assist the breaking down of barriers to trade and improve the acceptability of USA-produced tires in a global market.

RMA asserted that NHTSA's proposal might constitute a technical barrier to trade in violation of the WTO Agreement on Technical Barriers to Trade.

The Alliance stated that, even if the agency considers the current harmonization proposal unacceptable, the agency should commit to developing a harmonized proposal.

Advocates stated that NHTSA could use the data and testing protocols of the optional test for wet grip of tires discussed in the actions of the World Forum for Harmonization of Vehicle Regulations (WP.29) Working Party On Brakes and Running Gear (GRRF) as a departure point for determining how best to establish tire adhesion requirements to be included in the proposed new Standard No. 139.

2. ''Real-World'' Testing Procedures

ETRTO stated that ''real-world'' testing procedure need to be pursued by defining accelerated test conditions that reflect the effective failure mode of the tires in service.

GRRF supported the approach of using controllable, laboratory based tests wherever possible and provided that they reproduce in-service conditions.

Ford stated that vehicular testing is not practicable due to variation in vehicle size and loading and the wide range of wheel/tire combinations and that the tire standard should continue to be an equipment standard and that tires should continue to be certified by tire manufacturers.

3. Vehicle Model Year 1975

GRRF supported the cut-off date of 1975 and suggests that consideration is given to the retention of FMVSS No. 109 for tires for earlier vehicles.

4. Required Inflation Pressures

GRRF and ETRTO suggested that all U.S. tires should be marked with inflation pressures expressed in kPa, as per the internationally recognized standard units.

RMA stated that inflations pressures of 32, 36, 40 and 60 psi should be retained in the existing FMVSS No. 109 standard, but should not be included in the new FMVSS No. 139.

The Alliance and Ford believed the four pressures should be retained for tire rating and testing.

The Alliance requested that NHTSA remove the current and proposed requirement to round the psi equivalent of kPa to the next highest whole number, and to round the pound equivalent of kilogram to the closest whole number.

J. Other

1. Test Condition Tolerances

RMA suggested that NHTSA adopt the tolerances listed in ASTM–F–551 Standard Practice for Using a 67.23-in. (1.707-m) Diameter Laboratory Test Wheel in Tire Testing.

2. Tire Pressure Load Reserve Limit

RMA suggested that NHTSA should adopt a specific tire pressure reserve limit and comments that they will be petitioning the agency for such a ruling in the near future.

K. Costs [22]

RMA and ETRTO stated that the agency's estimate that the proposed standards will impose costs of $282 million on the tire industry is grossly inaccurate. RMA estimated that the first year costs would exceed $1.5 billion with a continuing annual cost to comply in excess of $400 million depending on the options chosen for the final rule.

ITRA stated that the agency's estimates also do not include small manufacturers and foreign manufacturers that import tires to the U.S, and retreaders, and that the proposed regulation could result in the downfall of the retread industry.

[22] Comments on costs are discussed in greater detail in the FRE.

RMA, SEMA, ITRA/TANA, Denman, Hoosier, and Specialty tires stated that no cost/benefit analysis has been undertaken for limited production bias-ply and radial specialty aftermarket tires and the new testing requirements associated with NHTSA's proposed FMVSS No. 139 will jeopardize the specialty aftermarket tire industry unless special dispensation is made for these manufacturers. SEMA stated that at least three separate specialty tire manufacturers, Denman, Specialty Tires, and Hoosier are small businesses employing less than 1,000 people.

GM and the Alliance stated that NHTSA has not considered the potential influence of changes to the tire on the performance of the vehicle and that vehicle modifications of significant magnitude would cost the industry substantial amounts in investment and unit costs per vehicle.

L. Benefits [23]

GRRF asserted that the analysis of benefits appears to be incorrectly based on the assumption that the problems recently experienced have been caused primarily by incorrect design rather than by difficulties in manufacture, improper application, general poor maintenance or abuse during service.

The Alliance stated that the basis for the estimated benefits is unsubstantiated because of the lack of specific information on the causes of tire failures and because of the agency's inability to estimate what proportion of tires would need improvement and by what amount.

Advocates argued that there is little doubt that a reduction in tire failure rates would result in fewer blowouts and, therefore, fewer rollover crashes. They also asserted that tire failures and their role in crashes are severely underreported and, therefore, that the benefits are much greater than the agency is able to quantify. Advocates agreed with the agency that the benefits of stronger standards ensuring greater speed and heat tolerance for both P-metric and LT tires are intuitively apparent even though it is typically more difficult to quantify benefits for crash avoidance rulemaking proposals than for crashworthiness proposals.

PC argued that the resulting societal costs (*e.g.*, loss of workplace productivity, fatalities, medical costs, property damage costs and costs of travel delay on congested roadways) of motor vehicle crashes must be considered when estimating the benefits of a proposed regulation and that reducing the variability of tires could yield benefits from the proposed tests.

VI. Agency Decision Regarding Final Rule

A. Summary of Final Rule and Rationale

The agency is establishing a single standard for light vehicle tires, FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Under this standard, light vehicle tires are required to meet a high-speed test, an endurance test, a low inflation pressure performance test, a resistance-to-bead unseating test, and a road hazard impact/strength test. The standard applies to tires for passenger cars, multipurpose passenger vehicles, trucks, buses and trailers with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, manufactured after 1975.[24] The following chart compares the types of test requirements that currently exist, those that have been suggested by third parties, and those are being established by this agency:

TABLE 1.—COMPARISON OF TYPES OF TIRE PERFORMANCE REQUIREMENTS IN VARIOUS EXISTING AND DRAFT TIRE STANDARDS

Tests	FMVSS 109	FMVSS 119 ††	GRRF draft GTR	GTS–2000	RMA 2000	ECE R30	FMVSS No. 139 (As adopted)
High Speed	X		X †	X	X	X	X
Endurance	X	X	X *	X **	X		X
Low pressure performance							X
Strength; or Road Hazard Impact	X	X					X
Bead Unseating	X		X ***				X
Accelerated Aging							

* Endurance test for radial tires rated ''Q'' and below. Identical testing parameters as FMVSS No. 109 Endurance Test.
** Endurance test for radial tires rated ''Q'' and below.
*** Identical testing parameters as FMVSS No. 109 bead unseating test.
† Testing parameters had not been agreed upon by the ad hoc working group.
†† For LT tires only.

Both the high speed test and the endurance test specify testing parameters (ambient temperature, load, inflation pressure, speed, and duration) that make the tests more stringent than those tests currently found in FMVSS Nos. 109 and 119, as well as the tests suggested by industry. Most significantly, the proposed high speed test specifies test speeds (140, 150 and 160 km/h (87, 93, and 99 mph)) substantially higher than those specified in FMVSS No. 109 (120, 128, 136 km/h (75, 80, 85 mph)). Likewise, the endurance test specifies a test speed 50% higher (120 km/h (75 mph)) than that currently specified in FMVSS No. 109 (80km/h (50 mph)), as well as a duration 2 hours longer (24 hours) in the final load step than that proposed in the NPRM (22 hours). At the specified test speed (120 km/h), the endurance test mileage (2,550 miles) is 50% longer than the mileage that a tire endures under the current endurance test (1,700 miles).

The final rule also adopts a low inflation pressure performance test that seeks to ensure a minimum level of performance safety in tires when they are underinflated to 140 kPa (20 psi).

Instead of replacing the current strength test in FMVSS No. 109, the agency is retaining that test for passenger cars and retaining the strength test in FMVSS No. 119 for LT tires. Agency testing data and public comments called into question whether the test proposed in the NPRM, a road hazard impact test that is modeled after a SAE recommended practice, is both more stringent than the FMVSS No. 109 ''plunger test'' and correlates well with actual field performance. The FMVSS

[23] Comments on benefits are discussed in greater detail in the FRE.

[24] This final rule is applicable to LT tires up to load range E. This load range is typically used on large SUVs, vans, and trucks.

Nos. 109 and 119 strength tests will remain until the agency completes its research on road hazard impact and decides whether to initiate rulemaking to adopt a new or revised test.

The final rule also retains the current FMVSS No. 109 bead unseating test and extends it to LT tires. Industry has previously recommended to the agency that the current bead unseating test be deleted from the standard because radial tires are easily able to satisfy the test. Results from the agency's 1997–1998 and 2001 rollover testing, however, provided a strong rationale for upgrading, rather than deleting, the bead unseating requirement in FMVSS No. 109. The agency proposed a new bead unseating test that is based on a test currently used by Toyota, which uses test forces more stringent than those in current FMVSS No. 109 and appeared more applicable to radial tires. Agency testing data and comments, however, called into question whether the Toyota test provides both a more stringent and more real world test than the FMVSS No. 109 bead unseating test. The FMVSS No. 109 bead unseating test will remain in the standard until the agency completes its research on bead unseating and decides whether to initiate rulemaking to adopt a new or revised test.

At this time, the agency is not adopting a test to address the deterioration of tire performance caused by aging. The proposal set forth three alternatives for an aging effects test: the adhesion (peel) test, Michelin's long-term durability endurance test, and oven aging. All seek to expose tires to conditions that cause the type of failures experienced by consumers at 40,000 kilometers or beyond. Because the agency had little data and analysis on either of these tests and understood the tire industry to conduct testing related to the effects of aging on a regular basis, it requested comments on which test would be appropriate for inclusion in the new standard. The tire industry did not, however, include this testing data and analysis in its comments on the NPRM. Further, the agency was unable, in the time period allotted by the TREAD Act, to perform comprehensive testing and analysis of the proposed aging tests and any other alternative tests and parameters. Recently, however, some industry members have begun a dialogue and offered to share data with the agency.

The agency is commencing its own research on tire aging, building on information and data provided by Ford. The agency anticipates publishing a NPRM proposing an aging test, to be included in FMVSS No. 139, in approximately two years.

The final rule also revises FMVSS No. 110 to define Vehicle Normal Load as ''no greater than 94% of tire load rating at vehicle placard pressure.'' FMVSS Nos. 110 and 120 are revised to reflect the applicability of the new standard.

Lastly, the final rule establishes June 1, 2007 as the effective date for all requirements contained herein, for all covered tires and vehicles.

As documented here and in the FRE, the upgraded requirements in the standard specify more stringent and real world, yet practicable, tests that will provide a higher level of operation safety and performance for tires on today's light vehicles.

B. Summary of Key Differences Between NPRM and Final Rule

The major changes to the standard (or deviations from the proposal) are as follows:

(1) *Endurance test.* The agency is reducing the duration of the endurance test from 40 hours to 34 hours, but extending the final load step from 22 to 24 hours. The agency is also reducing the load percentages from 90/100/110% to 85/90/100%.

(2) *Low pressure performance test.* The agency is adopting the first alternative (endurance) of the low pressure performance tests.

(3) *Bead unseating test.* The agency is retaining the FMVSS No. 109 bead unseating test for P-metric tires and extending that test to LT tires.

(4) *Strength test.* The agency is retaining the FMVSS No. 109 strength test for P-metric tires and the FMVSS No. 119 strength test for LT tires.

(5) *Aging effects performance test.* The agency is deferring adoption of an aging effects performance test until it completes its research and issues a new proposal.

(6) *Bias ply tires.* The agency is excluding bias ply tires from FMVSS No. 139. Bias ply tires will remain subject to FMVSS No. 109.

(7) *Vehicle normal load.* The vehicle normal load is defined as ''no greater than 94% of tire load rating at vehicle placard pressure.''

(8) *Ambient temperature.* The agency is reducing the ambient temperature in the high speed, endurance, and low pressure performance tests from 40° C to 38° C.

(9) *Effective dates/implementation.* The agency is providing a 4-year lead time for both tire and vehicle requirements. All covered tires and vehicles must comply with the final rule by June 1, 2007.

C. Performance Requirements

1. High Speed Test

The agency is adopting a high speed test for FMVSS No. 139 to be conducted using the following five parameters:

(1) Ambient Temperature: 38° C.

(2) Load: 85 percent.

(3) Inflation Pressure: 220 kPa (32 psi) for standard load p-metric; 260 kPa (38 psi) for extra load p-metric; 320 kPa (46 psi), 410 kPa (60 psi), 500 kPa (73 psi) for LT load ranges C, D, E, respectively.

(4) Speed: 140, 150, 160 km/h

(5) Duration: 90 minutes total—30 minutes for each speed.

A tire is deemed to comply with the requirements if, at the end of the high speed test, there is no visual evidence of tread, sidewall, ply, cord, inner liner, or bead separation, chunking, broken cords, cracking, or open splices, and the tire pressure is not less than the initial test pressure. FMVSS No. 109 currently requires a ''visual evidence'' requirement. ''Visual evidence'' means visible to the unaided eye.

The agency is adopting a high-speed test with three pre-selected speeds. This testing methodology is different from that in two alternatives that the agency initially considered: (1) GTS–2000, and (2) a high speed test using identical parameters to those proposed above, except that the test speeds are based on the rated speed of the tire (initial test speed (ITS),[25] ITS + 10, ITS + 20, ITS + 30) for durations of 20 minutes at each speed step with a 10-minute warm-up from 0 km/h—ITS.

The methodology suggested by the tire industry in GTS–2000 for tire harmonization and the second alternative determines the test speed based on the tire's rated speed.

Historically, the agency has established the same minimum performance requirements for similar items of motor vehicle equipment. We see no compelling reason for a departure in this case. Our normal practice assures the public of minimum safe performance, regardless of the type of tire purchased.

The agency's test, based on pre-selected test speeds and independent of

[25] The initial test speed (ITS) in GTS–2000 is the rated speed of the tire minus 40 km/h. The test is conducted at the following speed steps: ITS, ITS+10 km/h, ITS+20 km/h, and ITS+30 km/h. The final speed step, ITS+30 km/h, is 10 km/h below the rated speed of the tire. The ITS in the second alternative is the rated speed of the tire minus 30 km/h. The test is conducted at the following speed steps: ITS, ITS+10 km/h, ITS+20 km/h, and ITS+30 km/h, with the final speed step being identical to the rate speed of the tire. Therefore, under both alternatives, each tire with a different speed rating is tested at different speeds during the high speed test.

the rated speed of the tire, establishes the same minimum requirement for all tires, regardless of the designed level of performance. We believe that such a methodology is equitable for all tire manufacturers and does not impose higher safety requirements on a tire with a higher level of performance.

The following table provides a comparison of the high speed parameters used in FMVSS No. 109, GTS–2000, and FMVSS No. 139.[26]

TABLE 2.—HIGH SPEED TEST COMPARISON

Test parameters	FMVSS No. 109	GTS–2000	FMVSS No. 139 (As proposed)	FMVSS No. 139 (As adopted)
Ambient (°C)	38	25	40	38
Load (%)	88	80	85	85
Inflation Pressure (kPa):				
Standard load P-metric	220		220	220
Extra load P-metric	260		260	260
LT load range C/D/E			320/410/500	320/410/500
Speed Rating (Std/Extra):				
L,M,N		240/280		
P,Q,R,S		260/300	220	220
T,U,H		280/320	220	220
V		300/340	220	220
W,Y		320/360	220	220
ZR		320	220	220
Test speed* (km/h)	75, 80, 85 mph	ITS, +10, +20, +30	140, 150, 160	140, 150, 160
Duration (mins)	90 (30, 30, 30)	50 (10, 10, 10, 20)	90 (30, 30, 30)	90 (30, 30, 30)

*ITS is defined as the tire's rated speed minus 40 km/h.

a. Ambient Temperature

RMA, ETRTO, GRRF, and JATMA argued that the proposed temperature increase from 38° C to 40° C would create considerable complexity for the industry since most other testing is conducted at 38° C and suggested retaining 38° C as the ambient temperature for all tests. Consumer group commenters supported the agency's modification of the temperature parameter, stating that it better simulates real world conditions.

The agency has decided to adopt an ambient temperature of 38° C for the final rule instead of the ambient temperature of 40° C proposed by the agency. The agency was persuaded by the RMA DOE test data, which indicate that a 2° C increase in temperature to 40° C results in only a 2° C increase in tire (measured at the belt edge) temperature measured during the test. Therefore, the increase in test stringency based on the proposed 40° C, as compared with 38° C, is negligible. The agency also acknowledges that the 2° C increase would add significant costs to tire testing because of the need for recalibration of temperature in testing labs for testing to this particular standard. As noted by commenters, all other foreign and voluntary standards organization standards utilize an ambient temperature of 38° C. The agency concurs with commenters that the little, if any, increase in stringency a 2° C does not justify the anticipated costs resulting from the proposed 2° C increase.

b. Load

Few commenters commented on this parameter. Ford recommended a high speed test load of 105%. GRRF stated that the load percentage used for testing should take into account the curvature of the test drum.

The load specified for the high-speed test is 85% of sidewall maximum load rating. Although this figure represents a slight decrease from the specification in FMVSS No. 109, test data from the agency's testing and from RMA's testing indicate that tire failure is more sensitive to speed and inflation pressure than to loading variations in the 80 to 90 percent range. A speed increase from 75, 80 and 85 mph to speeds of 160 km/h (99 mph) and higher more than offsets the small decrease in test load specification and results in a more stringent test. In Phase I of the agency's testing, 5 of 9 P-metric tires failed at 90 percent load and 2 of 9 failed at 80 percent load. Phase II of the testing included testing of 8 P-metric, 5 samples each, at 80 and 85 percent loads, and with all other test parameters remaining constant (inflation pressure—220 kPa, 20-minute steps, speeds ITS to ITS + 30 km/h). These tests demonstrated that fewer tire failures occurred at 85% load than at 80% load.[27] At 85% load, 5 of 8 tire brands had no tire failures in their 5 samples and the other three brands had at least one failure in the five samples. One brand experienced failures in all 5 samples tested to the high speed test. Four brands of LT tires were also tested and all samples for each of the brands completed the high speed test at 85% load without any failures. This testing indicates that small increases in tire load have less of an impact on the interval between beginning the test and tire failure as compared with changes in inflation pressure and test speed.

In addition, the requirement for a tire reserve under normal loading conditions currently applies only to passenger cars. This final rule requires light trucks for the first time to have a specified tire reserve under normal loading conditions. Light trucks will have to provide the same 6 percent reserve or vehicle normal load on the tire required for passenger cars which is defined as ''no greater than 94% of tire load rating at vehicle placard pressure.''

Ford's recommendation to increase the load percentage to 105 percent of the maximum rated load for the tire is too stringent for the loading condition. Ford did not provide any data or test results to support its recommendation.

c. Inflation Pressure

RMA suggested that the agency base the test inflation pressure on the rated speed of the tire. Tires rated P, Q, R, and S would be tested at 260 kPa; tires rated T, U, H would be tested at 280 kPa; tires rated V would be tested at 300 kPa; and tires rated W, Y, and Z would be tested

[26] FMVSS No. 119 does not currently include a high speed test for LT tires with a rim diameter above 14.5 inches.

[27] A small number of tires were tested. However, this small sample included many brands and included high performers and low performers. This contributed to the variation of outcome.

at 320 kPa. RMA also suggested that the proposed inflation pressures result in more overload (or over-deflection) in light truck tires compared to passenger tires and suggests the following test pressures: LT load range C: 330 kPa; LT load range D: 425 kPa; and, LT load range E: 520 kPa.

These inflation values, however, are too high for testing because they do not reflect values that are similar to the cold inflation pressures recommended by vehicle manufacturers and are not representative of inflation pressures obtained from vehicles measured during the consumer tire pressure surveys.

The agency establishes a test inflation pressure of 220 kPa (32 psi) for all unrated and speed rated P-metric tires and 260 kPa for extra load tires. The agency establishes the following inflation pressures for LT tires based upon their higher maximum inflation pressures: 320 kPa for load range C, 410 kPa for load range D, and 500 kPa for load range E tires.

The adopted inflation pressures are based on surveys showing that tires are typically operated at some level of underinflation.[28] Given the tire pressure survey data, the agency selected the proposed test pressures based on the level of underinflation experienced during normal vehicle operation. The 220 kPa value represents an under-inflation of 20 kPa (3 psi) or 8 percent from the 240 kPa maximum inflation pressure, and 260 kPa represents an under-inflation of 20 kPa (3 psi) or 7 percent from the 280 kPa maximum inflation pressure.

The agency believes that RMA's inflation pressure values are too high for high speed testing because (1) they do not reflect values that are similar to the cold inflation pressures recommended by vehicle manufacturers, and (2) they do not correspond well with the real-world inflation pressures recently obtained from the vehicles measured during a recent NHTSA sponsored consumer tire pressure survey.[29]

Although 220 kPa is the same test pressure specified in FMVSS No. 109, this test pressure, in conjunction with the higher test speeds, represents a more stringent test than that contained in FMVSS No. 109. Further, agency test results indicate that 220 kPa is a test inflation pressure that is appropriate for the high speed test given the parameters of speed, load and test duration.

d. Speed

The majority of commenters who commented on the high speed test recommended that the agency adopt speeds for this test based on the rated speed of the tire. Commenters suggested this approach, arguing that consumers rely upon speed ratings to select an appropriate tire for their vehicles. Also, some commenters noted that calculating the test speed based on the speed rating of the tire is an approach identical to that used in the European tire regulation, ECE R30, GTS–2000, and in the Society of Engineers (SAE) Recommended Practice J1561, *Laboratory Speed Test Procedure for Passenger Car Tires.* Some commenters stated that speed steps based on speed ratings provide a more stringent test and greater promise for achieving future international harmonization. The Alliance commented that the agency should consider the high speed test in GTS–2000 for harmonization reasons and also because there is no evidence of a safety problem with tires complying with ECE R 30, which is the European high speed test procedure upon which GTS–2000 is modeled. RMA suggested that if the agency did not base test speeds on speed ratings, then it should reduce the test speeds for LT tires to 130, 140, and 150 km/h to approximate the same level of stringency for LT tires tested on a test wheel (temperature increase) experienced by P-metric tires tested on a test wheel. GM suggested that we consider establishing 120 mph as a fixed test speed value since many of their light trucks are equipped with LT tires speed rated Q and R 160 km/h (99 mph) and 170 km/h (106 mph), respectively.

NHTSA has decided to adopt the proposed speeds of 140, 150, 160 km/h (87, 93, 99 mph) for P-metric and LT tires. These speeds represent a substantial increase in the level of stringency from the test speeds currently used in FMVSS No. 109 and 119 for which tires are tested at 75, 80, and 85 mph for 30 minutes at each speed. This approach more closely mirrors the upper limit of real world operational speeds in the United States beyond which drivers have few opportunities to operate their vehicles. These speeds will also eliminate from production any current tires whose performance just achieved the lowest rung of Temperature resistance rating in our Uniform Tire Quality Grading standards (UTQG), ''C'' rated tires. Tires with a UTQG temperature grade ''C'' are less resistant to heat buildup as compared to tires rated ''A'' or ''B.''

Drivers in the U.S. do not typically operate their vehicles at speeds above 100 mph. Maximum speed limits on U.S. highways range from 55 to 75 mph. Some vehicle manufacturers, *e.g.,* GM and Ford, electronically restrict most of their vehicles top speeds at approximately 106 mph. NHTSA also believes that an upper test speed threshold of 160 km/h (99 mph) ensures a minimum level of safe operation that is 25–30 mph beyond typical speed limits on interstate highways in the U.S.

Under the UTQG test procedure, a tire is rated ''C'' if it fails to complete the test at 100 mph for 30 minutes. The test is initiated at 75 mph for 30 minutes and then successively increased in 5 mph increments for 30 minutes each until the tire has run at 115 mph for 30 minutes. Therefore, tires with a temperature grading of C may be able to complete 30 minutes at speeds of 75, 80, 85, 90, and 95 mph (120, 128, 136, 144, and 152 km/h), but not complete the 100-mph (160 km/h) step. By establishing the final step of the high speed test at 160 km/h (99 mph), the agency expects that a larger number of tires with a temperature grade of ''C'' may fail the minimum performance test in the tire standard.

This decision does not prohibit tire manufacturers from continuing the practice of using speed ratings as a basis for establishing maximum design speed characteristics for tire performance. As discussed in the Tire Safety Information final rule, the agency neither requires nor prohibits that tires be labeled with a speed rating. Additionally, we do not prohibit vehicle manufacturers from specifying that consumers purchase replacement tires labeled with the same speed rating as the OE tire.

The agency has decided not to reduce the test speed for LT tires. The agency is not aware of any data, nor has it been

[28] A tire pressure survey conducted by Viergutz, *et al.*, on 8,900 tires in 1978 reported that almost 80 percent of all tires were under-inflated with approximately 50 percent under-inflated by 4 psi (28 kPa) or more below the recommended pressure. The average amount of under-inflation recorded in this survey was approximately 3.2 psi (22kPa) below the recommended amount. More recently, data from the 2001 NASS Tire Pressure Study, conducted on over 11,000 vehicles, indicate that about 60 percent of P-metric tires used on passenger cars were under-inflated with about 40 percent being under-inflated by 3 psi or more below the recommended inflation pressure. For P-metric tires used on light trucks, about 70 percent were under-inflated, with about 50 percent under-inflated by 3 psi or more below the recommended inflation pressure.

[29] In Spring 2001, the National Center for Statistics and Analysis (NCSA) conducted the 2001 National Automotive Sampling System (NASS) Tire Pressure Special Study (NASS Study) in response to the TREAD Act. The Preliminary Analysis of Findings, 2001 NASS Tire Pressure Special Study, dated May 4, 2001, has been placed in Docket No. NHTSA–00–8572. Data obtained as part of this study indicate that about 36 percent of passenger cars and 40 percent of light trucks had at least one tire that was at least 20 percent below the vehicle manufacturer's recommended cold inflation pressure. About 26 percent of passenger cars and 29 percent of light trucks had at least one tire that was least 25 percent below the vehicle manufacturer's recommended cold inflation pressure.

provided with any, that suggest that light trucks equipped with LT tires are operated at lower speeds than light trucks equipped with P-metric tires. In fact, tire industry data indicate that light truck owners choose LT tires as replacement tires more often than the installation rate for LT tires by the OE vehicle manufacturer. (*Modern Tire Dealer* (*http://www.mt.dealer.com*), *RMA Factbook 2002*)

The agency is also adopting a 2-hour break-in period for the test. Current FMVSS No. 109 requirements include a 2-hour break-in. The NPRM proposed a 15-minute break-in for the test, essentially because RMA had indicated in connection with GTS–2000 that a break-in period was unnecessary. Since that time, RMA has reversed its position on this issue based on its high speed testing. Additionally, the agency, based on its own testing and experience with the 2-hour break-in period believes that this length of break-in enhances test repeatability by making the surface of the tire consistent, *e.g.,* removing tire ''whiskers'' from the tire tread surface.

e. Duration

RMA's suggested 10-minute durations at each speed step (10-minute speed build-up from 0 km/h to ITS, then three 10-minute speed steps and one 20-minute speed step).

Agency testing indicates that 10 minutes is too short a period to provide a proper evaluation of high-speed performance. Very few failures occurred in the agency's testing using the 10-minute duration for speed steps. Additionally, RMA indicated in its DOE that the tire temperature generally stabilized within 15 minutes for any given set of test conditions. RMA's suggestion also reduced the duration in FMVSS No. 109 by almost 50 percent.

NHTSA adopts a 30-minute test duration for each of the 3 speed steps, 140, 150, and 160 km/h. The total test time equals 90 minutes. The 30-minute duration allows the tire to attain and stabilize its operating temperature at each speed step so that the tire's performance can be evaluated during a steady rate of speed for a duration longer than 10 minutes.

2. Endurance Test

The agency is adopting an endurance test for FMVSS No. 139 to be conducted using the following five parameters:

(1) *Ambient Temperature:* 38° C.

(2) *Load:* 85/90/100 percent.

(3) *Inflation Pressure:* 180 kPa (26 psi) for standard load P-metric; 220 kPa (32 psi) for extra load P-metric; 260 kPa (38 psi), 340 kPa (49 psi), 410 kPa (59 psi) for LT load ranges C, D, E, respectively.

(4) *Speed:* 120 km/h.

(5) Duration: 34 hours total—4 hours at 85 percent load, 6 hours at 90 percent load, and 24 hours at 100 percent load.

A tire complies with the proposed requirements if, at the end of the high speed test, there is no visual evidence of tread, sidewall, ply, cord, or bead separation, chunking, broken cords, cracking, or open splices, and the tire pressure is not less than the initial test pressure.

This combination of these parameters for P-metric tires is believed to correlate well with actual field performance and represents an increase in stringency over FMVSS No. 109's endurance test with a 50 percent increase in speed.

Two alternatives to the proposed test parameters were considered by the agency, that submitted by RMA and that submitted by Goodyear. The RMA alternative includes no change in the load combination of 85/90/100 percent and duration from the current standard, FMVSS No. 109, retains the 120 km/h from the agency proposal for P-metric tires but a lower speed (110 km/h) for LT tires, and recommends increasing the inflation pressure for LT tires. The Goodyear alternative is similar to RMA's except that they suggest a test speed of 104 km/h and do not adjust down the inflation pressures for LT tires. Both of these tests, especially the Goodyear test, demonstrate a lower failure rate than the agency's tests.

The agency adopts an endurance test that has parameters different from those proposed in the NPRM. The load decrease of 10% from the proposed loading level represents an offset of the effects of the test wheel. Further, the agency notes that the increase in duration of the final load step from 22 hours in the proposal to 24 hours combined with the adopted test speed of 120 km/h represents an increase in the total test distance from 2720 km (1700 miles) to 4080 km (2550 miles).

The following table provides a comparison of the endurance test parameters used in FMVSS No. 109, FMVSS No. 119, RMA recommendation, and FMVSS No. 139.

TABLE 3—ENDURANCE TEST COMPARISON

Test parameters	FMVSS 109	FMVSS 119	RMA	Goodyear	Proposed FMVSS 139	FMVSS No. 139 As adopted
Ambient (°C)	38	38	38	38	40	38
Load (%):						
P-metric	85/90/100		85/90/100	85/90/100	90/100/110	85/90/100
LT-load C/D		75/97/114	85/90/100	85/90/100	90/100/110	85/90/100
LT-load E		70/88/106	85/90/100	85/90/100	90/100/110	85/90/100
Inflation Pressure (kPa):						
Standard load P-metric.	180		180	180	180	180
Extra load P-metric	220		220	220	220	220
LT-load C/D		max infl	285/370	260/340	260/340	260/340
LT-load E		max infl	450	410	410	410
Speed (km/h)	80	80	120 (75 mph) (110 km/h for LTs).	104 (65 mph)	120 (75 mph)	120 (75 mph)
Duration (hrs)	34 (4/6/24)	34 (4/6/24)	34 (4/6/24)	40 (8/10/22)	40 (8/10/22)	34 (4/6/24)

a. Ambient Temperature

The agency has decided to lower the ambient temperature to 38° C from the 40° C proposed in the NPRM for the same reasons cited in the high speed test discussion.

b. Load

In its comments to the NPRM, RMA recommended an endurance test using lower loads, 85/90/100 percent of maximum load rating for 34 hours for both P-metric and LT tires due to high percentages of failures due to chunking.

Goodyear commented that (1) heat induced damage mode (Tread Chunking) exhibited in proposed FMVSS No. 139 endurance testing is not

representative of real world failures in the field, (2) tires with proven safe field performance will not pass the proposed FMVSS No. 139 due to tread chunking caused by excessive heat build-up due to high speed on curved surface and high load conditions, and (3) tire design changes/compromises to reduce heat-induced tread chunking will negatively impact other safety performance characteristics (*e.g.*, wet traction, wet handling, dry traction).

Public Citizen urged the agency to adopt a higher load of 100/110/115 percent to provide for loading conditions of heavier commercial vehicles.

After studying the effects of the test parameters on the failure rates for the proposed endurance test, the agency has decided to lower the load percentages to 85/90/100 percent of the maximum load rating. The 5% decrease in load in the first test step and, more importantly, the 10% decrease in the second and third test steps are adopted to offset the effect of the temperature increase that occurs on the curved surface of the test wheel.

c. Inflation Pressure

For LT tires, RMA recommended higher inflation pressures claiming that higher inflation pressures help offset the increased deflection and higher temperatures experienced by LT tires on the test wheel which makes the stringency of the test for LT tires more significant than that experienced by P-metric tires. RMA's data, however, indicates that LT tires also experience higher temperatures than P-metric tires when tested on a flat surface.[30]

The inflation pressures contained in this final rule remain unchanged from those proposed in the NPRM. Since LT tires experience higher temperatures than P-metric tires under real world conditions, the agency sees no need to adjust the test stringency in attempt to make equivalent the thermal levels experienced by LT tires and P-metric tires on the test wheel.

The inflation pressure of 180 kPa represents a 25 percent under-inflation for 240 kPa maximum inflation pressure tires and is the same inflation pressure currently required for the endurance test in FMVSS No. 109. Tires tested to more severe levels of underinflation, *e.g.*, 160 kPa, failed much sooner into the endurance test than those tested at 180 kPa.

d. Speed

For LT tires, RMA recommended a lower test speed of 110 km/h claiming that a lower test speed makes the stringency of the test for LT tires equivalent to that for P-metric tires. Goodyear recommended 104 km/h for all tires stating that the combined load and speed of the test produces excessive temperature conditions on a test wheel.

The speed contained in this final rule remains unchanged from that proposed in the NPRM. The test is conducted at 120 km/h (75 mph). The current endurance test in FMVSS No. 109 is conducted at 80 km/h (50 mph). An 80 km/h test speed may have been an appropriate test speed in 1968 when initially proposed for bias ply tires. However, today, it is too low a speed for evaluating the endurance of today's tires given current vehicle performance capabilities and speed limits.[31] In addition, speed limits on interstate highways across the U.S. are now as high as 75 mph.

The agency considered RMA's recommendation for a lower test speed for LT tires. RMA's DOE showed higher tire temperatures for LT tires compared with P-metric tires, both on the flat surface and on the curved test wheel. We acknowledge that LT tires run hotter than P-metric tires but see no need to try to make the stringency levels equivalent in laboratory testing if they do not run at equivalent levels on the road. In the real world, P-metric tires and LT tires are often operated on light vehicles in the same manner, *e.g.*, same speeds, same attention, or lack thereof, to proper inflation levels. Additionally, the agency adjusted the parameters for load, duration, and temperature to achieve a more realistic and practicable test. Given that vehicles equipped with LT tires are operated at similar speeds as vehicles equipped with P-metric tires, the agency does not accept this suggestion.

e. Duration

The duration specified for the endurance test has been lowered to 34 hours from the 40 hours proposed in the NPRM.

The agency's confirmation testing to the endurance parameters proposed in the NPRM indicated that the failure rate was 27 percent for P-metric tires and 40 percent for LT tires. A majority of these failures occurred between the 35th and 40th hours of the 40-hour test. The failure mode for these tires was chunking of the tire tread. Chunking is the breaking away of pieces of the tread or sidewall. Chunking may be an early indicator of other potential tire problems, but the agency, at present, does not have data indicating the frequency with which chunking occurs in service or the rate at which other tire problems are precipitated by chunking.

The agency anticipates that with the duration reduced to 34 hours, a lower percentage of tires will fail the test because of chunking. In anticipation of concerns that the lowered duration reduces the stringency of the test, the agency notes that for the 34-hour duration, the maximum test load is achieved after 10 hours from initiation of the test, while for the 40-hour duration that was proposed in the NPRM, the maximum test load is only achieved after 18 hours. Additionally, the final load step is 2 hours longer (24 hours) than the one proposed in the NPRM (22 hours). For these reasons, the agency considers the 34-hour test as possibly more stringent than the proposed 40-hour test.

Ford recommended extending the duration of the test by adding an additional 48-hour test step at a load equaling 130 percent of the maximum load rating of the tire. Ford did not provide any data or test results to support this recommendation.

3. Low Inflation Pressure Performance Test

The TREAD Act requires that light vehicles be equipped with a tire pressure monitoring system, effective November 1, 2003, to indicate to the driver when any of the tires on his vehicle is significantly underinflated. NHTSA established 20 psi (140 kPa) as a low pressure threshold at or above which the low pressure lamp must be activated in its recent final rule on TPMS. (67 FR 38704, June 5, 2002)

NHTSA includes in the new light vehicle tire standard a low inflation pressure test, the Alternative 1, Low Pressure—TPMS test, to ensure a minimum level of endurance and/or high speed performance/safety when operated at a significant level of under-inflation. The parameters for this test, which the tire must complete without failure, are as follows:

(1) Load: 100 percent

(2) Inflation pressure: 140 kPa (20 psi) for P-metric

(3) Test speed: 120 km/h (75 mph)

[30] Based on RMA's DOE, the temperature differential between P-metric tires and LT tires on a road test wheel is 28° C, compared to 21° C on a flat surface.

[31] According to *Automotive News* (5/14/01), ''since 1981, average horsepower has risen 79 percent and vehicle weight has grown 21 percent.'' The power to weight ratio has increased over the past 10 years based on data on selected mid-priced Ford, Chevrolet, Pontiac, Toyota, and Honda vehicles ranged from about 70 to 90 horsepower (HP) per ton. (Ward's Automotive Yearbooks, 1990 and 2000). In 1995, the federally-mandated 55 mph speed limit was repealed. Since that time, numerous States have increased speed limits up to 75 mph.

(4) Duration: 90 minutes at the end of the 34-hour endurance test

(5) Ambient temperature: 38° C

A tire complies with the requirements if, at the end of the test, there is no visual evidence of tread, sidewall, ply, cord, inner liner, or bead separation, chunking, broken cords, cracking, or open splices, and the tire pressure is not less than the initial test pressure.

The following table provides a comparison of the low inflation pressure performance parameters proposed in the NPRM and those established in FMVSS No. 139.

TABLE 4.—LOW INFLATION PRESSURE TEST

Test parameters	Proposed Alternative 1	Proposed Alternative 2	FMVSS No. 139 As adoped
Ambient (°C)	40	40	38
Load (%)	100% of maximum load rating on tire.	67% of maximum load rating on tire.	100% of maximum load rating on tire
Inflation Pressure (kPa):			
Standard load P-metric	140	140	140
Extra load P-metric	160	160	160
LT-load C	200	200	200
LT-load D	260	260	260
LT-load E	320	320	320
Speed (km/h)	120	140/150/160	120
Duration (mins)	90 (30/30/30)	90 (30/30/30)	90 (30/30/30)

RMA expressed support for Alternative 1, substituting a lower test speed, 110km/h, for LT tires instead of the proposed 120 km/h. RMA also stated that thermal runaway occurred on all the tires that it tested to the Alternative 2 test parameters. Both the Alliance and Ford suggested that the test be run on tires after they had been subjected to an aging test. Consumers Union recommended that the test duration of Alternative 1 be increased to 4 hours to better simulate the distance traveled (300 miles) on a tank of fuel.

The adopted test, Alternative 1, establishes a linkage between the proposed requirements of the tire pressure monitoring system standard and the endurance test for the tire standard upgrade requirements. It is predicated upon the notion that a low pressure test is most appropriate on tires that have completed the endurance test because a significantly underinflated condition for a tire is more likely to occur in a tire after several weeks of natural air pressure loss or due to a slow leak.

Besides nearly unanimous support from commenters, the agency believes that the parameters of this test more closely represent real world conditions. For instance, it is more likely that vehicles, particularly passenger vehicles, will travel at speeds closer to 120 km/h (75 mph) than 160 km/h (90 mph) and will be loaded closer to a 100% condition than a 67% condition. In essence, this alternative closely mirrors conditions of long distance family travel and would assist in ensuring that tires will withstand conditions of sudden or severe underinflation during highway travel in highly loaded conditions. Additionally, the agency believes that this test provides an extra safeguard to ensure that tires that were able to successfully complete the endurance testing can also complete an additional 90-minute test at low inflation pressures.

4. Road Hazard Impact

For a road hazard impact performance requirement, the agency had proposed the adoption of the current SAE Recommended Practice J1981, *Road Hazard Impact Test for Wheel and Tire Assemblies* (Passenger Car, Light Truck, and Multipurpose Vehicles). This test had been developed by SAE to provide a uniform test procedure for evaluating the road hazard impact on wheel and tire assemblies.[32] Results from agency testing of 60 tires according to this procedure demonstrated no failures. Further, post-test inspection using visual methods, shearography, and x-ray revealed no evidence of damage to any of the tires.

In response to our proposal, commenters unanimously suggested that the proposed SAE procedure was not properly defined to test for tire-to-hazard impact worthiness. RMA argued that the test was originally developed as a wheel damage test and has very limited value as a tire test. Also, they argued that it was originally adopted to evaluate bias ply tires and is unnecessary for testing radial tires. The Alliance suggested that the current plunger test be retained until the agency develops a test that correlates with actual field performance. Ford also recommended that the current plunger test be retained but also revised to contain a higher load value and a revised test rim capable of accommodating the higher load without exhibiting ''bottoming out.'' Ford stated that it uses a force value twice as high as that specified in FMVSS No. 109 and its tires have experienced failures when tested to this specification. Commenters also questioned the practicability of the proposed test given the expected cost of new equipment to perform the test and the perceived lack of benefits exhibited by the absence of failures in NHTSA's research.

The agency's research on this test consisted of sixty tires tested in the agency's Phase 1A laboratory tire strength tests. All were P205/R15 size, with aspect ratios of 55, 65, or 75. Each tire was initially strength tested using one of the four following procedures: (1) SAE J1981 Road Hazard Impact test, with wedge-shaped striker, (2) SAE J1981 Road Hazard Impact test, with plunger shaped striker, (3) current FMVSS No. 109 tire strength test, and (4) modified FMVSS No. 109 tire strength test. All tires were submitted for post-test damage evaluation using visual inspection, x-ray, and shearography. Twenty of these tires were then subjected to the current FMVSS No. 109 high speed performance test, and then resubmitted for damage evaluation.

Only one of the 60 tires experienced air loss or damage detectable by the three evaluation methods. This tire experienced tread break and rapid air loss during a modified FMVSS No. 109 tire strength test. Tests on four of the 20 tires subjected to the SAE J1981 Road Hazard Impact tests, with wedge-shaped striker, resulted in damage to the rim, even though no air loss or tire damage

[32] The test machine specified in this recommended practice positions the tire so that the striker impacts it across the width of the tire tread with a free falling 54 kg pendulum striker. The impact force must be applied at five equally spaced points around the circumference of the tire.

was detected. A report that more fully discusses this data and analysis is contained in the Docket (NHTSA–02–8011–20).

The agency has decided to adopt for the new standard the current requirement for the plunger test in FMVSS No. 109 for P-metric tires and the current requirement for the strength test in FMVSS No. 119 for LT tires. Based on the agency's testing and the comments received in response to the proposal, the agency concludes that the SAE road hazard impact test is not suitable to evaluate the capability of a tire to resist damage from impacts with road hazards.

While the agency is not establishing a new or revised test at this juncture, information and data provided to the agency by Ford indicates that certain test forces and other specifications can be specified that would possibly evaluate tire-to-hazard impact worthiness performance. After completing the research on tire aging discussed below and then the research on bead unseating discussed below, the agency will conduct research to refine the current test and/or to identify and refine an alternative test that better simulates road hazard impact. When this research is complete, the agency will decide whether to initiate rulemaking on a new or revised test procedure for tire strength.

5. Bead Unseating

In response to our proposal, commenters consistently suggested that the proposed procedure required further research and specification to appropriately evaluate the ability of a tire bead to remain on the rim during varied maneuvers. For instance, the Alliance suggested that a test-wheel specification be developed because bead unseating is partially a function of the specific test wheel on which the tire is mounted. Similarly, Ford recommended that the agency include a specification for the test rim to accompany the test since the force required to unseat a tire bead is dependent on rim design. TUV Germany suggested that the agency utilize a dynamic (*e.g.*, rotating wheel) rather than a static test. Additionally, the levels of certain proposed parameters, *e.g.*, load and force and applied to the tire, were highlighted as needing further consideration.

Commenters also questioned the practicability of the Toyota test given the expected cost of equipment required to perform the test and the perceived lack of benefits resulting from the absence of failures in NHTSA's research. RMA suggested that the agency retain the current procedure, with revised specifications applicable to tires with smaller aspect ratios.

The current resistance to bead unseating test has the force applied to the center of the sidewall of the tire. The agency believes that while the Toyota test parameters may provide a more ''real world'' approach by applying forces in the tread area, they would not necessarily increase the overall stringency of the test. This belief is supported by agency research, which found that the Toyota test yields results (no failures) identical to those derived from testing tires to the current bead unseating test.

The agency's research on this test consisted of fifty-four tires evaluated in the agency's Phase 1A Tire Debeading tests for their propensity to debead. Each tire was bead unseat tested using one of the two following procedures: (1) A modification of a procedure developed by Toyota that utilizes a sliding wedge-based test fixture to apply a force across the tread until the tire debeads or the rim comes in contact with the wedge, and (2) a modified version of the FMVSS No. 109 test procedure which allows the plunger load to continue until bead unseating occurs. A report that more fully discusses these data is contained in the Docket (NHTSA–02–8011–21).

The agency has decided to include in the new standard the current requirement for bead unseating that exists in FMVSS No. 109. To make this requirement consistent for all light vehicle tries, the agency has also decided to extend this requirement to LT tires. While the agency is not establishing a new or revised test at this stage, it continues to believe that bead unseating may contribute to a major safety problem: rollover. Therefore, bead unseating, if appropriately addressed through a safety performance requirement, could beneficially impact rollover crash prevention.

Information and data obtained and analyzed by the agency indicate that tire bead unseating does occur in real world applications and that it contributes to rollover because rim contact with the road is a tripping mechanism that leads to a tripped rollover. During the agency's 1997–98 dynamic rollover testing, 3 out of 12 vehicles debeaded their tire during severe maneuvers. These three vehicles included a pick-up truck, a MPV, and a passenger car. All three vehicles were equipped with P-metric tires, and all were certified as complying with the current bead unseating requirements. TREAD rollover testing conducted in 2001 and 2002 also demonstrated debeading as a result of severe maneuvers.[33]

After completing the research on tire aging discussed below, the agency will conduct research to try to identify and refine an alternative test that better simulates bead unseating than the current test. If supported by our research results, the agency will initiate rulemaking to adopt an improved bead unseating test.

With regard to RMA's suggestion that the agency revised testing specifications for tires with smaller aspect ratios, the agency notes that the current testing apparatus (the ''block'') can be used to test a vast majority of tires in the OE and replacement market. Low aspect tires that may be problematic fits with the testing apparatus would, in any case, comply with the requirements because the block would contact/''bottom out'' on the rim before debeading could occur. The agency plans, during its bead unseating research, to review the design of the bead unseating apparatus and to determine whether and how to best modify it to accommodate low aspect ratio tires.

6. Aging

In the NPRM, the agency proposed adopting one of the following tests: (1) an adhesion (peel) test based on the American Society for Testing Materials (ASTM) D413–98, Standard Test Methods for Rubber Property-Adhesion to Flexible Substrate, (2) a long term durability endurance test based on Michelin's procedure for endurance testing, and (3) an oven aging test.

Commenters generally asserted that the three tests, as proposed, are not appropriate means of testing the effects of aging on tires or that they do not reflect real world performance. RMA opposed adoption of the peel strength test and the long term durability endurance test. RMA stated that the results of its testing in accordance with the ASTM D–413 protocol demonstrated that such testing has poor repeatability. Further, they assert that peel force does not correlate with field performance or the test wheel test because: (1) It evaluates only a component of the tire, not the tire's overall performance, (2) peel strength data inversely correlates with field data, and (3) it evaluates the tire's belt compound for ultimate tensile strength in a non-aged state and does not simulate long-term duration or field exposure.

RMA also opposed the long term durability endurance test stating that the length of the test would add a $100

[33] The tires involved in these debeading incidents passed the FMVSS No. 109 test.

million differential over the other options. RMA also stated that the industry has had little or no experience with this test methodology, although the test was suggested by Michelin, a member of RMA.

While RMA asserted that it finds an aging test redundant in light of the revised high speed, endurance, and low pressure tests, it did provide the agency with their suggestion for test parameters for the oven aging tests: (1) 70° C as the aging temperature instead of the proposed 75° C, and (2) three endurance steps of 4 hours at 85% load, 6 hours at 90% load, and 14 hours at 100% load.

The Alliance and Ford commented that the proposed aging tests cause the tire wedge to age anaerobically (caused by absence of oxygen), a condition that is not exhibited in ODI field data. Ford recommended a revised version of the agency's oven aging test using a 50/50 blend of oxygen/nitrogen as the filling gas and a 14 day duration in an oven followed by a dynamic test on a test wheel. Ford indicated that this test would simulate the performance of a tire oxidatively aged for 2–3 years.

ECE/GRRF suggested that the aging test be combined with the endurance test.

With regard to the 250-hour long-term durability endurance test, the agency does not have enough information to conclude that this test would be appropriate for regulatory purposes because of its length and resultant cost. Michelin has indicated that the test is most effective and provides better correlations at a duration of approximately 350–400 hours. This amount of time makes this test considerably more expensive than either a peel test or an oven aging test and would impose a large cost burden on the industry as well as a large regulatory burden on the agency's compliance testing. We cannot at present show that burden would be justified by the safety benefits.

The agency conducted Michelin-like dynamic aging testing (250-hour test inflated with oxygen-nitrogen mixture), oven aging testing, and adhesion strength testing. The parameters for the oven aging testing and adhesion strength testing are the same as those proposed by the agency. The data show that, in general, most of the tires completed the drum tests including the dynamic aging and oven aging tests. Three P-metric tires had catastrophic and partial damage failures during the dynamic aging tests, and two other P-metric tires had failures during the oven aging test. The adhesion data demonstrate a wide range of results from a low of 19.9 lbs/in to a high of 76.9 lbs/in adhesion strength between the tire belts. From these data, however, the agency has been unable to draw any definite correlations of tire conditioning on adhesion strength. A report that more fully discusses these data and analysis is contained in the Docket (NHTSA–02–8011–27).

The agency has decided to defer rulemaking on an aging test until further research is completed. The agency intends to develop and propose an oven-aging test for FMVSS No. 139 in approximately 2 years. In developing an oven-aging test, the agency will consider the recommendations submitted to the agency including those mentioned above pursuant to refining both the static and dynamic components of the test. Additionally, the agency will assess the performance of the test tires and tires in the field to assure that the test correlates with the field data. The agency has opened a docket for the collection of information relevant to tire aging (Docket No. NHTSA–2002–13865).

After analysis and consideration of the comments, as well as results from agency's own testing, the agency concurs with commenters that the peel test is not appropriate to pursue at this juncture. With regard to the peel test, RMA commented that its testing indicated an inverse correlation between peel strength and a tire's endurance. In the agency's testing, some tires that demonstrated a low peel strength value performed well under the proposed endurance parameters, while some tires that exhibited high peel strength values failed to complete the proposed endurance test. These results, along with RMA's suggestion that the peel test proposal evaluates a tire's belt compound for ultimate tensile strength in a non-aged state but does not simulate long-term duration of field exposure, has led the agency to determine that a peel test is not sufficiently useful for evaluating tire aging to be included in the standard as a performance requirement.

The agency acknowledges that, during the Firestone hearings, members of Congress suggested that an aging test could evaluate the risk of tire failure at a period later in the life of a tire than the period tested by the current endurance test. Additionally, reports (Clark, Govindjee) resulting from the Ford-Firestone investigation recommended that the agency should consider instituting an aging test in its revised regulation because of the known degradation of peel strength with time and temperature. For several reasons, the agency has been unable, during the limited time available, to develop a workable aging test with the capacity to enhance real world safety.

At present, an industry-wide recommended practice for the accelerated aging of tires does not exist. With the exception of Michelin, the tire industry did not respond to the agency's request in the NPRM for information on corporate design and testing specifications. Additionally, the agency did not acquire sufficient test data and field data to enable it to evaluate the performance of an aging test and determine whether correlations exist in the data. Recently, however, some industry members have begun a dialogue and offered to share data with the agency.

7. Post-Test Pressure Measurement

For the high speed, endurance, and low inflation pressure performance tests, the NPRM proposed that the inflation pressure be measured within 15 minutes after the completion of the specified test. Any decrease in pressure from the initial inflation pressure would signify failure. The agency had borrowed the 15 minute specification from GTS–2000 and because it represented what the agency thought was a more objective criterion than the current requirement in 109 for measurement to be taken ''immediately'' after the test.

In response to the proposal, RMA, citing safety reasons, urged the agency to revise the time-period for measurement to specify that it be taken within an hour. According to RMA, requiring measurement of the temperature of a hot tire, which must be performed manually, within 15 minutes of test completion subjects the technician to great danger due to the risk of tire explosion. Additionally, RMA argued that the additional time for measurement would not unfairly bias the success rates of the tires being tested because the inflation pressure would reduce, rather than increase, over time as the tire cools. Therefore, it is more likely that a tire tested within 15 minutes of completion of a test would contain the requisite amount of pressure necessary to pass the test than a tire tested at closer to 1 hour after completion of the test.

The agency conducted experiments at VRTC concerning post-testing pressure measurements. These tests indicated tires require longer than 15 minutes for the pressure inside of them to stabilize after a performance tests and that a span of 1 hour after testing provides sufficient time to allow cooling of the tire and stabilization of its internal pressure. Measurements taken before the end of the 1-hour period may be

artificially high and mask test induced pressure losses due to the heat generated in the tire during testing. Additionally, the agency's confirmation testing at STL indicated that a tire's inflation pressure requires substantially more than 15 minutes to stabilize after testing is completed. This testing revealed that the inflation pressure decreased an average of 6–8 psi (the pressure decrease ranged from 5–12 psi) between 15 minutes and 1 hour after completion of testing in both P-metric and LT tires.

In response to RMA's suggestion and based upon our own analysis of available data, the agency has decided to require that all post-test pressure measurements be taken at least one hour after the test is completed. The agency has determined that a 1-hour period provides a sufficient time period for tire cooling and would prevent superficially high tire temperatures from masking test-induced pressure losses that would not be detectable at an earlier measurement marker.

D. Tire Selection Criteria/De-Rating of P-metric Tires

Commenters expressed a range of sentiments on these issues. Tire industry commenters strongly supported retaining the de-rating percentage of 1.10 for P-metric tires used on non-passenger car vehicles, and the proposal to revise FMVSS No. 110 to require determination of normal load based on 85% of the load at the vehicle placard pressure.

The vehicle industry commenters supported the extension of FMVSS No. 110 applicability to light trucks, MPVs and vans under 10,000 GVWR, but urged the agency to retain the vehicle normal load at 88% of the maximum load rating. The Alliance also suggested that the agency de-link the tire selection criteria from the load parameter used in the high-speed test, saying that no rationale exists for the linkage. While the Alliance stated that revising the load reserve requirement would affect areas of vehicle performance, such as braking and CAFE, and would require some redesign of vehicle systems and components, they did not provide specific data to support these assertions. GM stated that 22% of its car and 6% of its light truck volumes would not comply with the proposed tire selection criteria. Subaru also indicated that a significant percentage of its fleet would need to be altered to meet the proposals.

Consumer group commenters suggested that the agency require a higher reserve load, between 18 and 20 percent because they believe that 15% does not adequately address typical loading conditions for trucks and heavier vehicles.

Tire reserve load currently refers to a tire's remaining load-carrying capabilities when the tire is inflated to the tire manufacturer's maximum cold inflation pressure shown on the tire sidewall and the vehicle is loaded to its gross vehicle weight rating (GVWR). A reserve load is provided by vehicle manufacturers, as per the requirements of FMVSS No. 110, to account for overloading of the vehicle, under-inflation of tires, or both. The load reserve margin required by FMVSS No. 110 is linked with the load parameter in the FMVSS No. 109 high-speed test. The load parameter for the proposed high speed test was 85% percent of the maximum load as labeled on the tire.

The primary purpose of FMVSS No. 110 is to specify requirements for tire selection to prevent tire overloading. Since the standard is a vehicle-based standard, the tire selected for each vehicle to which the standard applies is based on the load limits for the tire and the maximum vehicle weight. The maximum load rating (in lbs or kg) for a tire is currently determined at the maximum inflation pressure of 240 kPa (35 psi) for standard load P-metric tires. If the vehicle manufacturer, however, chooses to recommend an inflation pressure (labeled on the placard) lower than the maximum inflation pressure, the actual rated load is lower than that maximum rated load (based on maximum inflation pressure) because the tire load rating decreases with a lower inflation pressure.[34]

The agency believes that the actual rated load is a more appropriate measure of load reserve than the maximum rated load. The purpose of FMVSS No. 110 is to prevent the overloading of a tire as installed on a vehicle, not on the tire in the abstract. The agency has concluded, therefore, that the most appropriate way for the vehicle manufacturer to determine the reserve load for the tire on the vehicle is to determine the load at recommended inflation pressure (as labeled on the placard), not at the maximum inflation pressure on the tire sidewall, since few, if any, vehicle manufacturers list the maximum inflation pressure as their recommended inflation pressure.

However, if FMVSS No 110 were revised as proposed in the NPRM, vehicle manufacturers would be required to increase the reserve load from 12 percent to 15 percent on their vehicles. Additionally, the margin would, in fact, need to be made larger because the vehicle normal load would be based on the load rating at the vehicle's placard pressure rather than the load rating at the maximum inflation pressure of the tire.

The agency proposed an 85% figure, stating that increasing the tire reserve needed by a vehicle under normal loading conditions from 12 to 15 percent would result in a larger margin of safety when a vehicle is loaded to its GVWR or its tires are underinflated. Based on comments and further analysis, the agency believes that 85% figure combined with the load reserve being based on the load rating at placard pressure rather than at maximum inflation pressure is insufficiently justified at this time. Currently, the agency does not have any data that links reserve load to tire failure. The most recent data we have on this issue was analyzed in a 1981 study. That study found no correlation between reserve load and tire failure. Further, the proposed reserve load increase would have necessitated the vehicle manufacturers' making major changes in the design of some of their vehicles to comply with the requirement.[35] For instance, some vehicle manufacturers for some vehicles would have had to ''plus'' size the tires on their vehicles, which could, in turn, have necessitated a redesigning of other vehicle systems such as the suspension and braking systems.

In response to the vehicle manufacturers' concerns, we have decided to de-link the tire selection criteria from the load used in the high-speed test. The agency believes that if it were to require that the vehicle normal load at placard pressure be no greater than the figure specified for the load parameter in the high speed test, 85%, too many vehicles would need a costly [36] tire upsize to comply with requirements that do not, based on all currently available data, appear to provide safety benefits. Further, the agency is not aware of any safety rationale to continue to link the load

[34] For example, if 2 similar vehicles (similar GVWR and weight distribution) are equipped with the same tires size but the first has a placard pressure of 32 psi and the other a placard pressure of 26, psi, based on our current requirement, the reserve load will be identical for both vehicles. However, if the reserve load is based on placard pressure, then the vehicle with the higher placard pressure will have a higher load rating and load reserve than the vehicle with the lower placard pressure since the load rating increases with increased inflation pressure.

[35] In the FRE, the agency estimates that, based on available compliance data, 6 of 14 light vehicles would have failed the 85% lead reserve requirement. These data are discussed in more detail in the FRE.

[36] The cost of tire upsizing is discussed in greater detail in the FRE.

reserve requirements with the loading parameter in the high-speed test.

For passenger cars and for non-passenger car vehicles equipped with LT tires, the final rule requires that the vehicle normal load be based on 94% of load rating at the vehicle's placard pressure. Therefore, vehicle manufacturers will be required to insure that the tire reserve load corresponds with the tire's load carrying capabilities when the tire is inflated to the vehicle manufacturers recommended cold tire inflation pressure rather than the tire manufacturer's maximum cold inflation pressure shown on the tire sidewall. The 94% figure was chosen to approximate closely the load reserve that results from the current requirement of 88% based of load rating at the tire's maximum inflation pressure.

By specifying an 94% value based on vehicle normal load, the agency is addressing the vehicle industry's concerns that a significant number of vehicles would otherwise need to be redesigned to accommodate larger tire sizes, while aiming to reflect more accurately actual vehicle loading conditions of vehicles by requiring that each vehicle manufacturer select the appropriate reserve load for that vehicle. The agency has recently conducted a FMVSS No. 110 vehicle normal load evaluation and has concluded that almost all light vehicles could meet a revised criteria for load reserve based on 94% of placard pressure with only a minor increase, *e.g.*, 1 or 2 psi, in this listed inflation pressure to accommodate the new requirement. Because 1 or 2 psi does not have a meaningful effect on the ride, comfort and, consequently, the marketability of a vehicle, this provision should impose little or no cost on the industry.

For the final rule, the agency has also decided to retain the de-rating factor of 1.10 for P-metric tires used on non-passenger car vehicles. For non-passenger car vehicles equipped with P-metric tires, the vehicle normal load shall be not greater than the derated value of 94% of the tire load rating at the vehicle's placard pressure. This de-rating provides a greater load reserve when these tires are installed on vehicles other than passenger cars. For the first time, this final rule requires light trucks to have a specified tire reserve, the same as for passenger cars, under normal loading conditions.

The agency has decided to retain the de-rating factor for P-metric tires used on MPVs, trucks, and buses in part in response to widespread support from commenters. Additionally, the agency continues to believe that the premise behind the 10 percent de-rating of P-metric tires remains valid today. This premise is that the reduction in the load rating is intended to provide a safety margin for the generally harsher treatment, such as heavier loading and possible off-road use, that passenger car tires receive when installed on a MPV, truck, bus or trailer, instead of on a passenger car.

The final rule adopts an expanded Table 1 text for occupant loading and distribution for designated seating capacities up to 22 occupants.

E. Applicability and Effective Dates

The requirements adopted by this rule apply, except where specified below, to new pneumatic radial tires for use on motor vehicles with a GVWR of 10,000 pounds or less, manufactured after 1975, except for motorcycles and LSVs, and for new motor vehicles with a GVWR or 10,000 pounds or less.

Given the increasing consumer preference for using light trucks for passenger purposes, the agency is requiring that the tire performance requirements for passenger car tires also apply to LT tires (load C, D, and E) used on light trucks. No commenters disagreed with the agency's statement in the NPRM that LT tires are increasingly utilized in the same manner as P-metric tires on light vehicles or with the agency's statement that the use of these tires on passenger vehicles will continue to increase in the near future.

Several commenters suggested that certain tires produced for specialty uses or antique vehicles be excluded from adhering to the new performance requirements. RMA suggested that the agency exclude temporary spares, various trailer tires, snow and deep lug tires, and bias tires from the applicability of FMVSS No. 139. The TRA asked that special-use tires such as ST, FI, and 8–12 rim diameter and below tires (typically used on smaller, towed trailers) be excluded from FMVSS No. 139 and continue to be covered by FMVSS No. 109. Specialty Tires and CU argued that bias ply tires should continue to be regulated under FMVSS No. 109, not FMVSS No. 139 because the agency did not conduct any testing of these tires under the proposed parameters, they may not pass the new tests, and they are not part of the group of tires targeted by the TREAD Act to be upgraded. Hoosier Tires and Denman, makers of small lot specialty tire of both bias and radial design (15,000) per year suggest that limited production tires continue to be covered by FMVSS No. 109 and not become subject to the requirements of FMVSS No. 139.

The agency emphasizes that it is not changing the ''on-road'' versus ''off-road'' definition in this rulemaking. It also notes that specialty tire manufacturers are currently required to subject their ''on-road'' light vehicle tires to the performance tests in FMVSS No. 109 and 119.

The agency is aware of several manufacturers, such as Denman and Hoosier, which produce bias tires for racing, off-road, and antique/classic car applications. These tires represent a very small (less than 1 percent) segment of the market for light vehicle tires and are not offered by any vehicle manufacturer on any new light vehicle sold in the U.S. Further, the number of miles that they are driven per year on highways is insignificant. Therefore, the agency has decided to exclude bias, ST, FI, and 8–12 rim diameter tires from FMVSS No. 139. These tires, however, will continue to be covered by FMVSS No. 109 and 119. FMVSS No. 109 will not be deleted.

The agency, however, has decided that FMVSS No. 139 will be applicable to all radial P-metric and LT tires load ranges C, D, and E, produced for light vehicles manufactured after 1975, even specialty radial tires made in small lots or in limited production. Radial snow tires and other deep tread tires are also required to comply with FMVSS No. 139. Limited production, snow, and deep tread radial tires are operated on the same roads as mass produced P-metric tires and the agency believes that they should be capable of the same level of performance under comparable conditions. Further, the number of miles that they are driven per year on highways is believed to be greater than the number of on-road miles for the bias tires discussed in the immediately preceding paragraph. Retread tires will continue to be covered by FMVSS No. 117 and non-pneumatic spare tires will continue to be covered by FMVSS No. 129.

Most tire manufacturer and vehicle manufacturer commenters requested a longer lead-time than the two alternative implementation schedules proposed in the NPRM. The agency has decided to establish an effective date for implementation of both tire and vehicle requirements of 4 years after the date of publication of the final rule. The proposed implementation schedules in the NPRM reflected NHTSA's desire for expedited action on this issue. In view of the comments received by the tire and vehicle industry and the significance of the tire and vehicle design and production changes that may occur as a result of these new requirements in area not substantively

revised in 30 years, NHTSA finds that an effective date of June 1, 2007, is reasonable and in the public interest.

RMA suggested a 5-year lead-time. The Alliance suggested a September 1, 2007, effective date. Both urged that tire and vehicle modifications would require this time period to assure compliance and successful matching of the high number of tires and vehicles affected by this rule. Consumer groups, however, suggested a faster implementation schedule for both P-metric and LT tires, with CU urging that implementation begin in September 1, 2002.

For both tires and vehicles, the agency has decided to extend the effective date to June 1, 2007. This extension of the effective date reflects the reality that tire manufacturers will need to modify tire design and production to accommodate changes in materials, compounds and construction as well as respond to any revised aspects of vehicle design initiated by this final rule. It also recognizes that the vehicle manufacturers will, in response to the altered materials/compounds or constructions of tires, need to effect design changes to revalidate/redesign vehicle characteristics such as braking, handling, fuel consumption, and that some of this work can only be accomplished subsequent to the design and production changes initiated by the tire manufacturers. NHTSA believes that 4 years is in the public interest because it is need to provide sufficient lead-time for tire manufacturers and vehicle manufacturers to make necessary design and production changes for their tires and vehicles to comply with the new requirements.

Finally, to encourage the earliest possible application of the new tire performance and vehicle requirements, NHTSA is allowing manufacturers to implement the new requirements before the required dates.

F. Other Issues

1. Modification to FMVSS Nos. 110 and 120

The purpose of FMVSS No. 110 and 120 is to provide safe operational performance by ensuring that vehicles to which they apply are equipped with tires of adequate load rating and rims of appropriate size and type designation. Until recently, FMVSS No. 110 applied to passenger cars and FMVSS No. 120 applied to vehicles other than passenger cars including motorcycles and trailers.

The Tire Information final rule specified that the applicability of FMVSS Nos. 110 and 120 would correspond with the applicability of the new light vehicle tire standard, FMVSS No. 139. FMVSS No. 110, in its entirety, now applies to light vehicles with a GVWR of 10,000 pounds or less, except motorcycles and low-speed vehicles. FMVSS No. 120 will only apply to vehicles over 10,000 pounds GVWR and motorcycles.

As discussed above in the Tire Selection Criteria/Load Limits section, the load reserve requirement contained in FMVSS No. 110, under its new applicability, has now been extended to cover MPVs, vans, trailers and pickup trucks for the first time. This load requirement, however, has been de-linked from the load specified for the high speed test. This means that P-metric and LT tires used on these vehicles are required to have a load reserve similar to that for P-metric tire used on passenger cars.

The agency has also decided to extend S4.4.1(b) of FMVSS No. 110 to light trucks and vans for the first time. S4.4.1(b) requires that each rim retain a deflated tire in the event of a rapid loss of inflation pressure from a vehicle speed of 97 km/h until the vehicle is stopped with a controlled braking operation. No commenter responded to this issue.

2. Modification to FMVSS Nos. 117 and 129

FMVSS No. 117 specifies performance requirements for retreaded pneumatic passenger car tires and FMVSS No. 129 specifies performance requirements for new non-pneumatic tires for passenger cars. FMVSS No. 117 specifies that retreaded tires shall comply with the FMVSS No. 109 strength and resistance-to-bead unseating tests and FMVSS No. 129 specifies that its tire strength and high-speed specifications mirror those of FMVSS No. 109. The agency proposed that, to maintain consistent testing procedures and requirements for all tires for use on light vehicles, the strength and resistance to bead-unseating test procedures in FMVSS No. 117 would be replaced with the proposed road hazard and bead unseating tests in FMVSS No. 139 and, similarly, the strength and high speed test procedures and requirements in FMVSS No. 129 would be revised to mirror those proposed for FMVSS No. 139. To retain consistency with the applicability of FMVSS No. 139, the agency also proposed to revise the applicability of FMVSS Nos. 117 and 129 to include retreaded and non-pneumatic tires, respectively, for use on motor vehicles with a GVWR of 10,000 pounds or less, manufactured after 1975, except for motorcycles.

Several commenters objected to the agency adopting the proposed test road hazard and bead unseating tests for retreaded tires. For instance, ITRA and TANA argued that the proposed tests are redundant since the retread process does not affect the structure of the original casing of the tire. No comments were received on the proposed revision to FMVSS No. 129 or the revised applicability for both standards.

The agency had decided not to adopt the revised applicability provisions of FMVSS No. 117 and 129 as proposed in the NPRM. Given that the construction of retreaded tires and non-pneumatic tire/wheel assemblies would be different for other light vehicles than for passenger cars and the agency has not conducted any research or testing in this area, it needs to better understand the performance and safety implications of this proposal before its institution.

Because the agency is retaining the strength and road hazard requirements of FMVSS No. 109 for FMVSS No. 139, it has also decided to retain these requirements for FMVSS Nos. 117 and 129. This decision will impose no new requirements on tire retreaders. Retreaders will continue to be required to follow the same procedures and fulfill the same requirements that have been required under FMVSS No. 117. Similarly, non-pneumatic tires will be subject to the same performance requirements for strength testing that have existed up to the present.

Additionally, FMVSS No. 129 will incorporate by reference the high speed and endurance tests in FMVSS No. 109 rather than adopting those in FMVSS No. 139. The agency has elected to retain these tests because, due to the limited time frame for this rulemaking, it was unable to evaluate the effect of the new, more stringent high speed and endurance parameters on FMVSS No. 129 tires to the new high speed and endurance tests.

The intent of the agency in this rulemaking has been to focus on mainstream passenger vehicle tires, OE and replacement pneumatic radial tires, which represent over 95% of the market. The agency intends to reexamine the applicability of FMVSS Nos. 117 and 129, as well as testing FMVSS Nos. 117 and 129 tires to the new high speed and endurance parameters at a future time. After the agency completes its research on aging, bead unseating, and road hazard impact, and makes its rulemaking decisions based on that research, NHTSA will then consider whether to incorporate any new or revised procedure into FMVSS Nos. 117 and 129.

3. Shearography Analysis

The agency solicited comments on the use of shearography analysis for post-test tire inspection purposes. Commenters, except for the consumer groups, generally believe that shearography is a beneficial laboratory research tool but is not sufficiently developed to use to determine pass/fail criteria for a regulation. According to the Alliance, correlations between physical indications of possible tire structural degradation observed by means of shearography and subsequent tire failures have not been validated to the level of certainty that is requisite to establish pass/fail criteria in a FMVSS. RMA stated that the technology requires a very highly skilled operator/interpreter and that even the slightest degree of incipient belt separation in the tire at the conclusion of the tests does not mean imminent tire failure under on-the-road usage that would require interpretation which may vary and may be highly subjective. PC and CU argue that visual inspection is inadequate and that shearography could be used to supplement visual inspection to ensure that interior tire damage does not go undetected.

Based on the comments and the agency's understanding of shearography analysis, NHTSA agrees with the tire and vehicle manufacturers that shearography analysis is not sufficiently developed enough at present to be used to distinguish pass/fail criteria in our performance tests. Therefore, the agency is not adopting shearography analysis for any post-test inspection, but will continue utilizing it in conjunction with its tire research and may pursue it as an inspection method for tires in its regulatory regime at some future time.

4. Revision of UTQG

The agency solicited comments on whether, based on the proposed high speed test speed steps, there is a need to revise the grades and testing speeds specified in the UTQG Temperature Grading Requirement.

RMA supports no revision to the UTQGS scope and testing conditions at present. ETRTO suggested that the UTQG rating is useless since tires are labeled with the Speed Symbol, which indicates a tire's capability to resist high temperatures. Public Citizen urged the agency to retain the UTQG ratings instead of replacing it with the speed rating system because the speed rating system does not address a tire's treadwear and traction capabilities.

The agency appreciates that range and diversity of comments received in response to the request for comments on this issue in the NPRM. The agency will take these comments and the issues contained therein into consideration if and when we address the effectiveness of the temperature grading, specifically, and/or the entire UTQGS, more generally, in a future rulemaking.

5. Analysis of Responses to Agency Questions in NPRM

The agency presented the following italicized questions for public comment in the NPRM.

Are there any voluntary consensus standards or requirements of other countries or regions which address the issues raised in this NPRM?

The Alliance, ETRTO, RMA, GRRF, and Center for Regulatory Effectiveness (CRE) advocate the adoption of an ECE R30 type test, such as GTS–2000 or proposed GTR. The RMA and CRE have asked that NHTSA reconsider its decision to propose a government-unique standard in light of its obligations under the Technology Transfer Act and OMB Circular A–119. More specifically, the CRE asked NHTSA to consider the following voluntary consensus standards—ISO 10191, SAE J1561, and SAE J1633/ISO 10454.

In the NPRM, NHTSA stated the following:

G. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Certain technical standards developed by the Society of Automotive Engineers (SAE) and other bodies have been incorporated into this proposal but the overall need for safety precludes, in NHTSA's view, the adoption of such voluntary standards as a substitute for this proposal for several reasons. First, no one voluntary standard contains all six of the proposed test procedures and requirements in this proposal. Second, voluntary consensus standards do not exist for several of the test procedures and requirements in the agency's proposal. Third, while the testing conditions and procedures of some voluntary standard have been incorporated by reference into the agency's proposal, the specified performance requirements of the voluntary standards are either different than those specified in our proposal or are non-existent.

Under the NTTAA and OMB Circular A–119, NHTSA is required to consider the adoption of standards developed by a voluntary consensus body. To be considered such a voluntary consensus standards body under the NTTAA, a body must be a *private* sector one. The agency considered two standards developed by such a body, SAE: The SAE J1981 Road Hazard Test and the SAE J1561 high speed test. The SAE J1561 high speed test is based on a speed rating methodology similar to GTS–2000, proposed/model GTR, and ECE R30. Similarly, SAE J1633/ISO 10454 is the LT tire version of the SAE J1561 test that uses the same test methodology as the SAE J1561 tests to establish test speeds.[37] The ISO 10191 test is merely a combination of current FMVSS No. 109 and ECE R30. More specifically, it includes the endurance test, bead unseating, and strength tests from FMVSS No. 109 and the high speed test from ECE R30. Therefore, it is no more stringent than the current FMVSS No. 109 tests and the ECE R30 tests, both of which are discussed in section VI.C. of this document. The rationale for why we have not adopted the voluntary consensus standards suggested by CRE is stated above in section VI.C. Although neither the ECE R30 high speed test, nor the proposed/model GTR and GTS–2000 high speed tests were developed by voluntary consensus standards bodies, we did evaluate them when developing our proposal and adopting the final rule. The reasons we did not adopt these high speed tests and their methodology are set forth in section VI.C. Additionally, we are not adopting the SAE road hazard test for the reasons stated above in section VI.C.

Advocates suggests that the optional wet grip test being developed by WP.29 should be considered for the standard. The agency notes that this test was neither proposed nor discussed in the NPRM. Further, the agency has not analyzed crash data to see what, if any, safety benefits would accrue from a wet grip requirement.

The agency seeks comments on whether practicable and repeatable ''real-world'' testing procedures, conditions, specifications exist and whether they could be utilized as part of a minimum performance standard?

No comments were received suggesting ''real-world'' testing procedures, conditions, or specifications.

The agency seeks comments on the appropriateness of specifying the vehicle model year 1975 as a limitation

[37] The first two speed steps of SAE J1633/ ISO 10454 utilize test speeds that are extremely low, 12 mph and 18 mph, and the final speed is the rated speed for 30 minutes. The inflation pressure utilized during the test is pressure at maximum load, which is typically the maximum inflation pressure of the tire.

on the applicability of the proposed standard?

One commenter, GRRF, supported 1975 as cut-off date for the new tire standard and suggested the retention of FMVSS No. 109 for tires for earlier vehicles. The applicability for FMVSS Nos. 109 and 139 established by this final rule mirrors this suggestion, since both seem reasonable.

The agency seeks comment on whether the four required inflation pressures in FMVSS No. 109 should be retained in English units in the proposed standard and/or only be specified in metric units?

Currently, FMVSS No. 109 specifies that a tire's maximum permissible inflation pressure shall be 32, 36, 40, or 60 psi, or 240, 280, 300, 340, or 350 kPa. The 32, 36, 40, and 60 psi figures were originally based on bias ply tire specifications, and are not the English equivalents of the metric listing of maximum permissible inflation pressure values, 240, 280, 300, 340, and 350 kPa, established for and used on radial tires.

RMA supports retaining the 32, 36, 40, and 60 psi specifications in FMVSS No. 109 but not including them in FMVSS No. 139. The Alliance, on the other hand, suggested including the figures in the new standard but formatting them so that they would be specified in metric units followed by the English equivalent in parentheses.

Based on the agency's decision to retain the requirements for bias ply tires under FMVSS No. 109, FMVSS No. 139 will contain a listing of only 240, 280, 300, 340, and 350 kPa as maximum permissible inflation pressures. As required in S5.5.4(a) of FMVSS No. 139, tires are required to be labeled with the maximum inflation pressure value in metric followed by the equivalent psi in parenthesis.

6. Other

RMA suggests that NHTSA adopt the tolerances listed in ASTM–F–551 Standard Practice for Using a 67.23-in. (1.707-m) Diameter Laboratory Test Wheel in Tire Testing. NHTSA will consider this suggestion in its tire testing.

RMA suggests that NHTSA should adopt a specific tire pressure reserve limit and comments that they will be petitioning the agency for such a ruling in the near future. Since the time that RMA submitted this comment, it has petitioned the agency for a rulemaking to adopt a tire pressure reserve limit. The agency is currently evaluating the petition and the practicability of initiating such a rulemaking.

VII. Benefits

For a fuller discussion of the benefits, see the agency's Final Regulatory Evaluation (FRE). A copy of the FRE has been placed in the docket.

The final rule will increase the strength, endurance, and heat resistance of tires by raising the stringency of the existing standard on endurance and high speed tests and by requiring a low pressure performance test. The agency anticipates that tires that meet these tests will experience fewer tire failures. Based on the tires tested by the agency and tire tests provided by RMA, the agency estimates that 2 to 3 percent will fail the new high speed test, 2 to 3.5 percent will fail the new endurance test, and 0–6 percent will fail the low pressure test. In total, 5 to 11 percent of tires currently will not pass the adopted tests.

As discussed in the FRE, we estimate a target population, 414 fatalities and 10,275 non-fatal injuries annually, for tire problems (flat tire/blowout). However, the agency does not know how many of these crashes are influenced by tire design or under-inflation. The agency assumes that under-inflation is involved in 20 percent of flat tire/blowout cases that resulted in a crash. The agency assumes that the influence that under-inflation has on the chances of a blowout is affected by both tire pressure and the properties of the tire. Therefore, the agency assumes that proper inflation will address 50 percent of these cases and improved tires will address the other 50 percent of these cases. Consequently, 41 fatalities ($414 \times .2 \times .5$) and 1,028 injuries are addressed by the TPMS final rule. This leaves the target population for this proposal at 373 fatalities and 9,247 injuries.

We assume a 5–10 percent reduction in flat tire/blowouts for making improvements to those tires not passing the tests. Thus, the total potential improvement would be 19 to 37 lives saved (373 * .05 to .10) and 462 to 925 (9,247 * .05 to .10) injuries avoided if only those tires in the target population were the ones that needed improvements. For those tires currently not passing the adopted tests (5 to 11 percent), the benefits will be 1 to 4 lives saved (19 * 0.05 to 37 * 0.11) and 23 to 102 injuries reduced (462 * .05 to 925 * .11) when all tires on the road meet the adopted requirements.

VIII. Costs

The following is a summary of the costs associated with the performance requirements contained light vehicle tire standard. It is based on the increased stringency of the high speed and endurance tests and the addition of a low inflation pressure performance test.

A. Original Equipment Tire and Vehicle Costs

The adopted tests will result in tires being designed that are less susceptible to heat build-up. For the proposed requirements, the agency believed that many, if not all, of the P-metric tires rated C for Temperature resistance and some LT tires will not be able to pass the new tests. In the NPRM, the agency attempted to determine the difference in price between two tires that appear be similar in all characteristics except that one tire is rated B for temperature resistance while the other is rated C. The agency estimated that the difference in price between a B or C-rated tire that might fail the proposed standard and a B-rated tire that will pass the proposed standard is $3 per tire (in 2001 dollars) and that the cost differential for a vehicle model equipped with C-rated tires, depending on whether it had a full-size spare, was $12 to $15 per vehicle. No comments were received on these estimates.

The final rule contains different, less burdensome test parameters than those in the NPRM. The estimated failure rate for currently produced tires was 33% for the parameters in the NPRM. For the parameters adopted in this final rule, the rate is 5% to 11%. Additionally, the average tires that failed the tests in the final rule did so at a later point in the tests or failed during inspection after the tests were completed. This indicates that, in addition to the decreased failure rate, the degree of failure is less for tires that fail when tested to the parameters in the final rule as compared to those that failed when tested to the parameters in the NPRM. Therefore, the costs per failing tire should be less than our previous estimate of $3 per tire. We believe the incremental costs, on an average tire basis, are in the range of $0.25 to $1.00 per failing tire. Since we estimate that 5 to 11 percent of the current tires would fail the final rule requirements, the average cost is estimated to range from $0.01 per tire ($\$0.25 \times .05$) to $0.11 per tire ($\$1 \times .11$).

Since only a portion of new vehicles are equipped with tires that do not meet the final rule, the agency estimates the average price increase for new vehicles by weighting the vehicles that will receive improvements at $0.25 to $1 per tire with the vehicles whose tires and prices will not change.

The agency estimates that approximately 85 percent of light vehicles (passenger cars, pickups, SUVs,

and vans) are sold with a temporary spare tire.[38] Thus, the average cost per vehicle for the new vehicle fleet will be $1.04 ($4 \times \$0.25 \times 0.85 + 5 \times \$0.25 \times .15$) to $4.15 ($4 \times \$1.00 \times 0.85 + 5 \times \$1.00 \times 0.15$). On an average vehicle basis, based on the current tires that fail the test, the average cost is $0.05 per vehicle ($1.04 \times .05$) to $0.46 per vehicle ($\$4.25 \times .11$).

In the NPRM, the agency sought comment on whether the proposal, if it resulted in the lowest priced new tires being taken off the market (tires rated C for Temperature resistance appear to be lowest priced tires), would affect the market of new vehicle and aftermarket tire sales by either (a) increasing the popularity of alternatives to conventional new tires, such as temporary spare tires for new vehicles, and retreads and used tires in the aftermarket, or (b) encouraging tire manufacturers to making tradeoffs in tire construction, *e.g.*, in traction, treadwear and rolling resistance, to improve the heat resistance of his tires. No commenters provided information on (a), but several tire manufacturers responded to (b) by indicating that tire manufacturers will need to alter design and/or construction attributes of their tires to comply with the proposed tests.[39] Based on the estimated failure rates for the testing parameters established in the final rule, the agency anticipates that the manufacturers will not need to invoke any strategies (*e.g.*, reducing amount of tread or tread depth to lower heat build-up) that may have deleterious implications for treadwear or wet traction ability of the tire.

Finally, the agency anticipates that its revision to the load reserve provisions of FMVSS No. 110 will impose no costs on either tire or vehicle manufacturers.

B. Total Annual Costs

The agency anticipates that between 5 percent and 11 percent of the combined sales of P-metric and LT tires will not pass the adopted tests. There are an estimated 287 million light vehicle tires sold of which 5 to 11 percent might increase in price by $0.25 to $1 per tire. The overall annual cost for new original equipment and replacement tires is estimated at $3.6 million (287 million tires $\times .05 \times \$0.25$) to $31.6 million (287 million tires $\times .11 \times \$1$) and the net costs per equivalent life saved will be about $5 million based on the mid-point of cost and discounted benefits estimates.

We do not anticipate an increase in costs for the road hazard impact and bead unseating tests because our testing indicates that all current production tires pass these tests.

C. Testing Costs

The final rule is estimated to increase test costs by $76.40 per tire model tested. With about 5,540 tire models tested annually, the incremental test costs are estimated to be $423,000 per year.

The final rule will not require any new or different testing equipment than that currently used by tire manufacturers.

IX. Effective Date

NHTSA is requiring tire and vehicle manufacturers to begin compliance on June 1, 2007. The agency believes that it has shown good cause for a four-year leadtime in section VI.E. of this document.

X. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was reviewed by the Office of Management and Budget under Executive Order 12866, ''Regulatory Planning and Review.'' The rulemaking action was determined to be economically significant, as proposed. However, it is no longer economically significant. The rule is likely to result in an expenditure by automobile manufacturers and/or tire manufacturers of between $3.6 and $31.6 million in annual costs. The benefits are estimated to be 1–4 lives saved and 23–102 injuries reduced. NHTSA is placing in the public docket a FRE describing the costs and benefits of this rulemaking action. The costs and benefits are summarized earlier in this document.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small business, small organizations and small governmental jurisdictions. I hereby certify that the final rule will not have a significant impact on a substantial number of small entities.

The final rule will affect motor vehicle manufacturers and tire manufacturers and/or suppliers. The agency, based on comments received to the NPRM, believes that three specialty tire manufacturers may be small businesses. However, we anticipate that the increase in price per tire for these manufacturers as a result of this final rule will have no real impact as they will pass on these prices to consumers.

There are thousands of small tire retail outlets that will in some small way be impacted by this rule. As mentioned earlier, increasing the price of the less expensive tire could potentially allow used tires and retread tires to make more inroads into the tire retail business. This may impact small businesses. At this time, it is unknown whether the impacts will be insignificant and just an increase in price to consumers, or whether there will be some competitive effects brought about by the price increase.

NHTSA estimates that there are only about four small passenger car and light truck vehicle manufacturers in the United States. These manufacturers serve a niche market. The agency believes that small manufacturers manufacture less than 0.1 percent of total U.S. passenger car and light truck production per year.

NHTSA notes that final stage manufacturers and alterers could also be affected by this rule. Many final stage manufacturers and alterers install supplier manufactured tires in vehicles they produce. The final rule will not have any significant effect on final stage manufacturers or alterers, however,

[38] Temporary spare tires are not covered by the final rule.

[39] To affect such a tradeoff, a tire manufacturer could alter the design construction of the core of the tire or could reduce the amount of tread on the tire. When one lessens the amount of tread on a tire, one lowers the heat build-up that occurs in the tire.

since the tires they purchase should be tested and certified by the tire manufacturer and the potential cost impacts associated with this action should only slightly affect the price of new motor vehicles and replacement tires.

Additional information concerning the potential impacts of the requirements on small entities is presented in the FRE.

C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or Tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2000 results in $109 million (106.99/98.11 = 1.09). The assessment may be included in conjunction with other assessments, as it is here.

This rule is not estimated to result in expenditures by State, local or tribal governments of more than $109 million annually. However, it is likely to result in the expenditure by automobile manufacturers and/or their tire manufacturers of more than $109 million annually. The average costs estimate in this analysis is $3 per tire. Estimating that 32.8 percent of 287 million light vehicle tires sold annually (including new vehicle tire sales and aftermarket tires sales but excluding temporary spare tires) results in $3.6 to $31.6 million in annual costs. These effects have been discussed in the FRE.

F. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Certain technical standards developed by the Society of Automotive Engineers (SAE) and other bodies have been considered in the formulation of these requirements, but the overall need for safety improvements precludes, in NHTSA's view, the adoption of such voluntary standards as a substitute for this rule. Voluntary consensus standards do not exist for several of the test procedures and requirements in the agency's rule. The voluntary consensus standards suggested by some commenters, such as the CRE, only address the high speed and road hazard impact aspects of tire performance. While these testing conditions and procedures in pertinent voluntary standards were considered for the agency's final rule, the specified performance requirements of the voluntary standards are either different than those specified in our final rule or are non-existent. Consideration and analysis of these standards are discussed in greater detail in section VI.C. of this document. Further, a more in-depth discussion of the agency's consideration of voluntary consensus standards or other foreign standards is contained in section VI.F.5. of this document.

H. Paperwork Reduction Act

This final rule contains the following ''collections of information,'' as that term is defined in 5 CFR part 1320 *Controlling Paperwork Burdens on the Public:*

Rim Labeling Requirements—The Department of Transportation is submitting the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: Tires and Rims Labeling, and Vehicle Placard Requirements.

Type of Request: Modification of an existing collection, for rim markings.

OMB Clearance Number: 2127–0503.

Affected Public: The rim-labeling respondents are manufacturers of rims.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information: No change from current OMB clearance obtained by NHTSA in the year 2000, and has a current expiration date of December 31, 2003.

Estimated Costs: No change from current OMB clearance obtained by NHTSA in the year 2000, and has a current expiration date of December 31, 2003.

Summary of the Collection of Information: Each rim manufacturer must label their rim with the applicable safety information. These labeling requirements ensure that tires are mounted on the appropriate rims; and that the rims and tires are mounted on the vehicles for which they are intended. This requirement received its latest OMB clearance in the year 2000, and has a current expiration date of December 31, 2003.

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000 mandates a rulemaking proceeding to revise and update the safety performance requirements for tires. In response, NHTSA proposed a new Federal Motor Vehicle Safety Standard requiring all new tires for use on vehicles with a gross vehicle weight rating of 10,000 pounds or less to meet new and more stringent performance requirements. The new Federal Motor Vehicle Safety Standard (FMVSS) No. 139 is titled ''New pneumatic radial tires for light vehicles.'' Most SUVs, vans, trailers, and pickup trucks will be required to comply with the same tire selection and rim requirements as passenger cars. FMVSS No. 120

continues to apply to vehicles over 10,000 pounds GVWR and motorcycles.

To accommodate the vehicles equipped with tires that comply with FMVSS No. 139, FMVSS No. 110 will be re-titled ''Tire selection and rims for motor vehicles with a GVWR of 10,000 pounds or less'' and the current non-passenger rim marking requirements of FMVSS No. 120 will also be placed in FMVSS No. 110. These rim marking requirements mandate that each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the following: (1) The designation that indicates the source of the rim's published nominal dimensions, (2) the rim size designation, and in case of multipiece rims, the rim type designation, (3) the symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable Federal motor vehicle safety standards, and (4) a designation that identifies the manufacturer of the rim by name, trademark, or symbol, and (5) the month, day and year or the month and year of manufacture, expressed either numerically or by use of a symbol, at the option of the manufacturer.

Any manufacturer that elects to express the date of manufacture by means of a symbol shall notify NHTSA in writing of the full names and addresses of all manufacturers and brand name owners utilizing that symbol and the name and address of the trademark owner of that symbol, if any. The notification shall describe in narrative form and in detail how the month, day, and year or the month and year are depicted by the symbol. Such description shall include an actual size graphic depiction of the symbol, showing and/or explaining the interrelationship of the component parts of the symbol as they will appear on the rim or single piece wheel disc, including dimensional specifications, and where the symbol will be located on the rim or single piece wheel disc. The notification shall be received by NHTSA not less than 60 calendar days before the first use of the symbol. All information provided to NHTSA under this paragraph will be placed in the public docket. Each manufacturer of wheels shall provide an explanation of its date of manufacture symbol to any person upon request. Based on the facts that these are existing rim labeling requirements, and that they do not affect either the production or quantity of rims produced, NHTSA believes that this maintenance effort will not result in any net increase in the burden on those parties currently covered by existing regulations.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

XI. Regulatory Text

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, and Tires.

■ In consideration of the foregoing, we are further amending 49 CFR part 571 as amended at 67 FR 69623 (November 18, 2002) and at 68 FR 33655 (June 5, 2003) and also in a final rule published elsewhere in this issue as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 20111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.109 is amended by revising its heading and by revising S2 to read as follows:

§ 571.109 Standard No. 109—New Pneumatic Bias Ply and Certain Specialty Tires.

* * * * *

S2. Application. This standard applies to new pneumatic radial tires for use on passenger cars manufactured before 1975, new pneumatic bias ply tires, and ST, FI, and 8–12 rim diameter and below tires for use on passenger cars manufactured after 1948. However, it does not apply to any tire that has been so altered so as to render impossible its use, or its repair for use, as motor vehicle equipment.

* * * * *

■ 3. Section 571.110 is amended by revising S2, S4.1, S4.2.1, S4.2.2, S4.4.1(a), and table 1 following S4.4.1(b), by adding S4.2.1.1, S4.2.1.2, S4.2.2.1, S4.2.2.2, S4.2.2.3, and S4.4.2 and by adding to S3 in alphabetical order, definitions for ''Rim diameter,'' ''Rim size designation,'' ''Rim type designation,'' ''Rim width,'' and ''Weather side,'' to read as follows:

§ 571.110 Standard No. 110; Tire selection and rims for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.

* * * * *

S2. Application. This standard applies to motor vehicles with a gross vehicle weight rating (GVWR or 4,536 kilograms (10,000 pounds) or less, except for motorcycles, and to non-pneumatic spare tire assemblies for those vehicles.

S3. Definitions

* * * * *

Rim diameter means nominal diameter of the bead seat.

Rim size designation means rim diameter and width.

Rim type designation means the industry of manufacturer's designation for a rim by style or code.

Rim width means nominal distance between rim flanges.

* * * * *

Weather side means the surface area of the rim not covered by the inflated tire.

* * * * *

S4.1. General. Vehicles shall be equipped with tires that meet the requirements of § 571.139, New pneumatic tires for light vehicles, except that passenger cars may be equipped with a non-pneumatic spare tire assembly that meets the requirements of § 571.129, New non-pneumatic tires for passenger cars and S6 and S8 of this standard. Passenger cars equipped with such an assembly shall meet the requirements of S4.3(e), and S5, and S7 of this standard.

* * * * *

S4.2.1 Tire load limits for passenger cars.

S4.2.1.1 The vehicle maximum load on the tire shall not be greater than the applicable maximum load rating as marked on the sidewall of the tire.

S4.2.1.2 The vehicle normal load on the tire shall not be greater than 94 percent of the load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire.

S4.2.2 Tire load limits for multipurpose passenger vehicles, trucks, buses, and trailers.

S4.2.2.1 Except as provided in S4.2.2.2, the sum of the maximum load ratings of the tires fitted to an axle shall not be less than the GAWR of the axle system as specified on the vehicle's certification label required by 49 CFR

part 567. If the certification label shows more than one GAWR for the axle system, the sum shall be not less than the GAWR corresponding to the size designation of the tires fitted to the axle.

S4.2.2.2 When passenger car (P-metric) tires are installed on an MPV, truck, bus, or trailer, each tire's load rating is reduced by dividing it by 1.10 before determining, under S4.2.2.1, the sum of the maximum load ratings of the tires fitted to an axle.

S4.2.2.3 (a) For vehicles equipped with P-metric tires, the vehicle normal load on the tire shall be no greater than the value of 94 percent of the derated load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire.

(b) For vehicles equipped with LT tires, the vehicle normal load on the tire shall be no greater than 94 percent of the load rating at the vehicle manufacturer's recommended cold inflation pressure for that tire.

* * * * *

S4.4.1 * * *

(a) Be constructed to the dimensions of a rim that is listed by the manufacturer of the tires as suitable for use with those tires, in accordance with S4 of § 571.139.

(b) * * *

TABLE I.—OCCUPANT LOADING AND DISTRIBUTION FOR VEHICLE NORMAL LOAD FOR VARIOUS DESIGNATED SEATING CAPACITIES

Designated seating capacity, number of occupants	Vehicle normal load, number of occupants	Occupant distribution in a normally loaded vehicle
2 through 4	2	2 in front.
5 through 10	3	2 in front, 1 in second seat.
11 through 15	5	2 in front, 1 in second seat, 1 in third seat, 1 in fourth seat.
16 through 22	7	2 in front, 2 in second seat, 2 in third seat, 1 in fourth seat.

S4.4.2. Rim markings for vehicles other than passenger cars. Each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the information listed in paragraphs (a) through (e) of this S4.4.2, in lettering not less than 3 millimeters in height, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.125 millimeters. The information listed in paragraphs (a) through (c) of this S4.2.2 shall appear on the outward side. In the case of rims of multi piece construction, the information listed in paragraphs (a) through (e) of this S4.2.2 shall appear on the rim base and the information listed in paragraphs (b) and (d) of this S4.2.2 shall also appear on each other part of the rim.

(a) A designation that indicates the source of the rim's published nominal dimensions, as follows:

(1) ''T'' indicates The Tire and Rim Association.

(2) ''E'' indicates The European Tyre and Rim Technical Organization.

(3) ''J'' indicates Japan Automobile Tire Manufacturers'' Association, Inc.

(4) ''L'' indicates ABPA (Brazil), a.k.a. Associacao Latino Americana De Pneus E Aros.

(5) ''F'' indicates Tire and Rim Engineering Data Committee of South Africa (Tredco).

(6) ''S'' indicates Scandinavian Tire and Rim Organization (STRO).

(7) ''A'' indicates The Tyre and Rim Association of Australia.

(8) ''I'' indicates Indian Tyre Technical Advisory Committee (ITTAC).

(9) ''R'' indicates Argentine Institute of Rationalization of Materials, a.k.a. Instituto Argentino de Racionalización de Materiales, (ARAM).

(10) ''N'' indicates an independent listing pursuant to S4.1 of § 571.139 or S5.1(a) of § 571.119.

(b) The rim size designation, and in case of multipiece rims, the rim type designation. For example: 20 x 5.50, or 20 x 5.5.

(c) The symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable Federal motor vehicle safety standards.

(d) A designation that identifies the manufacturer of the rim by name, trademark, or symbol.

(e) The month, day and year or the month and year of manufacture, expressed either numerically or by use of a symbol, at the option of the manufacturer. For example: ''September 4, 2001'' may be expressed numerically as: ''90401'', ''904, 01'' or ''01, 904''; ''September 2001'' may be expressed as: ''901'', ''9, 01'' or ''01, 9''.

(1) Any manufacturer that elects to express the date of manufacture by means of a symbol shall notify NHTSA in writing of the full names and addresses of all manufacturers and brand name owners utilizing that symbol and the name and address of the trademark owner of that symbol, if any. The notification shall describe in narrative form and in detail how the month, day, and year or the month and year are depicted by the symbol. Such description shall include an actual size graphic depiction of the symbol, showing and/or explaining the interrelationship of the component parts of the symbol as they will appear on the rim or single piece wheel disc, including dimensional specifications, and where the symbol will be located on the rim or single piece wheel disc. The notification shall be received by NHTSA not less than 60 calendar days before the first use of the symbol. The notification shall be mailed to the Office of Vehicle Safety Compliance (NVS–222), National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. All information provided to NHTSA under this paragraph will be placed in the public docket.

(2) Each manufacturer of wheels shall provide an explanation of its date of manufacture symbol to any person upon request.

* * * * *

■ 4. Section 571.119 is amended by revising its heading, S1, S2, S3, and tables I, II, and III to read as follows:

§ 571.119 Standard No. 119; New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds) and motorcycles.

S1. Scope. This standard establishes performance and marking requirements for tires for use on motor vehicles with a GVWR of more than 10,000 pounds and motorcycles.

S2. Purpose. The purpose of this standard is to provide safe operational performance levels for tires used on motor vehicles with a GVWR of more than 10,000 pounds, trailers, and motorcycles, and to place sufficient information on the tires to permit their proper selection and use.

S3. Application. This standard applies to new pneumatic tires designed for highway use on motor vehicles with a GVWR of more than 4,536 kilograms

(10,000 pounds), trailers, and motorcycles manufactured after 1948.

* * * * *

TABLE I.—STRENGTH TEST PLUNGER DIAMETER

	Plunger diameter	
	(mm)	(inches)
Tire type:		
Light truck	19.05	3/4
Motorcycle		5/16″

TABLE I.—STRENGTH TEST PLUNGER DIAMETER—Continued

	Plunger diameter	
	(mm)	(inches)
Tires for 12-inch or smaller rims, except motorcycle	19.05	3/4
Tires other than above types:		
Tubeless:		
17.5-inch or smaller rims	19.05	3/4

TABLE I.—STRENGTH TEST PLUNGER DIAMETER—Continued

	Plunger diameter	
	(mm)	(inches)
Larger than 17.5-inch rims:		
Load range F	31.75	1¼
Load range over F	38.10	1½
Tube type:		
Load range F	31.75	1¼
Load range over F	38.10	1½

TABLE II.—MINIMUM STATIC BREAKING ENERGY

[Joules (J)) and Inch-Pounds (inch-lbs)]

Load range			All 12 rim diameter code or smaller rim size		Light truck 17.5 rim diameter or smaller rim tubeless		Tube type		Tubeless		Tube type		Tubeless	
Tire characteristic	Motorcycle													
Plunger diameter (mm and inches)	7.94J	5/16″	19.05 J	3/4″	19.05 J	3/4″	31.75 J	1¼″	J	Inche-lbs	38.10 J	1½″	J	Inche-lbs
A	16	150												
B	33	300												
C	45	400												
D														
E														
F			406	3,600	644	5,700	1,785	15,800	1,412	12,500				
G					711	6,300					2,282	20,200	1,694	15,000
H					768	6,800					2,598	23,000	2.090	18,500
J											2,824	25,000	2,203	19,500
L											3,050	27,000		
M											3,220	28,500		
N											3,389	30,000		

TABLE III.—ENDURANCE TEST SCHEDULE

Description	Load range	Test wheel speed (r/m)	Test load: Percent of maximum load rating			Total best revolutions (thousands)
			I—7 hours	II—16 hours	III—24 hours	
Speed restricted service:						
88 km/h (55 mph)	F, G, H, J, L, M, N	125	66	84	101	352.0
80 km/h (50 mph)	F, G, H, J, L	100	66	84	101	282.5
56 km/h (35 mph)	All	75	66	84	101	211.0
Motorcycle	All	250	[1] 100	[2] 108	117	510.0
All other	F	200	66	84	101	564.0
	G	175	66	84	101	493.5
	H, J, L, N	150	66	84	101	423.5

[1] 4 hr. for tire sizes subject to high speed requirements (S6.3).
[2] 6 hr. for tire sizes subject to high speed requirements (S6.3).

■ 5. Section 571.120 is amended by revising its heading, S3, S5.1.1, S5.1.2, and S5.3 to read as follows:

§ 571.120 Standard No. 120; Tire selection and rims for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds).

* * * * *

S3. Application. This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds and motorcycles, to rims for use on those vehicles, and to non-pneumatic spare tire assemblies for use on those vehicles.

S5.1.1 Except as specified in S5.1.3, each vehicle equipped with pneumatic tires for highway service shall be equipped with tires that meet the requirements of § 571.119, New pneumatic tires for motor vehicles with a GVWR of more than 10,000 pounds, and rims that are listed by the manufacturer of the tires as suitable for use with those tires, in accordance with S5.1 of § 571.119, except that vehicles may be equipped with a non-pneumatic spare tire assembly that meets the requirements of § 571.129, New non-pneumatic tires for passenger cars, and S8 of this standard. Vehicles equipped with such an assembly shall meet the requirements of S5.3.3, S7, and S9 of this standard.

S5.1.2 Except in the case of a vehicle which has a speed attainable in 3.2 kilometers of 80 kilometers per hour or less, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label required by 49 CFR part 567.

Except in the case of a vehicle which has a speed attainable in 2 miles of 50 mph or less, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label required by 49 CFR part 567. If the certification label shows more than one GAWR for the axle system, the sum shall be not less than the GAWR corresponding to the size designation of the tires fitted to the axle. If the size designation of the tires fitted to the axle does not appear on the certification label, the sum shall be not less than the lowest GAWR appearing on the label. When a tire subject to FMVSS No. 109 or 139 is installed on a multipurpose passenger vehicle, truck, bus, or trailer, the tire's load rating shall be reduced by dividing by 1.10 before calculating the sum (*i.e.*, the sum of the load ratings of the tires on each axle, when the tires' load carrying capacity at the recommended tire cold inflation pressure is reduced by dividing by 1.10, must be appropriate for the GAWR).

* * * * *

S5.3 Each vehicle shall show the information specified in S5.3.1 and S5.3.2 and, in the case of a vehicle equipped with a non-pneumatic spare tire, the information specified in S5.3.3, in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the format set forth following this paragraph. This information shall appear either—

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location, and form described in § 567.4 (b) through (f) of this chapter as appropriate of each GVWR–GAWR combination listed on the certification label.

* * * * *

■ 6. Section 571.139 is amended by revising S3 and S5, adding S5.1 through S5.4, adding the text of S6, and adding S6.1 through S6.6 to read as follows:

§ 571.139 Standard No. 139; New pneumatic radial tires for light vehicles.

* * * * *

S3. Definitions

Bead means the part of the tire that is made of steel wires, wrapped or reinforced by ply cords and that is shaped to fit the rim.

Bead separation means a breakdown of the bond between components in the bead.

Bias ply tire means a pneumatic tire in which the ply cords that extend to the beads are laid at alternate angles substantially less than 90 degrees to the centerline of the tread.

Carcass means the tire structure, except tread and sidewall rubber which, when inflated, bears the load.

Chunking means the breaking away of pieces of the tread or sidewall.

Cord means the strands forming the plies in the tire.

Cord separation means the parting of cords from adjacent rubber compounds.

Cracking means any parting within the tread, sidewall, or inner liner of the tire extending to cord material.

CT means a pneumatic tire with an inverted flange tire and rim system in which the rim is designed with rim flanges pointed radially inward and the tire is designed to fit on the underside of the rim in a manner that encloses the rim flanges inside the air cavity of the tire.

Extra load tire means a tire designed to operate at higher loads and at higher inflation pressures than the corresponding standard tire.

Groove means the space between two adjacent tread ribs.

Innerliner means the layer(s) forming the inside surface of a tubeless tire that contains the inflating medium within the tire.

Innerliner separation means the parting of the innerliner from cord material in the carcass.

Light truck (LT) tire means a tire designated by its manufacturer as primarily intended for use on lightweight trucks or multipurpose passenger vehicles.

Load rating means the maximum load that a tire is rated to carry for a given inflation pressure.

Maximum load rating means the load rating for a tire at the maximum permissible inflation pressure for that tire.

Maximum permissible inflation pressure means the maximum cold inflation pressure to which a tire may be inflated.

Measuring rim means the rim on which a tire is fitted for physical dimension requirements.

Open splice means any parting at any junction of tread, sidewall, or innerliner that extends to cord material.

Outer diameter means the overall diameter of an inflated new tire.

Overall width means the linear distance between the exteriors of the sidewalls of an inflated tire, including elevations due to labeling, decorations, or protective bands or ribs.

Ply means a layer of rubber-coated parallel cords.

Ply separation means a parting of rubber compound between adjacent plies.

Pneumatic tire means a mechanical device made of rubber, chemicals, fabric and steel or other materials, that, when mounted on an automotive wheel, provides the traction and contains the gas or fluid that sustains the load.

Radial ply tire means a pneumatic tire in which the ply cords that extend to the beads are laid at substantially 90 degrees to the centerline of the tread.

Reinforced tire means a tire designed to operate at higher loads and at higher inflation pressures than the corresponding standard tire.

Rim means a metal support for a tire or a tire and tube assembly upon which the tire beads are seated.

Section width means the linear distance between the exteriors of the sidewalls of an inflated tire, excluding elevations due to labeling, decoration, or protective bands.

Sidewall means that portion of a tire between the tread and bead.

Sidewall separation means the parting of the rubber compound from the cord material in the sidewall.

Test rim means the rim on which a tire is fitted for testing, and may be any rim listed as appropriate for use with that tire.

Tread means that portion of a tire that comes into contact with the road.

Tread rib means a tread section running circumferentially around a tire.

Tread separation means pulling away of the tread from the tire carcass.

Treadwear indicators (TWI) means the projections within the principal grooves designed to give a visual indication of the degrees of wear of the tread.

Wheel-holding fixture means the fixture used to hold the wheel and tire assembly securely during testing.

* * * * *

S5. General requirements

S5.1. Size and construction. Each tire shall fit each rim specified for its size designation in accordance with S4.1.

S5.2. Performance requirements. Each tire shall conform to each of the following:

(a) It shall meet the requirements specified in S6 for its tire size designation, type, and maximum permissible inflation pressure.

(b) It shall meet each of the applicable requirements set forth in paragraphs (c) and (d) of this S5.2, when mounted on a model rim assembly corresponding to any rim designated by the tire manufacturer for use with the tire in accordance with S4.

(c) Except in the case of a CT tire, its maximum permissible inflation pressure

shall be 240, 280, 300, 340, or 350 kPa. For a CT tire, the maximum permissible inflation pressure shall be 290, 330, 350, or 390 kPa.

(d) Its load rating shall be that specified either in a submission made by an individual manufacturer, pursuant to S4, or in one of the publications described in S4 for its size designation, type and each appropriate inflation pressure. If the maximum load rating for a particular tire size is shown in more than one of the publications described in S4, each tire of that size designation shall have a maximum load rating that is not less than the published maximum load rating, or if there are differing maximum load ratings for the same tire size designation, not less then the lowest published maximum load rating.

S5.3. Test sample. For the tests specified in S6, use:

(a) One tire for high speed;

(b) Another tire for endurance and low inflation pressure performance; and

(c) A third tire for physical dimensions, resistance to bead unseating, and strength, in sequence.

S5.4. Treadwear indicators. Except in the case of tires with a 12-inch or smaller rim diameter, each tire shall have not less than six treadwear indicators spaced approximately equally around the circumference of the tire that enable a person inspecting the tire to determine visually whether the tire has worn to a tread depth of one sixteenth of an inch. Tires with 12-inch or smaller rim diameter shall have not less than three such treadwear indicators.

* * * * *

S6. Test procedures, conditions and performance requirements. Each tire shall meet all of the applicable requirements of this section when tested according to the conditions and procedures set forth in S5 and S6.1 through S6.7.

S6.1. Tire dimensions

S6.1.1 Test conditions and procedures.

S6.1.1.1 Tire Preparation.

S6.1.1.1.1 Mount the tire on the measuring rim specified by the tire manufacturer or in one of the publications listed in S4.1.1

S6.1.1.1.2 In the case of a P-metric tire, inflate it to the pressure specified in the following table:

Inflation pressure (kPa)		T-type temporary use spare inflation pressure (kPa)	CT Tires (kPa)	
Standard	Reinforced		Standard	Reinforced
180	220	420	230	270

S6.1.1.1.3 In the case of a LT tire, inflate it to the pressure at maximum load as labeled on sidewall.

S6.1.1.1.4 Condition the assembly at an ambient room temperature of 38° C for not less than 24 hours.

S6.1.1.1.5 Readjust the tire pressure to that specified in S6.1.1.2.

S6.1.1.2 Test Procedure.

S6.1.1.2.1 Measure the section width and overall width by caliper at six points approximately equally spaced around the circumference of the tire, avoiding measurement of the additional thickness of the special protective ribs or bands. The average of the measurements so obtained are taken as the section width and overall width, respectively.

S6.1.1.2.2 Determine the outer diameter by measuring the maximum circumference of the tire and dividing the figure so obtained by Pi (3.14).

S6.1.2 Performance Requirements. The actual section width and overall width for each tire measured in accordance with S6.1.1.2, shall not exceed the section width specified in a submission made by an individual manufacturer, pursuant to S4.1.1(a) or in one of the publications described in S4.1.1(b) for its size designation and type by more than:

(a) (For tires with a maximum permissible inflation pressure of 32, 36, or 40 psi) 7 percent, or

(b) (For tires with a maximum permissible inflation pressure of 240, 280, 290, 300, 330, 350 or 390 kPa, or 60 psi) 7 percent or 10 mm (0.4 inches), whichever is larger.

S6.2 High Speed Performance

S6.2.1 Test conditions and procedures.

S6.2.1.1 Preparation of tire.

S6.2.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test pressure (kPa)
P-metric:	
Standard load	220
Extra load	260
Load Range C	320
Load Range D	410
Load Range E	500
CT:	
Standard load	270
Extra load	310

S6.2.1.1.2 Condition the assembly at 38° C for not less than three hours.

S6.2.1.1.3 Before or after mounting the assembly on a test axle, readjust the tire pressure to that specified in S6.2.1.1.1.

S6.2.1.2 Test procedure.

S6.2.1.2.1 Press the assembly against the outer face of a test drum with a diameter of 1.70 m ± 1%.

S6.2.1.2.2 Apply to the test axle a load equal to 85% of the tire's maximum load carrying capacity.

S6.2.1.2.3 Break-in the tire by running it for 2 hours at 80 km/h.

S6.2.1.2.4 Allow tire to cool to 38° C and readjust inflation pressure to applicable pressure in 6.2.1.1.1 immediately before the test.

S6.2.1.2.5 Throughout the test, the inflation pressure is not corrected and the test load is maintained at the value applied in S6.2.1.2.2.

S6.2.1.2.6 During the test, the ambient temperature, measured at a distance of not less than 150 mm and not more than 1 m from the tire, shall be maintained at not less than 38° C.

S6.2.1.2.7 The test is conducted, continuously and uninterrupted, for ninety minutes through three thirty-minute consecutive test stages at the following speeds: 140, 150, and 160 km/h.

S6.2.1.2.8 Allow the tire to cool for one hour. Measure its inflation pressure. Then, deflate the tire, remove it from the test rim, and inspect it for the conditions specified in S6.2.2(a).

S6.2.2 Performance requirements. When the tire is tested in accordance with S6.2.1:

(a) There shall be no visual evidence of tread, sidewall, ply, cord, innerliner, belt or bead separation, chunking, open splices, cracking, or broken cords.

(b) The tire pressure, when measured at least 1 hour after the end of the test, shall not be less than the initial pressure specified in S6.2.1.

S6.3 Tire Endurance

S6.3.1 Test conditions and procedures.

S6.3.1.1 Preparation of Tire.

S6.3.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test Pressure (kPa)
P-metric:	
Standard load	180
Extra load	220
LT:	
Load Range C	260
Load Range D	340
Load Range E	410
CT:	
Standard load	230
Extra load	270

S6.3.1.1.2 Condition the assembly at 38° C for not less than three hours.

S6.3.1.1.3 Readjust the pressure to the value specified in S6.3.1.1.1 immediately before testing.

S6.3.1.2 Test Procedure.

S6.3.1.2.1 Mount the assembly on a test axle and press it against the outer face of a smooth wheel having a diameter of 1.70 m ± 1%.

S6.3.1.2.2 During the test, the ambient temperature, measured at a distance of not less than 150 mm and not more than 1 m from the tire, shall not be less than 38° C.

S6.3.1.2.3 Conduct the test, without interruptions, at not less than 120 km/h test speed with loads and test periods not less than those shown in the following table:

Test period	Duration (hours)	Load as a percentage of tire maximum load rating
1	4	85%
2	6	90
3	24	100

S6.3.1.2.4 Throughout the test, the inflation pressure is not corrected and the test loads are maintained at the value corresponding to each test period, as shown in the table in S6.3.1.2.3.

S6.3.1.2.5 Allow the tire to cool for one hour after running the tire for the time specified in the table in S6.3.1.2.3, measure its inflation pressure. Inspect the tire externally on the test rim for the conditions specified in S6.3.2(a).

S6.3.2 Performance requirements. When the tire is tested in accordance with S6.3.1:

(a) There shall be no visual evidence of tread, sidewall, ply, cord, belt or bead separation, chunking, open splices, cracking or broken cords.

(b) The tire pressure, when measured at least one hour after the end of the test, shall not be less than the initial pressure specified in S6.3.1.

S6.4 Low Inflation Pressure Performance

S6.4.1 Test conditions and procedures.

S6.4.1.1 Preparation of tire.

S6.4.1.1.1 This test is conducted following completion of the tire endurance test using the same tire and rim assembly tested in accordance with S6.3 with the tire deflated to the following appropriate pressure:

Tire application	Test pressure (kPa)
P-metric:	
Standard load	140
Extra load	160
LT:	
Load Range C	200
Load Range D	260
Load Range E	320
CT:	
Standard load	170
Extra load	180

S6.4.1.1.2 The assembly is conditioned at not less than 38° C.

S6.4.1.1.3 Before or after mounting the assembly on a test axle, readjust the tire pressure to that specified in S6.4.1.1.1.

S6.4.1.2 Test procedure.

S6.4.1.2.1 The test is conducted for ninety minutes at the end of the test specified in S6.3, continuous and uninterrupted, at a speed of 120 km/h (75 mph).

S6.4.1.2.2 Press the assembly against the outer face of a test drum with a diameter of 1.70 m + 1%.

S6.4.1.2.3 Apply to the test axle a load equal to 100% of the tire's maximum load carrying capacity.

S6.4.1.2.4 Throughout the test, the inflation pressure is not corrected and the test load is maintained at the initial level.

S6.4.1.2.5 During the test, the ambient temperature, at a distance of not less than 150 mm and not more than 1 m from the tire, is maintained at not less than 38° C.

S6.4.1.2.6 Allow the tire to cool for one hour. Measure its inflation pressure. Then, deflate the tire, remove it from the test rim, and inspect it for the conditions specified in S6.4.2(a).

S6.4.2 Performance requirements. When the tire is tested in accordance with S6.4.1:

(a) There shall be no visual evidence of tread, sidewall, ply, cord, innerliner, belt or bead separation, chunking, open splices, cracking, or broken cords, and

(b) The tire pressure, when measured at least one hour after the end of the test, shall not be less than the initial pressure specified in S6.4.1.

S6.5 Tire strength.

S6.5.1 Tire strength for P-metric tires. Each tire shall comply with the requirements of S5.3 of § 571.109.

S6.5.2 Tire strength for LT tires. Each tire shall comply with the requirements of S7.3 of § 571.119.

S6.6 Tubeless tire bead unseating resistance. Each tire shall comply with the requirements of S5.2 of § 571.109.

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Issued: June 18, 2003.

Otis Cox,

Deputy Administrator.

[FR Doc. 03–15874 Filed 6–23–03; 8:45 am]

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Federal Register

Thursday,
June 26, 2003

Part III

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice proposing to revise the system of records for the Investigative Files of the Inspector General ED/OIG (18–10–01), 64 FR 30151–30153 (June 4, 1999), as amended, 67 FR 4415 (January 30, 2002). This notice expands the categories of information maintained in the system and changes the equipment configuration used to store the information. This notice also proposes two new routine uses for the information contained in the system. This system of records provides essential support for investigative activities of the Office of Inspector General (OIG) relating to the Department's programs and operations, enabling the OIG to secure and maintain the necessary information and to coordinate with other law enforcement agencies as appropriate.

DATES: The Department seeks comments on the proposed new routine use disclosures described in this system of records notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before July 28, 2003.

The Department filed a report describing the altered system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 20, 2003. This altered system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on July 30, 2003, or (2) July 28, 2003, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about this altered system of records to the Assistant Inspector General for Investigation Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., room 4132, Mary E. Switzer Building, Washington, DC 20202–1510. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov*

You must include the term ''OIG Investigative Files'' in the subject line of your electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 4022, Mary E. Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Shelley Shepherd, Assistant Counsel to the Inspector General, 400 Maryland Avenue, SW., MES Building, room 4020, Washington, DC 20202–1510. Telephone: (202) 205–5606. 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 in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act requires the Department to publish in the **Federal Register** this notice of an altered system of records (5 U.S.C. 552a(e)(4) and (11)). The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to a record about an individual that contains individually identifiable information that is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to OMB whenever the agency publishes a new or altered system of records.

A system of records is considered ''altered'' whenever an agency expands the types or categories of information maintained, significantly expands the types or categories of individuals about whom records are maintained, changes the purpose for which the information is used, changes the equipment configuration in a way that creates substantially greater access to the records, adds an exemption pursuant to subsections (j) or (k) of the Privacy Act, or adds a routine uses disclosure to the system. Since the last amendment to this system of records, which was published in the **Federal Register** on January 30, 2002, (67 FR 4415), a number of technical changes are needed to update and accurately describe the current system of records. This notice expands the type of information maintained in the system, clarifies the categories of individuals, adds two new routine use disclosures, and changes the equipment configuration used to store the information in order to create greater access to the records by OIG employees through the use of a Web-based computer system.

Under the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix, Inspectors General, including the Department's Inspector General, are responsible for conducting, supervising, and coordinating investigations relating to programs and operations of the Federal agency for which their office is established. This system of records facilitates the OIG's performance of this statutory duty. The changes proposed in the attached notice are intended to expand the information maintained in the system, change the equipment configuration used to store the information in order to create greater access to the records by OIG staff, and add routine uses to make statutorily required disclosures of information contained in the system. Collectively, these revisions will enhance the ability of the OIG to combat fraud, waste, and abuse in the Department's programs and operations, as required by the Inspector General Act.

This system includes records on individuals who are the subject of open or closed OIG investigations. The records contain evidence compiled by OIG investigators, investigative reports, referrals to the Department and to other investigative or prosecutorial authorities, and records of disposition of cases. These records include, but are not limited to, electronic information including names, addresses, social security numbers, dates of birth, and

aliases for subjects, targets, witnesses, and victims associated with investigations; reports of interviews; investigative memoranda; requests and approvals for case openings and closings and for the use of special investigative techniques requiring approval by management; and electronic copies of photographs, scanned documents, and electronic media such as audio and video. The system will store investigative work products, as well as all investigation results and other tracking information needed to identify trends, patterns, and other indicators of fraud and abuse within the Department's programs and operations.

The information in this system of records will be used for purposes of—(1) conducting and documenting investigations by the OIG or other investigative agencies regarding the Department's programs and operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations that have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities that were the subject of investigations; (4) reporting investigative findings to other Department components for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; (5) maintaining a record of complaints and allegations received relative to Department programs and operations and documenting the outcome of OIG reviews of those complaints and allegations; (6) coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG; (7) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix; (8) reporting on the activities of the Inspector General to the President's Council on Integrity and Efficiency; and (9) participating in the investigative qualitative assessment review process requirements of the Homeland Security Act of 2002 (Pub. L. 107–296.)

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** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Due to the extensive revisions in this notice, it is being published in its entirety.

Dated: June 9, 2003.

John P. Higgins, Jr.,

Inspector General.

For the reasons discussed in the preamble, the Inspector General of the U.S. Department of Education publishes a notice of an altered system of records to read as follows:

18–10–01

SYSTEM NAME:

Investigative Files of the Inspector General.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Office of the Inspector General, Investigation Services (AIGI), U.S. Department of Education, 330 C Street, SW., Mary E. Switzer Building, Room 4132, Washington, DC 20202. See the Appendix at the end of this notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories include subjects, targets, witnesses, victims, current and former employees of the U.S. Department of Education (Department), and individuals who have any relationship to financial assistance or other educational programs administered by the Department, or to management concerns of the Department, including but not limited to—grantees, subgrantees, contractors, subcontractors, program participants, recipients of Federal funds or federally insured funds, and officers, employees, or agents of institutional recipients or program participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories include investigation files pertaining to violations of criminal laws, fraud, waste, and abuse with respect to the administration of Department of Education programs and operations, and violations of employee Standards of Conduct in 34 CFR part 73. These investigation files will contain, but will not be limited to, electronic information including names, addresses, social security numbers, dates of birth, and aliases for subjects, targets, witnesses, and victims associated with investigations; reports of interview; investigative memoranda; requests and approvals for case openings and closings and for the use of special investigative techniques requiring approval by management; and electronic copies of photographs, scanned documents, and electronic media such as audio and video. The system will store investigation work products, as well as all investigation results and other tracking information needed to identify trends, patterns, and other indicators of fraud and abuse within the Department of Education programs and operations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, (5 U.S.C. Appendix).

PURPOSE(S):

Pursuant to the Inspector General Act of 1978, as amended, the system is maintained for the purposes of—(1) conducting and documenting investigations by the Office of Inspector General (OIG) or other investigative agencies regarding Department of Education programs and operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations that have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities that were the subject of investigations; (4) reporting investigative findings to other Department of Education components for their use in operating and evaluating their programs or operations and in the imposition of civil or administrative sanctions; (5) maintaining a record of complaints and allegations received relative to Department of Education programs and operations and documenting the outcome of OIG reviews of those complaints and allegations; (6) coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG; (7) acting as a repository and source for information necessary to fulfill the reporting

requirements of the Inspector General Act, 5 U.S.C. Appendix; (8) reporting on the activities of the Inspectors General to the President's Council on Integrity and Efficiency (PCIE); and (9) participating in the investigative qualitative assessment review process requirements of the Homeland Security Act of 2002 (Pub. L. 107–296.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The OIG may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The OIG may make these disclosures on a case-by-case basis or, if the OIG has met the requirements of the Computer Matching and Privacy Protection Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The OIG may disclose information from this system of records as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulations if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity.

(2) *Disclosure to Public and Private Entities to Obtain Information Relevant to Department of Education Functions and Duties.* The OIG may disclose information from this system of records as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

(3) *Disclosure for Use in Employment, Employee Benefit, Security Clearance, and Contracting Decisions.*

(a) *For Decisions by the Department.* The OIG may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The OIG may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency, other public authority, or professional organization in connection with the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(4) *Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as Amended (HEA).* The OIG may disclose information from this system of records as a routine use to any accrediting agency that is or was recognized by the Secretary of Education pursuant to the HEA; to any guaranty agency that is or was a party to an agreement with the Secretary of Education pursuant to the HEA; or to any agency that is or was charged with licensing or legally authorizing the operation of any educational institution or school that was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(5) *Litigation Disclosure.*

(a) *Disclosure to the Department of Justice.* If the disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the OIG may disclose those records as a routine use to the Department of Justice. The OIG may make such a disclosure in the event that one of the following parties is involved in the litigation or has an interest in the litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity if the DOJ has agreed to represent the employee or in connection with a request for that representation; or

(iv) The United States, if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Other Litigation Disclosure.* If disclosure of certain records to a court, adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes, counsel or other representative, party, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the OIG may disclose those records as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, party, or potential witness. The OIG may make such a disclosure in the event that one of the following parties is involved in the litigation or has an interest in the litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity if the Department has agreed to represent the employee; or

(iv) The United States, if the Department determines that the litigation is likely to affect the Department or any of its components.

(6) *Disclosure to Contractors and Consultants.* The OIG may disclose information from this system of records as a routine use to the employees of any entity or individual with whom or with which the Department contracts for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards, as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Debarment and Suspension Disclosure.* The OIG may disclose information from this system of records as a routine use to another Federal agency considering suspension or debarment action if the information is relevant to the suspension or debarment action. The OIG also may disclose information to another agency to gain information in support of the Department's own debarment and suspension actions.

(8) *Disclosure to the Department of Justice.* The OIG may disclose information from this system of records as a routine use to the DOJ to the extent necessary for obtaining the DOJ's advice on any matter relevant to Department of Education programs or operations.

(9) *Congressional Member Disclosure.* The OIG may disclose information from this system of records to a Member of Congress from the record of an individual in response to an inquiry from the Member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(10) *Benefit Program Disclosure.* The OIG may disclose records as a routine

use to any Federal, State, local, or foreign agency, or other public authority, if relevant to the prevention or detection of fraud and abuse in benefit programs administered by any agency or public authority.

(11) *Overpayment Disclosure.* The OIG may disclose records as a routine use to any Federal, State, local, or foreign agency, or other public authority, if relevant to the collection of debts and overpayments owed to any agency or public authority.

(12) *Disclosure to the President's Council on Integrity and Efficiency.* The OIG may disclose records as a routine use to members and employees of the PCIE for the preparation of reports to the President and Congress on the activities of the Inspectors General.

(13) *Disclosure for Qualitative Assessment Reviews.* The OIG may disclose records as a routine use to members of the PCIE, the DOJ, the U.S. Marshals Service, or any Federal agency for the purpose of conducting qualitative assessment reviews of the investigative operations of the Department of Education, Office of Inspector General to ensure that adequate internal safeguards and management procedures are maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records are stored on a Web-based computer system. Hard-copy records are stored in bar-lock file cabinets.

RETRIEVABILITY:

The records are retrieved by manual or computer search of alphabetical indices or cross-indices. Indices list names, social security numbers, dates of birth, and other personal information of individuals. Indices also list names of companies and organizations.

SAFEGUARDS:

Electronic records are maintained on computer databases that are kept on a secured server in combination-locked rooms. Authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources. Hard copy records are maintained in secure rooms, in security-type safes or in bar-lock file cabinets with manipulation-proof combination locks.

RETENTION AND DISPOSAL:

Investigative files are retained and disposed of in accordance with the Department's Records Disposition Schedules (ED/RDS), as approved by the National Archives and Records Administration. You may obtain a copy of the ED/RDS by writing to the System Manager at the following address.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigation Services, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4200, Mary E. Switzer Building, Washington, DC 20202–1510.

NOTIFICATION PROCEDURE:

See ''SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.'' As provided in 34 CFR 5b.11(b)(3) and (c)(1), the notification procedure is not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that this procedure may apply to criminal investigative files, it is governed by 34 CFR 5b.11(b). The notification procedure is applicable to non-criminal investigative files under the conditions defined by 34 CFR 5b.11(c) and (f). Under these conditions, it is governed by 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

See ''SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.'' As provided in 34 CFR 5b.11(b)(3) and (c)(1), the record access procedure is not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that this procedure may apply to criminal investigative files, it is governed by 34 CFR 5b.11(b). The record access procedure is applicable to non-criminal investigative files under the conditions defined by 34 CFR 5b.11(c) and (f). Under these conditions, it is governed by 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

See ''SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.'' As provided in 34 CFR 5b.11(b)(3) and (c)(1), the procedure for correction or amendment of records is not applicable to criminal and non-criminal investigative files.

RECORD SOURCE CATEGORIES:

Departmental and other Federal, State, and local government records; interviews of witnesses; and documents and other material furnished by non-governmental sources. Sources may include confidential sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to the general authority in the Privacy Act in 5 U.S.C. 552a(j)(2) (criminal investigative/enforcement files), the Secretary of Education has by regulations exempted the Investigative Files of the Inspector General from the following subsections of the Privacy Act:

5 U.S.C. 552a(c)(3)—access to accounting of disclosure.

5 U.S.C. 552a(c)(4)—notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

5 U.S.C. 552a(d)(1) through (4) and (f)—procedures for notification or access to, and correction or amendment of, records.

5 U.S.C. 552a(e)(1)—maintenance of only relevant and necessary information.

5 U.S.C. 552a(e)(2)—collection of information from the subject individual to the greatest extent practicable.

5 U.S.C. 552a(e)(3)—notice to an individual who is asked to provide information to the Department.

5 U.S.C. 552a(e)(4)(G) and (H)—inclusion of information in the system of records notice regarding Department procedures on notification of, access to, correction of, or amendment of records.

5 U.S.C. 552a(e)(5)—maintenance of records with requisite accuracy, relevance, timeliness, and completeness.

5 U.S.C. 552a(e)(8)—service of notice on individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

5 U.S.C. 552a(g)—civil remedies for violation of the Privacy Act.

Pursuant to the general authority in the Privacy Act in 5 U.S.C. 552a(k)(2) (civil investigative files), the Secretary of Education has by regulations exempted the Investigative Files of the Inspector General from the following subsections of the Privacy Act:

5 U.S.C. 552a(c)(3)—access to accounting of disclosure.

5 U.S.C. 552a(d)(1) through (4) and (f)—procedures for notification or access to, and correction or amendment of, records.

5 U.S.C. 552a(e)(1)—maintenance of only relevant and necessary information.

5 U.S.C. 552a(e)(4)(G) and (H)—inclusion of information in the system of records notice regarding Department procedures on notification of, access to, correction of, or amendment of records.

These exemptions are stated in 34 CFR 5b.11.

Appendix to 18–10–01

Additional System Locations

Office of Inspector General, U.S. Department of Education, J.W. McCormack, P.O. and Courthouse Building, Devonshire Street, Room 504, Boston, MA 02109.

Office of Inspector General, U.S. Department of Education, 75 Park Place, 12th Floor, New York, NY 10007.

Office of Inspector General, U.S. Department of Education, The Wanamaker Building, 100 Penn Square East, Suite 502, Philadelphia, PA 19107.

Office of Inspector General, U.S. Department of Education, Atlanta Federal Center, 61 Forsyth Street, Room 18T71, Atlanta, GA 30303.

Office of Inspector General, U.S. Department of Education, 111 N. Canal Street, Suite 940, Chicago, IL 60606–7204.

Office of Inspector General, U.S. Department of Education, 1999 Bryan Street, Suite 2630, Dallas, TX 75201–6817.

Office of Inspector General, U.S. Department of Education, 8930 Ward Parkway, Suite 2401, Kansas City, MO 64114–3302.

Office of Inspector General, U.S. Department of Education, 501 W. Ocean Boulevard, Suite 1200, Long Beach, CA 90802.

Office of Inspector General, U.S. Department of Education, 501 I Street, Suite 9–200, Sacramento, CA 95814.

Office of Inspector General, U.S. Department of Education, Jacaranda Executive Court, 7890 Peters Road, Suite G–100, Plantation, FL 33324.

Office of Inspector General, U.S. Department of Education, Federal Building and Courthouse, 150 Carlos Chardon Avenue, Room 747, Box 772, Hato Rey, PR 00918–1721.

[FR Doc. 03–16240 Filed 6–25–03; 8:45 am]

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Federal Register

Thursday,
June 26, 2003

Part IV

Environmental Protection Agency

40 CFR Part 50

Stay of Authority Under 40 CFR 50.9(b) Related to Applicability of 1-Hour Ozone Standard; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL–7519–3]

RIN 2060–AK78

Stay of Authority Under 40 CFR 50.9(b) Related to Applicability of 1-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to stay its authority to determine that the 1-hour national ambient air quality standard for ozone no longer applies in areas that meet that standard. Under an existing EPA rule, EPA can determine that the 1-hour standard no longer applies to an area upon finding that the area has met that standard. The final stay will ensure that the 1-hour standard remains in place nationwide until EPA issues a new rule governing how and when the 1-hour standard should be removed. EPA is addressing that issue as part of a proposed rule for implementing the 8-hour ozone standard (68 FR 32801, June 2, 2003), and is providing the public an opportunity to comment on the issue. The stay will remain effective until the Agency takes final action revising or reinstating its authority to remove the 1-hour ozone standard, and addresses any public comments received on certain relevant issues. This final rule addresses comments received during the comment period on the previously proposed rule issued December 27, 2002.

DATES: The effective date for this final rule is August 25, 2003.

ADDRESSES: Documents relevant to this action are available for inspection at the EPA Docket Center (Air Docket), located at 1301 Constitution Avenue, NW, Room: B108, Washington, DC 20004, telephone (202) 566–1742, fax (202) 566–1741, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions concerning this final rule should be addressed to Annie Nikbakht, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, Mail Drop C539–02, Research Triangle Park, NC 27711, telephone (919) 541–5246.

SUPPLEMENTARY INFORMATION: Electronic Availability—The official record for this final rule, as well as the public version, has been established under Docket Number OAR–2002–0067. To view electronically the docket for this rule, *see http://www.epa.gov/rpas.*

Table of Contents

I. Background

On December 27, 2002, EPA issued a proposed rule (67 FR 79460) to stay its authority under the second sentence of 40 CFR 50.9(b) to determine that the 1-hour ozone standard no longer applies based on a determination that an area met that standard. The EPA proposed that the stay would be effective until such time as EPA takes final action in a subsequent rulemaking addressing whether the second sentence of 40 CFR 50.9(b) should be modified in light of the Supreme Court's decision in *Whitman* v. *American Trucking Ass'ns, Inc.,* 531 U.S. 457 (2001), regarding implementation of the 8-hour ozone NAAQS.

II. Summary of Today's Action

In today's action, EPA is finalizing the stay and providing that prior to lifting such a stay, we will consider and address any comments concerning (a) which, if any, implementation activities for an 8-hour ozone standard, including designations and classifications, would need to occur before EPA would determine that the 1-hour ozone standard no longer applied to an area, and (b) the effect of revising the ozone NAAQS on existing designations for the pollutant ozone.

The EPA plans to consider the timeframe and basis for revoking the 1-hour standard in the implementation rulemaking that it will propose shortly in response to a remand from the Supreme Court. The EPA believes that it is appropriate to reconsider this issue because, at the time EPA promulgated § 50.9(b), EPA anticipated that subpart 2 would not apply for purposes of implementing the revised ozone standard. It makes sense, in light of the many issues that are now being considered regarding implementation of the 8-hour standard, including the applicability of subpart 2 for purposes of implementing that standard, for EPA to consider simultaneously the most effective means to transition from implementation of the 1-hour standard to implementation of the revised 8-hour ozone NAAQS.

III. Summary of Comments and Responses

The EPA received two comments on the proposed rule during the comment period which ended on January 27, 2003. Both commenters were concerned that the regulatory language could be construed as staying EPA's authority to determine whether an area has met the 1-hour ozone standard. The proposed language said that EPA was staying its authority ''to determine that an area has attained the 1-hour standard and that the 1-hour standard no longer applies.'' The EPA agrees that the language in the regulatory text, as proposed, could be construed in the manner suggested by the commenters. The EPA did not intend to propose that it was staying its authority to determine whether an area has attained the 1-hour standard. In fact, the Clean Air Act (CAA) requires EPA to make such determinations within 6 months of a nonattainment area's attainment date. See CAA section 181(b)(2); section 179(c). In order to avoid confusion, EPA is modifying the regulatory text as follows:

> EPA's authority under paragraph (b) of this section to determine that the 1-hour standard no longer applies to an area based on a determination that the area has attained the 1-hour standard is stayed . . .

The EPA believes this language makes clear that EPA is only staying its authority to determine the 1-hour standard no longer applies to an area, which is triggered by a determination that the 1-hour standard has been attained. Thus, while EPA may still determine that an area has attained the 1-hour NAAQS, such a determination would not provide a basis for revoking the 1-hour standard for that area.

One group of commenters was further concerned that the proposed regulatory text did not fully reflect the settlement agreement in which EPA agreed to propose this stay. The EPA intended its proposed action to fully reflect the settlement agreement as evidenced by the preamble language providing that EPA would not lift the stay until such time as it considered certain identified issues in a future rulemaking action. *See* 67 FR 79460. The EPA did not consider it necessary to include such language in the proposed regulatory text as EPA fully intended to comply with such obligation if it took final action providing in the preamble that it would do so. However, EPA understands the concern raised by these commenters—the need for regulatory certainty—and believes it is appropriate to include these conditions in the regulatory text. Thus, EPA is modifying the regulatory text to provide that its regulatory

authority to revoke the 1-hour standard is stayed:

> until such time as EPA issues a final rule revising or reinstating such authority and considers and addresses in such rulemaking any comments concerning (1) which, if any, implementation activities for a revised ozone standard (including but not limited to designation and classification of areas) would need to occur before EPA would determine that the 1-hour ozone standard no longer applies to an area, and (2) the effect of revising the ozone NAAQS on the existing 1-hour ozone designations.

Another commenter raises additional issues that are not directly implicated by the limited action EPA is taking here to stay its authority to revoke the 1-hour standard. Specifically, the commenter recommends that (1) EPA not require areas to update maintenance plans for the 1-hour standard but rather be allowed to commit to submit plans for the 8-hour standard; (2) EPA revoke the 1-hour ozone standard after the 8-hour standard is fully enforceable and the designation and classification process for the 8-hour standard is complete; and (3) EPA issue its guidance for implementing the 8-hour NAAQS as quickly as possible so that areas may consider such guidance in making recommendations regarding designations for the 8-hour NAAQS. The EPA intends to issue its rulemaking and guidance regarding 8-hour NAAQS implementation as expeditiously as possible. It is in that rulemaking that EPA will consider the other issues raised by the commenter: whether areas will have an ongoing obligation to update 1-hour maintenance plans and the time at which the 1-hour standard should be revoked.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a ''significant regulatory action'' and was not submitted to OMB for review.

B. Paperwork Reduction Act

This final rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This final action will not impose any requirements on small entities. This final action stays EPA's regulatory authority to determine the 1-hour standard no longer applies to an area, which authority was based on EPA's determining that the 1-hour standard has been attained. It does not establish requirements applicable to small entities.

D. Unfunded Mandates Reform Act

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

This final action also does not impose any additional enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in UMRA. Because today's action does not create any additional mandates, no further UMRA analysis is needed.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have

federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action stays the language of 40 CFR 50.9(b) regarding EPA's authority to take action and imposes no additional burdens on States or local entities; it does not change the existing relationship between the national government and the States or the distribution of power and responsibilities among the various branches of government. Thus, the requirements of section 6 of this Executive Order do not apply to this final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have Tribal implications.'' This final rule does not have Tribal implications, as specified in Executive Order 13175, because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Today's action does not significantly or uniquely affect the communities of Indian Tribal governments, and does not impose substantial direct compliance costs on such communities. Thus, Executive Order 13175 does not apply to this final rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045, because this action is not ''economically significant'' as defined under Executive Order 12866 and there are no environmental health risks or safety risks addressed by this rule.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d)(15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Under Executive Order 12898, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's final action to stay EPA's authority under 40 CFR 50.9(b) related to applicability of the 1-hour ozone standard does not have a disproportionate adverse effect on minorities and low-income populations.

K. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by August 25, 2003. Filing a petition of reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce it requirements (see section 307(b)(2)).

L. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 of the CRA provides an exception to this requirement. For any rule for which an agency for good cause finds that notice and comment are impracticable, unnecessary, or contrary to the public interest, the rule may take effect on the date set by the Agency. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule is effective August 25, 2003.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: June 20, 2003.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 50 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 50—AMENDED

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 42 U.S.C. 7410, *et seq.*

■ 2. Section 50.9 is amended by adding paragraph (c) to read as follows:

§ 50.9 National 1-hour primary and secondary ambient air quality standards for ozone.

* * * * *

(c) EPA's authority under paragraph (b) of this section to determine that the 1-hour standard no longer applies to an area based on a determination that the area has attained the 1-hour standard is stayed until such time as EPA issues a final rule revising or reinstating such authority and considers and addresses in such rulemaking any comments concerning (1) which, if any, implementation activities for a revised ozone standard (including but not limited to designation and classification of areas) would need to occur before EPA would determine that the 1-hour ozone standard no longer applies to an area, and (2) the effect of revising the ozone NAAQS on the existing 1-hour ozone designations.

[FR Doc. 03–16236 Filed 6–25–03; 8:45 am]

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Federal Register

Thursday,
June 26, 2003

Part V

The President

Proclamation 7687—Black Music Month, 2003

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Presidential Documents

Title 3—

The President

Proclamation 7687 of June 24, 2003

Black Music Month, 2003

By the President of the United States of America

A Proclamation

For centuries, black artists have created or inspired distinctively American musical styles. During Black Music Month, we celebrate the ways that African-American music has helped shape American society and reflect the character of our Nation, and we recognize the pioneers who spearheaded these important musical forms.

Throughout history, African-American music has shown the social climate of the time. From the days of slavery and discrimination, through the progress of the Civil Rights movement, to today, black music has told the story of the African-American experience. In addition to giving voice to black struggles, faith, and joys, African-American music has helped also to bring people together. Before our Nation's strides toward equal justice, music such as jazz and blues provided a venue in which people of all races could be judged by their talent, and not the color of their skin.

The people who sang the earliest African-American music knew the worst of human cruelty and earthly injustice. In spirituals, work songs, and shouts, we hear the pain of separation and the bitterness of oppression. We also hear courage, and the comfort and strength of a faith that trusts God to right every wrong and wipe away every tear. These songs were used to share stories, spread ideas, preserve history, and establish community.

Early work songs and spirituals laid the creative foundation for the development of gospel, blues, and jazz. In black churches throughout the south, gospel offered a medium to share the good news. The beauty of both gospel and the blues lies in their power to express emotions that can be felt as well as heard. The blues were first popularized in America by W.C. Handy. A classically trained musician, this ''Father of the Blues'' helped to compose and distribute blues music throughout the country. His music continues to touch people today.

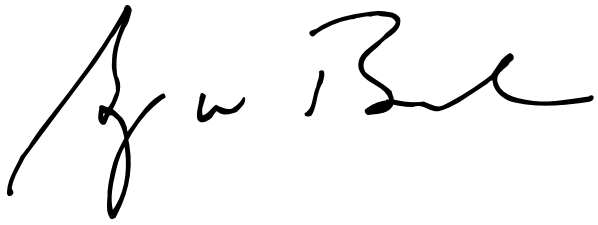
In the early 20th century, the progression to jazz took place all over the country, from the deep south of New Orleans and the Mississippi Delta to northern cities such as Chicago and New York. Black artists migrated to Harlem, New York in large numbers, creating a culturally diverse hub for black art, writing, and music known as the Harlem Renaissance. Harlem became a place of energy and magic, and timeless music emerged from this period. The heart of the Harlem Renaissance is reflected in the original and authentic music of such influential figures as Bessie Smith, Count Basie, and Fletcher Henderson.

African Americans continued to influence popular music through the 1940s and 50s, with the emergence of rhythm and blues and rock and roll. These revolutionary styles built upon various forms of African-American music, fusing elements of jazz, blues, and gospel.

African-American music continues to influence the American music scene today with styles such as rap and hip-hop. As we celebrate the many creative and inspiring African-American artists whose efforts have enhanced our Nation, we recognize their enduring legacy and look to a future of continued musical achievement.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2003 as Black Music Month. I encourage Americans of all backgrounds to learn more about the heritage of black musicians, and to celebrate the remarkable role they have played in our history and culture.

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



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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 1625/P.L. 108–33
To designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the ''Robert P. Hammer Post Office Building''. (June 23, 2003; 117 Stat. 781)

S. 222/P.L. 108–34
Zuni Indian Tribe Water Rights Settlement Act of 2003 (June 23, 2003; 117 Stat. 782)

S. 763/P.L. 108–35
To designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the ''Birch Bayh Federal Building and United States Courthouse''. (June 23, 2003; 117 Stat. 799)

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